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VOLUME SEVEN

GOSSEN-INDUSTRIAL RELATIONS  
COUNCILS

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Encyclopaedia  
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# Encyclopaedia of the Social Sciences

GOSSEN, HERMANN HEINRICH (1810-58), German economist. Gossen was born at Düren near Aachen and spent most of his life in or near Cologne. Although he had shown a strong inclination to mathematics he was compelled by his father to study law and subsequently to enter government service. While at the university he became interested in economic problems and seems to have been strongly influenced by the writings of Bentham. After the death of his father in 1847 he devoted himself almost entirely to economic studies. His only work, *Entwicklung der Gesetze des menschlichen Verkehrs und der daraus fließenden Regeln für menschliches Handeln* (Braunschweig 1854; 2nd ed. Berlin 1889), with which he hoped to obtain the fame of a Copernicus, was hardly noticed at the time; the disappointed author ordered shortly before his death that the entire edition be destroyed. The book was discovered by Professor R. Adamson of Manchester and the discovery was made public by Jevons in the preface to the second edition of his *Theory of Political Economy* (London 1879), in which he frankly admitted that Gossen had "completely anticipated him as regards the general principles and method of economics."

Gossen's most important contribution is a clear formulation of what later came to be called the principle of marginal utility and its application to problems of value and price. His main theses have become known as the three laws of Gossen. First, the amount of satisfaction derived from consumption decreases with each additional unit of the same commodity until it reaches zero or the point of satiety. Second, if it is impossible to gratify all wants to the point of satiety, it is necessary in order to obtain maximum satisfaction to discontinue the satisfaction of different wants at the points at which their intensity has become equal. The third law is derived from the first two. Subjective value attaches only to goods the available quantity of which is smaller than the quantity wanted, and even for such goods the subjective value of additional units declines until it reaches the zero point. Also men should distribute their efforts

so as to make the value of the quantity of each good produced by a unit of effort equal to the pain of the last unit of effort expended. In his work Gossen used many simple algebraic formulae and two-dimensional diagrams.

FRIEDRICH A. HAYEK

*Consult:* Hayek, F. A., Introduction to 3rd ed. of Gossen's *Entwicklung* (Berlin 1927), with complete bibliography of all the earlier writings on Gossen; Liefmann, R., "Neuere Literatur über H. H. Gossen" in *Zeitschrift für die gesamte Staatswissenschaft*, vol. lxxxiii (1927) 500-17; Neulauer, J., "Die gossenschen Gesetze" in *Zeitschrift für Nationalökonomie*, vol. ii (1930-31) 733-53; Rosenstein-Rodan, P. N., "Grenznutzen" in *Handwörterbuch der Staatswissenschaften*, vol. iv (4th ed. Jena 1927) p. 1190-1223.

GOTHEIN, EBERHARD (1853-1923), German historian and economist. Although all his life Gothein was conscious that he possessed a historical rather than a theoretical mind, his antipathy to the political idea of history then reigning in the universities and schools and his preoccupation with *Kulturgeschichte*, a conception which along with his contemporary Lamprecht he did much to define and elaborate, led him in his youth to renounce history as an academic career. His *Kulturentwicklung Südtaliens in Einzeldarstellungen* (Breslau 1886; republished as vol. i of *Schriften zur Kulturgeschichte der Renaissance, Reformation und Gegenreformation*, 2 vols., Munich 1924) won the approval of Jacob Burckhardt; and his various writings on the Jesuits, particularly *Ignatius Loyola und die Gegenreformation* (Halle 1895), are still valuable. As early as 1884 he had, however, accepted the professorship of political economy in the superior technical school at Karlsruhe. There upon the request of the newly founded Historical Commission of Baden he wrote *Wirtschaftsgeschichte des Schwarzwaldes* (Strasbourg 1892), which treats the development of towns and industries in the Black Forest and represents Gothein's chief specific contribution to the social sciences. In 1890 he succeeded Erwin Nasse at Bonn, where he was brought into intimate contact with the commercial and industrial life of Rhine Province

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and Westphalia. In response to this stimulus he not only introduced into his classes original methods of field study but entered upon new researches, culminating in a series of works on such subjects as shipping, mining, the economics of electricity and the history of Cologne. He also participated in the movement to establish superior schools of commerce outside the universities and in 1901 founded the superior school of commerce (now the university) of Cologne and seven years later that of Mannheim. Inspired by the example of Max Weber, whom he succeeded at Heidelberg in 1905, he ventured into the field of systematic sociology and in a not unimportant study, "Die Reservarmee des Kapitals" (in *Heidelberger Akademie der Wissenschaften, Philosophisch-historische Klasse, Sitzungsberichte*, vol. vii, 1913), he sought to broaden the socialist concept of the labor reserve army. Gothein's interests and achievements were far too extensive and at times perhaps too superficial to leave a lasting impression on any specific aspect of the social sciences. His principal importance probably lay in his awareness of the need for that coordination with actual economic and especially industrial life which a large proportion of the pre-war German economic schools, whether historical or theoretical, had conspicuously failed to achieve.

CARL BRINKMANN

*Consult:* Gothein, Marie L., *Eberhard Gothein* (Stuttgart 1931); Brinkmann, C., in *Zeitschrift für die Geschichte des Oberrheins*, n.s., vol. lxxix (1926) 313-29; Hampe, K., "Eberhard Gothein, eine Gedächtnisrede" in *Historische Zeitschrift*, vol. cxxix (1924) 476-90; Gooch, G. P., *History and Historians in the Nineteenth Century* (London 1920) p. 586-88.

GOTO, SHIMPEI (1857-1929), Japanese statesman and social scientist. Goto was born of a samurai family and studied medicine at the Fukuoka Medical School and later at the University of Berlin. During his whole career his activities were motivated by his desire to apply scientific principles to problems of government and administration. As acting director of the Sanitary Bureau in the Department of Home Affairs, as president of the Central Sanitary Association and as director of the Sanitary Bureau he was active in the improvement of medical science, particularly along the lines of social sanitation. In 1897 he was appointed chief of the Civil Administration Bureau of Formosa and served as civil governor until 1905. His administration was marked by the construction of roads

and railroads, the encouragement of industry, the enforcement of the opium and camphor monopoly law and the foundation and development of various research bureaus, including the great Central Bureau of Research. As first president of the South Manchuria Railway from 1905 until 1908 he again applied scientific methods to the problems of colonial administration by means of the Far Eastern Bureau for Economic Research at Dairen and other bureaus for special problems. Local industries, the water supply, hospitals and public health agencies were established on a non-political, scientific foundation. From 1908 to 1912 Goto served as minister of communications; in that capacity he initiated research in the subject of hydro-electric power and instituted a Railway Investigating Bureau which conducted research into such problems as coal, railway construction and terminals and the relations of railways to industries.

In 1918 Goto visited the United States and was greatly impressed by the work of the New York Bureau of Municipal Research. He endeavored to have a similar bureau on a national scale established in Japan but failed because of lack of funds. In 1922 as mayor of Tokyo he was able by means of privately contributed funds to establish the Institute for Municipal Research, the unique worth of which became evident in the scientific plan for the reconstruction of Tokyo after the earthquake and fire of 1923.

Goto was an early advocate of rapprochement between Japan and Russia. He entered into informal negotiations with a Soviet representative in 1923 and in December, 1927, headed a mission to Moscow to study economic conditions preparatory to the negotiation of an economic treaty.

HARLEY FARNSWORTH MACNAIR

*Consult:* Beard, Charles A., "Japan's Statesman of Research" in *American Review of Reviews*, vol. lxvii (1923) 296-98; Kawakami, K. K., "Japan as a Colonizing Nation" in *World To-Day*, vol. xii (1907) 483-87.

GOTT, BENJAMIN (1762-1840), English merchant and pioneer factory owner. In 1792 Gott, who was senior partner of a large cloth merchant house in Leeds, conceived the idea of gathering into one factory the twenty-nine processes involved in turning a bale of wool into finished cloth. At the time the three main groups of textile processes were carried on separately. Yarn making, because of the introduction of scribbling and carding machines, was carried

on in mills, but weaving and spinning were still being conducted by domestic clothiers under the putting out system. Finishing was carried on in separate shops and dyehouses which worked for or belonged to the merchants, who bought their supplies in the rough, dressed the fabrics and sold them. Gott experimented with new methods in manufacturing and finishing, which he greatly improved, studied costs, which he lowered through better supervision and more division of labor, and attempted the use of steam and steam power for nearly all processes. He bought a 40 h.p. engine from Boulton and Watt to drive the woolworking machines, the fulling stocks and the stones which ground the dyewoods. But power driven machinery did not capture spinning and finishing until after 1820 and the power loom made little headway until 1850, so that the jennies were turned by hand and weaving was done on hand looms. Gott still depended on domestic clothiers for many of his supplies and regarded his manufacturing as less important than his finishing and mercantile activities, which included the dressing and blanketing of most of the great armies of Britain and her allies. Gott's main achievement therefore in the acceleration of the industrial revolution was in the collection of over a thousand employees in a factory—even though it still relied largely on manual labor—in increased economies in production and in the capture of new markets for English textiles.

## HERBERT HEATON

Consult: Heaton, H., "Benjamin Gott and the Industrial Revolution in Yorkshire" in *Economic History Review*, vol. iii (1931) 45-66, and "Benjamin Gott and the Anglo-American Cloth Trade" in *Journal of Economic and Business History*, vol. ii (1929-30) 146-62; Crump, W. B., *The Leeds Woolen Industry, 1780-1820* (Leeds 1931).

GOUGES, OLYMPE DE (Marie Gouze) (1748-93), French feminist. She wrote several plays, one of which *L'esclavage des noirs ou l'heureux naufrage*, produced at the Comédie Française in 1789, pleaded for the liberation of slaves. With the revolution she entered the political struggle and wrote on numerous social questions. She believed that women should take part in national reorganization and first put forward the idea, adopted in August, 1789, of a patriotic voluntary subscription to wipe out the deficit.

She was especially important as the theorist who initiated the French political and practical feminist movement of the nineteenth century. In two short but substantial works, *Droits de la*

*femme* (Paris 1791?) and *Le bonheur primitif de l'homme* (Paris 1789), she expounded the doctrine of integral feminism along original lines. Taking the Declaration of the Rights of Man as a basis she demonstrated as a logical conclusion the absolute equality of both sexes. She argued that "women are born free and equal to men in law," that "the nation is an assembly of men and women," that "law as the expression of the will of the majority is as much the expression of female as of male citizens," and demanded that women send representatives to political bodies, be eligible to offices of public administration and to all other positions, tasks, occupations and responsibilities open to men and enjoy equality in the family and independence in marriage. She envisaged temporary marriages and official inquiry into the paternity of children born of such unions. Having espoused the cause of constitutional monarchy she was guillotined in 1793.

## LÉON ABENSOUR

Consult: Abensour, L., *La femme et le féminisme avant la révolution* (Paris 1923) p. 449-55; Lacour, Léopold, *Les origines du féminisme contemporain. Trois femmes de la révolution* (Olympe de Gouges, Théroigne de Méricourt, Rose Lacombe) (Paris 1900).

GOULD, JAY (1836-92), American financier. Gould became a Wall Street broker in 1859; ten years later he was in control of the Erie Railroad in association with Daniel Drew and James Fisk, Jr. He enriched himself by completing the financial ruin of the Erie, fraudulently manipulating its stock and finances—an exploit facilitated by prevailing business morality and loose corporation laws. In 1869 Gould and Fisk engineered a corner in gold, involving a number of public men in their scheme; the corner resulted in the disastrous "Black Friday" panic. The ensuing scandal was used in an attempt to force Gould out of the Erie; but all efforts to break his control were unsuccessful, because of his corrupt influence with judges and legislators and his alliance with William M. Tweed of Tammany Hall, until a group of English stockholders in 1872 bribed Erie directors whom Gould intended to replace to oust him from the presidency. He was sued by the new management for restitution of \$12,803,000 and settled for the sum of \$6,000,000, most of it being in worthless securities.

After the Erie ouster Gould interested himself in the western railroads, which were being exploited by predatory groups of the kind revealed by the Crédit Mobilier investigation. There



Gould outdid men of his own type in trickery. He bought considerable stock in the Union Pacific Railroad, of which he became a director; a few years later in 1878 he profitably unloaded some bankrupt railroads upon the Union Pacific. Gould extended his operations, first depressing stock values and then buying heavily, and acquired control of 10,000 miles of railroads in the southwestern states. He now interested himself in stabilizing values, as speculative mismanagement and rate wars were threatening the western railroads with perpetual bankruptcy. In 1889-90 he attended a series of conferences called by bankers to form an organization to lessen competition and maintain rates. Gould proposed a drastic five-year agreement for centralized control of rates, but the conferees adopted more moderate "gentlemen's agreements," which were violated under pressure of competition.

Gould was implacably opposed to union labor, an attitude he shared with the captains of industry and finance of his generation. In 1883 he broke the telegraphers' strike in the Western Union Telegraph Company, of which he had secured control by his usual manipulative methods, and forced the men to sign an agreement abandoning "any and all [union] membership, connection or affiliation." Two years later the Knights of Labor won a strike on Gould's southwestern railroad system. But the management violated the agreement and another strike occurred in 1886; Gould disregarded a pledge to arbitrate, crushed the strike and boasted that he had broken the back of the Knights of Labor.

The activities of Gould aroused public indignation, government investigations and reform legislation. Critics concentrated their attacks upon him, but in point of fact Jay Gould was the product of an unusually corrupt and predatory age; his operations were characteristic of the speculative exploitation which accompanied the industrialization of the United States after the Civil War. He left a fortune amounting to \$72,000,000. By 1900 the Gould system included 16,000 miles of railroads, of which the family later lost control.

LEWIS COREY

*Consult:* Adams, C. F. and Henry, *Chapters of Erie* (Boston 1871); White, Trumbull, *The Wizard of Wall Street and His Wealth* (Chicago 1892); Myers, Gustavus, *History of the Great American Fortunes*, 3 vols. (Chicago 1907-09) vol. ii, chs. ix-xii, vol. iii, chs. iii-iv; Corey, Lewis, *The House of Morgan* (New York 1930); Ware, N. J., *The Labor Movement in the United States, 1800-1895* (New York 1929).

**GOURLAY, ROBERT FLEMING** (1778-1863), British author and agitator. Gourlay, a Scotsman of good birth and education who had interested himself in scientific agriculture and in poor law reform, came to Upper Canada in 1817. Desiring to start an organized emigration movement, he proceeded to collect information, published an address, *To the Resident Landowners of Upper Canada*, containing a lengthy questionnaire and traveled about the country addressing public meetings. His activities aroused the ill will of the "Family Compact," the aristocratic governing authorities, who feared it might increase the already existing discontent, and Gourlay was soon transformed from the investigator to the political agitator. Finally in 1819 he was arrested and sentenced to banishment. His trial and punishment were technically according to law, but the severity and vindictiveness of the authorities aroused widespread resentment. Gourlay, a sick man who lacked mental equilibrium as well, spent the rest of his life moving restlessly about in Great Britain and the United States and eventually also in Canada, pouring forth a stream of pamphlets and agitating for the redress of his grievances, which was finally granted by the legislature of Canada. By making his own personal grievances loom larger than the public cause he was supporting he spoiled the effect of his efforts. But his most important work, the *Statistical Account of Upper Canada Compiled with a View to a Grand System of Emigration* (2 vols. and additional introductory volume, London 1822), anticipated the views on emigration of Gibbon Wakefield. His agitation in Upper Canada marks the beginning after the War of 1812 of the democratic reform movement which finally led to responsible government and which forms the Canadian counterpart to the movement of Jacksonian Democracy in the United States.

FRANK H. UNDERHILL

*Consult:* Riddell, W. R., "Robert (Fleming) Gourlay" in Ontario Historical Society, *Papers and Records*, vol. xiv (1916) 5-133; Cruikshank, E. A., "The Government of Upper Canada and Robert Gourlay" in Ontario Historical Society, *Papers and Records*, vol. xxiii (1926) 65-179; Smith, William, *Robert Gourlay*, Queen's University, Bulletin of the Departments of History and Political and Economic Science, no. liv (Kingston 1926); Wallace, W. S., *The Family Compact*, *Chronicles of Canada series*, vol. xxiv (Toronto 1915) ch. iii.

**GOURNAY, JACQUES CLAUDE MARIE VINCENT DE** (1712-59), French economist. Gournay was a merchant engaging in business at

Cadiz from 1729 until 1744 and later traveling extensively in England, Holland and Germany. In 1746 he inherited from his partner the estate of Gournay (whence the name by which he is known) and in 1751 bought the office of intendant of commerce, which he held until the year before his death. Except for his official reports, pronouncements and correspondence his writings include only a few annotated translations such as that of Josiah Child's *A New Discourse of Trade*. But besides playing a most prominent part in the introduction of English economic literature into France he popularized the reading of Cantillon, had more or less influence upon the publications of Dangeul, Forbonnais, Herbert, Clicquot-Blerbacher and Morellet and was one of the first to awaken Turgot's interest in economics. Although he founded no school he became the center of a group which devoted itself to the dissemination of new economic ideas throughout the kingdom. This group helped to pave the way for the physiocrats, of whom they were the immediate precursors. Gournay's doctrine was far from being a coordinated system in the sense of Quesnay's; it was the doctrine of a practical liberal hostile to bureaucracy, of an administrator struggling against the tyrannical system of industrial regulation inaugurated by Colbert or against the corporate privileges and grain policy which had been bequeathed by the Middle Ages. According to the testimony of his collaborators his favorite maxim was *laissez faire, laissez passer*, which may be freely translated as "give free rein to production, give free rein to the circulation of goods produced." Gournay differed from the physiocrats in that he was solicitous for the welfare of all "sources of wealth" alike. Thus while Quesnay in posing the dominance of agriculture was to dub industry and commerce "sterile," Gournay, whose training and office might easily have dulled his interest in everything but industry and commerce, took an active part in the eighteenth century agricultural movement; in 1757 he was responsible for the establishment at Rennes of one of the first of the French societies for the propagation of scientific agricultural methods. A further difference between Gournay and the physiocrats was that, although the curtailment of commercial restrictions was essential in his doctrine and almost incidental in theirs, he was not an absolute free trader. As regards internal exchange he demanded unlimited freedom; but in external trade he admitted a system of enlightened protection, not prohibitive but suf-

ficiently high to defend domestic enterprise against foreign competition and even to assist it somewhat in expanding abroad. He also favored the granting of state subsidies to develop all branches of economic endeavor.

G. WEULERSSE

*Consult:* Weulersse, G., *Le mouvement physiocratique en France de 1750 à 1770*, 2 vols. (Paris 1910); Sécrétat-Escande, G., *Les idées économiques de Vincent de Gournay* (Bordeaux 1911); Schelle, Gustave, *Vincent de Gournay* (Paris 1897); Oncken, August, *Die Maxime laissez faire et laissez passer, ihr Ursprung, ihr Werden*, Berner Beiträge zur Geschichte der Nationalökonomie, no. II (Berne 1886); Turgot, A. R. J., "Éloge de Vincent de Gournay" in his *Oeuvres*, ed. by G. Schelle, 5 vols. (new ed. Paris 1913-23) vol. I, p. 595-622; Ashley, W. J., "Gournay" in his *Surveys, Historic and Economic* (London 1900) p. 304-07.

GOUVÊA, ANTÔNIO DE (1505-66), Portuguese humanist and jurist. Gouvêa pursued his humanistic studies at the Collège de Sainte-Barbe in Paris from 1527 until 1532. After lecturing at Sainte-Barbe and at the Collège de Guyenne he studied Roman law at Toulouse, Avignon and Lyons according to the new methods which were introduced into jurisprudence by his friend Cujas. He gained wide renown through his famous debate with Pierre La Ramée (Petrus Ramus) in 1544, in which his defense of Aristotle and Aristotelianism, undertaken by him as a humanist, not as a scholastic, was awarded the victory by the University of Paris and King Francis I.

Gouvêa ranks next to Cujas as a jurist who expressed with great clarity the fundamental program of the humanist jurists of the sixteenth century: the abandonment of the exclusive use of the Commentaries, which by that time had acquired a prestige greater than the sources themselves; and the reconstruction of the entire body of the Roman law, tracing its evolution in relation to the historical development of the Roman Empire. The law was to be studied through an examination of the sources aided by the Commentaries. Gouvêa so excelled in the application of the humanist method that he was generally considered the rival of Cujas himself.

LUIS CABRAL DE MONCADA

*Important works:* *Goveani opera juridica, philologica, philosophica* (Rotterdam 1756).

*Consult:* Caillemet, E., *Étude sur Antoine de Gouvêa* (Paris 1864); Girard, P. F., "La jeunesse de Cujas" in *Nouvelle revue historique de droit français et étranger*, vol. XI (1916) 429-504, 590-627, especially p. 493-501; Carvalho, Joaquim de, *Antônio de Gouvêa e o aristotelismo da renascença* (Coimbra 1916).

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**HISTORY AND THEORY.** All human societies seem to possess an inherent capacity to develop systems of social control whereby the relations of individuals are adjusted and common interests and desires secured. Such systems are of two general kinds, those which operate spontaneously and automatically, springing directly from the common sense of right of the community and enforced by sanctions of social pressure, and those which have acquired a definite institutional organization and operate by means of legal mandates enforced by definite penalties. This latter form of social control is government, using the term in its broadest sense. The distinction between the two forms is not an absolutely sharp one, and there is often a considerable intermingling. The amorphous type of social control predominates among primitive peoples; government if it exists at all is rudimentary. As civilization advances, increasingly complex institutional organizations develop, definite legal systems are formed and enforcement

is accomplished through prescribed pains and penalties. But even in the modern national state, where government has proceeded to the highest point of organization, there is still a vast body of social relations which are adjusted outside the scope of governmental activities, as there are also a great number of common interests and desires secured by the automatic and spontaneous action of society in its unorganized aspect. Indeed, to be effective, government must utilize in large measure these formless social pressures. It must work in harmony with the prevailing sense of right of the community. It must not seriously traverse the common interests and desires.

Wherever a group of human beings actuated by common interests and desires creates an organized institutional mechanism for the furtherance of these ends and for the adjustment and control of their relationships, there is government. There is a government of the church, of the trade union, of the industrial corporation, of

the university. And the definite norms of conduct which are prescribed and enforced by such governments may properly be characterized as law. In a narrower sense the term government is confined to the organized institutions of political communities which are designated by the term state; and the term law is restricted to those rules of conduct which adjust and control the relations of individual members of the state and through which their common interests and desires are secured. This narrower usage is indeed somewhat arbitrary, for political government is essentially like other forms of government. Only in one respect is it perhaps different. The state is a community in which membership is not voluntary but imposed upon all individuals within a given territory. This was also true of the church in the Middle Ages. But among modern communities the state is the only one from which an individual may not withdraw without leaving the territory occupied by the community.

The juristic theory of the state conceives government as performing legislative, executive and judicial functions. It is assumed that any act of government can by its nature be classed under one of these functions. However well established and however practically useful in the past, this classification can be challenged both theoretically and practically in the light of new conceptions of the ends and purposes of government. Government is coming increasingly to be looked upon as a collection of public services, as one of the important instruments through which the common interests of the members of the community are to be furthered. The state provides for its members a large number of services, such as education, scientific research, public utilities, recreation, which cannot properly be described as legislative, administrative or judicial. The functions of government are social control and public service.

Every system of government, even the most primitive, rests upon a constitution, by which is meant a system of legal principles which designate the highest governmental authorities, the method of their choice or creation, their mutual relations, the sphere of activity of each and the position of the individual with reference to them. Frequently the constitution is conceived as divinely instituted and unalterable. It is often surrounded by special sanctions. The Greeks were perhaps the first to speculate about the nature of political authority and the best form of government. They distinguished between

fundamental law, *politeia*, and ordinary laws, *nomoi*. The Romans also distinguished between constitutional and ordinary law and between the authorities which could enact each. The ancients, however, never went so far as to embody their constitutional law in fundamental statutes with a higher formal validity than ordinary laws. The distinction was one of substance not of form.

The modern conception of a constitution is the product of a number of ideas and usages of the later Middle Ages. First, there was the generally accepted belief in natural law, unchanging and universally binding and standing above all human law. There was at least an indefinite assumption that natural law should control legislation and other forms of positive law. Second, important mediaeval legislation (described by such terms as constitution, statute, *assize*, *établissement*) combined the idea of something formally laid down, enacted, established, with the idea of a binding agreement or contract, strict adherence to which was a principle of natural justice. Third, there was the conception of a general law of the land (*jus et consuetudo regni*) which secured to all members of the community certain rights. The common law of England, guaranteeing to all Englishmen certain substantial rights, is perhaps the best example. Fourth, the numerous charters which granted certain privileges and immunities to corporations, boroughs, towns or ecclesiastical groups, while in the form of grants, embodied the ideas which underlay important legislative enactments. These various ideas, somewhat vague and indefinite, gradually issued in the conception of a body of fundamental law to which even the highest authorities were subject. In the sixteenth century the antimonarchical writers developed the doctrine of fundamental law. Even adherents of the theory of the divine right of kings, such as James I in England in the seventeenth century, acknowledge that the royal power was limited by basic principles which they conceived as emanating from God or embodied in natural law. The seventeenth century struggle between king and Parliament in England resulted in the definite emergence of the idea of a constitution in which was included, in addition to the various ideas discussed above, that of a social compact. Attempts to reduce such a fundamental law to written form are characteristic of the period. The Mayflower Compact, which served as the basis of the government of the colony of Plymouth, and the Fundamental Orders of Connecticut are among the earliest examples. The Agree-

ment of the People drawn up by the soldiers in Cromwell's army represents an effort to give England a written constitution, and the Instrument of Government promulgated by Cromwell in 1653 was a written constitution actually in force for several years. The American states adopted written constitutions after their separation from Great Britain. Their example was followed by France in 1791 and then by the states of Germany and other European countries, by South American nations and finally by oriental peoples. More than three hundred written constitutions are said to have been established between 1800 and 1880. The period since 1776 can be characterized from the political point of view as the age of constitutionalism. In many instances written constitutions have been the result of successful popular revolutions which have been conducted with the purpose of achieving democratic government. In other cases they have been granted, or octroyed, by monarchs to prevent threatened revolutions. Constitutions which are the product of revolution embody the theory of popular sovereignty; all governmental power is assumed to be derived from the people. Octroyed constitutions are in theory voluntary concessions of absolute rulers, who thereby surrender only a part of their unlimited authority.

Governments have been classified according to various principles. One of the oldest classifications is based upon the number of persons who exercise the highest power in the state. Monarchy is the government of one, aristocracy of a small number, democracy of the many. The Greeks added three perverted forms to these three normal types—tyranny as the degeneration of monarchy; oligarchy, of aristocracy; and ochlocracy, or mob rule, of democracy. Some writers believed that government went through a cycle of these six forms. Under this classification, however, the English government is classed as a monarchy and that of the United States as a democracy, although the president of the United States exercises quite as much power as the king of England and the democratic element in the English constitution is quite as important as it is in the United States. Another classification of governments is into monarchies and republics, the chief magistrate being hereditary in the former, elective in the latter. But the old Polish monarchy was elective, and the Republic of the Netherlands had a hereditary head, the *Staatsholder*.

More significant in the study of modern political institutions is the classification into cabinet

government and congressional government. In the former the principle of separation of powers is not applied, and a cabinet or ministry responsible to the popularly elected legislative body occupies a supreme position in directing legislation as well as in administration. In congressional government the attempt is made to separate government sharply into legislative, executive and judicial branches politically independent of one another. But this classification too is not capable of a thoroughly logical application. There is in the English government, the archetype of the cabinet form, a large degree of actual separation of powers; while in the government of the United States, the best example of the congressional type, there is in actual operation a considerable amount of political interdependence among the various branches of government.

Another useful principle of classification is that which is based upon the nature of the relation between the central government and local divisions. Unitary government, in which the authorities are conceived as creatures of the central government and as exercising their legal powers by delegation from the central government, is under this classification opposed to federal government, in which the local divisions are conceived as having an independent legal existence. A federal state is one made up of member states. But this classification is based upon a narrowly juristic conception of law and a doctrine of sovereignty which do not conform to the actuality of modern political phenomena. In strict juristic theory the powers exercised by the governments of Canada, Australia and the other dominions are delegated by the British Parliament; hence the entire British Commonwealth of Nations is a unitary state. In fact, the dominions have a larger degree of political independence than the states in the United States.

The term constitutional government generally refers to modern forms in which a basic law or laws provide for an elaborate system of authorities, including representative assemblies, in which a large share of political power is vested in the electorate, which is considered as equivalent to the people, and in which a body of basic individual rights is guaranteed and protected by the fundamental law. In this sense it is to be contrasted with despotic or absolute government, where theoretically all political power is in the hands of one man and where the individual has no legally protected rights.

Modern constitutional government is the result of a long process of historical development

in western Europe. The particular attendant circumstances have varied in different countries but the general economic and social conditions throughout this area have been sufficiently similar to produce an approximately common line of progress. The history of England illustrates better than that of any other country the course of political evolution. Geographical isolation and consequent freedom from invasion since the Norman Conquest have undoubtedly been an important factor in England not present upon the continent, and during the later period English political development has anticipated by a century or more that of continental countries.

Six stages are clearly discernible, although no sharp dividing lines can be marked. The first may be described as the tribal state, which in England covers the Saxon period. The significant political institutions of the primitive Teutonic tribes who overran western Europe were a folk-moot, or meeting of all the adult males bearing arms; a council of elders; and in time of war a war leader or chieftain. All important questions, such as peace and war, were decided by the folk-moot. The council of elders prepared questions to be submitted to the folk-moot and decided minor matters. It was a rude form of democracy in which government was not differentiated nor law clearly distinguished from religious or social custom. In time of war great power was vested in a single leader. Through war the numerous small and independent tribes were eventually integrated into larger political units; the war leader became a permanent king; folk-moots sank into governing bodies for local divisions; and a witenagemot, or council of wise men, emerged for the entire nation. At times the king overshadowed the witan. At times the council appears to have exercised almost supreme authority, and throughout it possessed a large power in choosing the king. The position of the king was never solidified. In time of war he was certainly dominant; in peace he was always limited by the law and custom of the land and by the witan, whose consent was necessary to the establishment of new laws. Local institutions flourished and supplied the needs of government quite independently of the still rudimentary central authority.

The second stage is the feudal state, extending in England roughly from the Norman Conquest in 1066 to Magna Carta in 1215. There were two sides to feudalism, economic and political. The political aspect involved certain military and political services from the vassal to the lord

and ultimately to the king. All these feudal rights were exercised by the king as the feudal lord of the entire realm and served to develop and strengthen his position in the state. The service of the vassal to his lord was viewed as a private obligation owed by one man to another; the relationship of the individual was in every respect contractual and unalterable except by mutual consent. Based on these feudal foundations, governmental institutions underwent important modifications. The witenagemot, now become the *magnum concilium*, was feudalized; attendance was made obligatory for all tenants in chief. A smaller council consisting of those who were always in attendance upon the king acted for the great council in most matters. From it developed many of the institutions of later constitutional government.

The later Middle Ages is the period of the estates state. This epoch is characterized by a clear cut stratification of society into several classes or estates and the representation of these estates in the government. The altered character of the great council particularly displays the nature of the development. It is now called Parliament in England; but it is entirely different from a modern parliament, which is representative of the people as a whole. It is rather an estates general, a body of separate estates or representatives of estates. The nobles, the clergy, the landed gentry and the townsmen constituted the four estates in the English Parliament. While at first meeting together, these several estates probably always acted separately. About the middle of the fourteenth century occurred the separation of the English Parliament into a House of Lords and a House of Commons. This did not, however, in any way affect the character of this mediaeval Parliament as an estates general. There is a fundamental pluralism in the estates state which is in sharp contrast to the conception of a unified sovereign state of later times. The relation between the king and the estates was contractual rather than constitutional. The numerous charters, of which Magna Carta is the most noteworthy in England (the Golden Bull of Andrew II, dating from 1222, has a corresponding place in Hungarian constitutional history), were not great charters of liberties for the people but treaties between the king and one or more of the estates. This was an age in which the various elements in society struggled among themselves for power. As yet the idea of a unified national state was at most only a hope for the future.

The absolutist state, which in England can be roughly marked by the accession of the Tudors in 1485 and the Revolution of 1688, was based upon the idea of sovereignty personified in the monarch. When absolute monarchy endures beyond its time it tends to degenerate into an intolerable system destructive of individual liberty and blighting to national progress. But the advantages of modern constitutional government are all based upon the permanent achievements of absolute monarchy. The various estates were fused and welded into a common nation. The rival and conflicting jurisdictions and authorities were subjected to the firm and effective control of one supreme power. The church with its immunities and nearly independent status was brought under the domination of the state. Foreign dependence was thrown off. This work was accomplished under the Tudors of England and in France and in Spain by the sixteenth century. The papacy in Italy and the empire in Germany prevented the achievement of national unity in those countries; instead there emerged a large number of small states of a generally monarchical type, which were only unified in the nineteenth century. In England the latter part of this period is filled with conflict between king and Parliament, but this conflict is totally unlike that between king and barons in the previous period. The nation had been unified, the principle of the sovereignty of the state had been established, and the question was now only as to whether the king or Parliament should exercise the supreme power.

The Revolution of 1688 introduced the period of the parliamentary state in England. In France this transition took place a century later. Elsewhere upon the continent it occurred at various dates throughout the nineteenth century. But the English Parliament was itself actually controlled by a narrow oligarchy until the passage of the Reform Act of 1832. The same oligarchical character is found in the parliamentary governments of the other states of Europe. A narrow and unequal suffrage, constituencies organized in such a manner as greatly to enhance the political power of the ruling class, an upper legislative chamber in which the people had no voice, all contributed to preserve the actual control in the hands of a small section of society. Even in the United States before the period of Andrew Jackson the suffrage was generally restricted and power was actually in the hands of a small element of the population. While oligarchical government like monarchical absolutism tends

to become corrupt, it too performed an important role in developing the intricate and complex machinery of constitutional government. This was the period in which the cabinet took shape and form and became the central feature in England. The party character of the cabinet; its political solidarity; the development of the prime ministership; the responsibility of the cabinet to the House of Commons; the determination of the sanctions of ministerial responsibility; the discovery of the counterweight in the prerogative of dissolution by which the cabinet can exercise a control over the Commons; the definite relegation of the king to his present dignified but powerless position; and the determination of the reciprocal rights and obligations obtaining between cabinet and king; all the important constituent elements of the cabinet system were worked out at this time. For a democracy to operate the mechanism of constitutional government successfully it must have attained a certain degree of political experience and knowledge. There must be an awakened and informed public opinion. There must also have developed those definite conventions and usages which preserve the equilibrium of the system and militate against any successful coup d'état. The methods and practises by which government is operated must have become largely a matter of tradition and have secured the sanction of well recognized principles. Only within a narrowly based political society could this complex mechanism be successfully set in motion. Once well established and in full operation, it was possible by degrees to broaden the oligarchical control into effective democratic government.

The democratic state is the last phase of political evolution extending down to the present. Certain basic ideas underlie this form of government: the sovereignty of the people; the identification of the people with the electorate; universal suffrage, with every man and woman to count as one and none to count as more than one; the right of the majority to rule. The broadening of the suffrage and the reform of the constituencies were not accomplished in England until 1832. By the successive reform acts of 1867, 1884 and 1918 the political basis of English government has been extended until it is now practically universal adult suffrage. The same process has taken place in other countries. Certain important changes have been introduced in electoral methods. Plural voting has generally disappeared; voting is now universally accomplished by written and secret ballot; corrupt

practises at elections have been largely eliminated; proportional representation has been introduced in certain areas; and the nomination of candidates has been regulated by law. The extension of the scope of electoral activity by the initiative and referendum and the limited use of the recall are further important features. Apart from these institutional changes which affect the electorate there has been little significant alteration in the general framework of constitutional government. The period has been rather marked by attention to the problems of social reform and the regulation of industry and by attempts to solve the question of international peace. With the democratization of government emphasis has shifted from the structure of political institutions and methods of procedure to the substantive tasks which society expects government to accomplish.

The question of the degree to which government should undertake to regulate the relations of men has been actively discussed since the middle of the eighteenth century. Before the French Revolution all the governments of Europe, but particularly France, undertook a most extensive and minute control of all the economic life of the people. Business, commerce and industry were subjected to an infinite number of regulations. The economic causes of the American Revolution are not to be viewed as examples of governmental oppression peculiar to the colonists. They were part of a general system. The French Revolution was not merely political in its cause and purpose; it was to a considerable extent likewise induced by the vast amount of state interference.

In reaction to this mercantilist policy political and economic thought from the French Revolution until the Franco-Prussian War deprecated the extension of the functions of government beyond the necessary minimum required to defend the state from external attack, to preserve internal order and to adjudicate individual rights. The primary purpose of government was to secure liberty, which was interpreted narrowly and negatively as freedom from restraint. John Stuart Mill's *Essay on Liberty* (1859) is perhaps the most perfect expression of this philosophy. It was the age of individualism, of *laissez faire*. Government in practise did not indeed adhere strictly to this ideal. Particularly as the impact of the industrial revolution came to be felt, an increasing degree of state interference is discovered in the statute books. The factory acts constitute the notable beginnings of a broader

policy. But any exceptions to the policy of confining governmental activities to the narrowest limits were viewed as perhaps necessary but unfortunate departures from the accepted principle that "that government is best which governs least."

As the effects of the industrial revolution, including the growth of capitalism, were realized, a strong socialistic movement spread throughout Europe. Dicey has admirably described how public sentiment gradually altered and how in consequence the history of legislation acquired a new character in England after 1870. Fabian socialism in England, Marsian socialism on the continent, exerted widespread influence. Governments, especially that of Germany, definitely undertook broad programs of human betterment. In America, although theoretical discussion of the province of government was not pursued to the same extent as in Europe, the volume of state and federal legislation greatly increased and numerous administrative commissions were created, charged with duties of inspection, regulation and control. No clear cut political theory emerged from this epoch of industrialism. Particularly in America continued expressions of attachment to the tenets of individualism and *laissez faire* have accompanied the actual enlargement of governmental powers and the expansion of governmental activities into hitherto unoccupied fields. Certainly socialistic doctrines, while playing a very significant role, were nowhere generally accepted as the determinants of political action previous to the World War. Governments have been led step by step into new undertakings. They have approached the increasing number of urgent economic and social problems pragmatically, often reluctantly. This opportunistic attitude of government is quite in keeping with the prevailing tone of popular and academic thought. The clash of individualistic and socialistic ideas has resulted merely in a rather confused and empirical doctrine of liberalism. No comprehensive or adequate theory of the ends and purposes of the state has emerged to inspire the course of practical politics. In one respect only is a new orientation discernible. The earlier conception of government as merely an agency of social control, an instrument of protection and regulation, is giving way to that of government as a collection of public services, a means for the satisfaction of human wants and desires.

The nineteenth century was characterized by a profound faith in the principles of democracy.



"Government of the people, by the people, and for the people" constituted an ideal which made an almost religious appeal to the minds and hearts of men. Criticism of the working of existing democratic institutions was blandly met by the insistence that "the cure for the evils of democracy is more democracy." Writers like Lecky and Maine who formulated effective arraignments of democratic government were voices crying in the wilderness. The sweep of democratic opinion was probably the most significant aspect of the history of this period. But since the beginning of the twentieth century and particularly since the World War certain opposing political tendencies have been increasingly evident. In spite of systems of universal and equal suffrage, of representative legislative bodies, even of the initiative and referendum, it has become more and more evident that effective power is concentrated in the hands of relatively small but wealthy groups. The alliance between government and big business; the significance of the boss who performs the very profitable role of political broker; the part played by the political machine; the extensive use of money in elections; the power and methods of propaganda; the place the lobby occupies in the actual work of government, have come to be better understood. Democratic government operates through the instrumentality of political parties. At times these organizations have offered valid alternative programs to the electorate but generally their principles have been vague and cloudy; their appeal has been made to the emotions and prejudices rather than to the intelligence of the voters. A sense of the fatuousness of political action has spread throughout the mass of the people. The particular circumstances in different countries have varied, but everywhere there has been an increasing feeling of political skepticism. President Wilson proclaimed the purpose of the Allies in the World War to "make the world safe for democracy." But the Treaty of Versailles only intensified the political disillusionment. It is true that the war resulted in the overthrow of several ancient thrones and the establishment of republics. But the succeeding decade has witnessed the arrival of a number of dictatorships, that of Mussolini in Italy the most important. And even in countries like Germany, where government has been thoroughly democratized, there is an absence of assurance, a lack of faith, a sense of insecurity. If the "degradation of the democratic dogma" is evident, what are the alternatives?

Communism is one possible alternative, and the experiment in Russia is being observed with great interest. But even if the experiment should succeed, it is becoming clear that the ends and purposes which it seeks to achieve, the schemes of values which it embodies, are not acceptable to the peoples of the western world. Western civilization rests upon a social heritage which Russia has not enjoyed and which provides a different attitude toward life. Only as a result of a social upheaval which would shatter the foundations of the western system of ideas would the establishment of communism be possible. Such an event is within the range of possibility, but it is not probable.

If the transition to a new political order is to be accomplished by processes of political evolution rather than social revolution, the present democratic state must undergo such changes and adaptations as are necessary to meet the changing situation and to correct the defects which are becoming increasingly evident. First, the state must come to be viewed as only one of many human societies, which exists for the accomplishment of limited ends and purposes. Its attribute of sovereignty must be abandoned; with respect to both international and internal relations it must be recognized that other human associations have equally significant purposes and are equally entitled to respect. Second, the old antithesis between the state and the individual must give way to a recognition of the innumerable intermediate human groups which are organized for economic, social, religious, recreational, artistic and other purposes. Third, some means of inclusion in the framework of government must be found for these multifarious groups. The outworn geographical basis of the representative system must be modified to provide for the representation of interests, particularly economic interests. Fourth, the purposes of government must be interpreted more in terms of providing public services for the community and less in terms of police protection and law enforcement. There must be a greater readiness to entrust to the state the actual operation of economic services when their conduct by private enterprise has not proved satisfactory. Fifth, law must be conceived as an instrument of social engineering rather than as the mandate of a sovereign political entity. Sixth, the complexity of modern economic and social problems must be met by larger provision for the expert in government and by larger use of advisory bodies. Seventh, the ideology of democracy must

be stripped of its absolutist characteristics. The cult of democracy must give place entirely to a pragmatic approach to the problems of government. Democratic institutions such as universal suffrage and majority rule must cease to be sacrosanct. Eighth, the purpose of government must include as one of its essential elements the provision of as large a share as possible to each individual of the good life. Whether, reorganized on the basis of these ideas, government will cease to be democratic in the conventional sense is perhaps immaterial. It will have become adjusted to the changing needs and requirements of a dynamic world.

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See: STATE; SOVEREIGNTY; LAW; LIBERTY; CONSTITUTIONALISM; MONARCHY; DEMOCRACY; REPRESENTATION; PARTIES, POLITICAL; ELECTIONS; CABINET GOVERNMENT; CONGRESSIONAL GOVERNMENT; CONSTITUTIONS; SEPARATION OF POWERS; EXECUTIVE ADMINISTRATION, PUBLIC; LEGISLATIVE ASSEMBLIES; JUDICIARY; COURTS; FEDERATION; CENTRALIZATION; LOCAL GOVERNMENT; MUNICIPAL GOVERNMENT.

UNITED STATES. A flash of political inventiveness in the late eighteenth century, creating by adaptation rather than innovation and making terms with instant necessities, fixed the grand pattern of government in the United States. Written and relatively rigid constitutions enervated by judicial review have engendered and in turn have been sustained by a legalism which has not been lacking in paradoxes, for the rule of law and the aristocracy of the robe have been qualified by a frontier impatience. The constitutional framework left room for far reaching modifications through complementary legislation and through usage. The zest for contrivance and adjustment in minor matters has been amazing. The passing years, however, have left standing the major features of the structure: limited government, federalism and the scheme of separately chosen executives who share with bicameral legislatures the uncertain responsibilities of leadership.

The system has combined elements of vigor and feebleness verging on paralysis. This was the natural and indeed intentional outcome of the ideas and circumstances which shaped the constitution and which reacted through it upon institutions already formed and those to follow. Tepid streams of English thought, traceable to springs as fresh as Harrington and Locke, drew from an economic interpretation of politics the notion that safety, especially for property, must be sought in the calculated balancing of diverse

interests. The conception that economic relations might be automatically self-regulatory had been proclaimed and the basis laid for what was destined to pass as liberalism in the next century, although in the New World impatient men of affairs were less willing than they became later to sacrifice convenience to a doctrine. French thought, so far as it was represented by the judicious Montesquieu, seemed to support the ideal of counterpoise. When the constitution was being considered, the influence of French radicalism had declined in the United States. Moreover, even to the extent that its outlook was accepted it did not encourage the devising of governmental machinery which would be responsive and strong. Its confidence was in man rather than institutions. In the late eighteenth century the ideal of a puissant government was linked to a grudging view of human nature. This attitude was indeed widespread; numerous names from Hobbes to Hume were invoked to support it. Such distrust although authoritative in temper tended to negate itself. The outcome of these intermingled and partly conflicting intellectual elements was more likely to be a poised than a positive state.

Practical considerations, which were more important than abstract ideas in the making of the constitution, led to the same result. Recent experience was a compelling factor. The revolution had been attended by a relaxation of authority. The back country especially was full of agrarian ferment. The state governments, freed from colonial restraints, were ready instruments of discontent. Some state legislatures had already acted alarmingly from the standpoint of those whose welfare rested upon the honorable discharge of obligations. There were thus vital elements, partly commercial and partly respectably landed, which felt the need of a restrictive power. In this respect the movement for a stronger central government was negative in that its object was to lessen the risk of state action, which at the best would be disparate and variable and which might be invidious. Inaction or weakness on the part of state authorities in the face of disturbances might be equally dangerous. There must be an organ in the union capable of holding fast in emergencies. In addition, in a more positive way, it was desirable that the central government should be able to facilitate commerce and industry, to protect westward expansion and to secure abroad the respect indispensable to effective negotiations.

The convention which met in 1787 ostensibly

to consider a revision of the Articles of Confederation and which framed a new and genuinely federal constitution can be regarded as the decisive step in a counter-revolution. The degree of agreement among its members was more remarkable than the differences, although obvious compromises were struck between states of large and of small population and between the sections where slavery was important and where it was practically absent. The chief compromise was with an attitude which was more clearly revealed in the special ratifying conventions in the several states, although even these did not reflect fully the reluctance with which the proposed constitution was viewed. Under the circumstances its shrewd authors asked only what seemed necessary in the light of immediate exigencies. A surer basis was provided for the means of defense and of development by enabling the central government to tax individuals. The grant of power over interstate and foreign commerce accomplished a double purpose, for it carried an implied restriction on interference by the states. The nationalizing of money served the ends of convenience and safety. The latter were further protected by certain express prohibitions laid on the states, notably in behalf of the obligation of contracts. There was additional reassurance in the provisions which permitted the elaboration of a network of federal courts and which gave them jurisdiction not only over controversies involving the constitution, laws and treaties of the union but also in disputes between residents of different states. The creation of the office of president—to be filled independently of Congress for a fixed term of four years, to be the focus of all appointments and to exercise initiative in foreign affairs and incalculable power in time of war—was hardly a promise of effectively harmonious political leadership, nor was it intended to be; but it seemed to guarantee that, whatever befell, the wheels of administration would continue to turn.

The novelty in the construction as a whole was largely a matter of recombination. Nearly every structural feature that was adopted was found in one or more of the state constitutions, which although in course of active development since 1776 rested in turn upon colonial foundations. In addition there were changes in emphasis that amounted to creation. In transforming the confederation into a closer union undue theoretical stress may have been laid upon the necessity of freeing the central government from dependence upon the states as entities, but the

step was momentous in the history of federalism. The single executive, his powers and even the mode of election finally devised were suggested by conditions in various states; the isolation of the office, however, was freshly accented. New too was the weight given to the judiciary.

The document which became effective in 1789 has been changed relatively little by formal amendments. The process has not been easy, but the inhibitions have been deeper than the method, lying in attitudes engendered by the constitutional system as a whole. It was provided that amendments might be proposed by Congress with the approval of two thirds of those voting in each house or by a convention to be convened in a manner arranged by Congress upon receipt of petitions from the legislatures of at least two thirds of the states. In either case amendments must be ratified in at least three fourths of the states, speaking through their legislatures or through special conventions. The references to the matter in the constitution, like its provisions on most points, were full of ambiguities, not all of which have yet been resolved. It has been assumed that the discretion of Congress is vast and that it may select the mode of ratification in each instance and in addition set a time limit or not as it pleases. In practise all of the nineteen amendments have been submitted by Congress and ratified by the state legislatures. The difficulties in the procedure are obvious, although mitigated somewhat by an administrative rule which has prevented a state from withdrawing an assent once given to a pending amendment while permitting a change of mind in the other direction. It is significant that only five amendments have been submitted which have failed of ratification: two in 1789 and one in 1811—none vital; another in 1861, being an abortive gesture of reassurance to slavery; and still another in 1924, involving the attempt to enable Congress to restrict the employment of minors. A striking feature of the amendments thus far adopted has been the slight extent to which they have contributed to the growth of legislative power. The first ten amendments, popularly called the Bill of Rights, were drawn on the basis of suggestions from the state conventions that ratified the original constitution and were part of a virtual bargain incidental to its adoption; they restrict only the national government and their practical effect was further to circumscribe Congress. The amendments adopted at the close of the Civil War—notably the Fourteenth, proclaimed in 1866—broadened

the federal judicial veto of state action but not the power of Congress to legislate affirmatively. Two amendments only have importantly enlarged the field of national legislation. The Sixteenth, adopted in 1913, in freeing income taxation from the rule that had required the apportionment of so-called direct taxes among the states according to population made possible a significant and far reaching revolution in federal finance. The Eighteenth, which took effect in 1919, was itself a police measure, for it made illegal the manufacture and sale of intoxicating beverages.

The rarity of changes in the letter has not prevented profound alterations in the spirit of the constitution. The laconic and frequently cryptic language of the document itself has facilitated an unending process of interpretation, in which the legislature and the executive have taken the initiative in exploring the implications of every grant of power. The last word has usually been said by the courts, although some major constitutional problems have been settled without them, either because the questions were never raised judicially or were held to be "political" or were presented after they had been answered by long continued and irrevocable usage. So fundamental a matter as the ability of Congress to appropriate money and to institute permissive services without regard to its enumerated powers was decided affirmatively by the sheer weight of practise. Custom too has subtly modified many features of the lawful plan. The realities of party life, for example, have affected nearly every phase of the government. Their transforming power was early illustrated when by the simple method of pledging presidential electors the electoral college was immediately stripped of its deliberative role and turned into a mere device for counting popular votes. The capacity for accommodation in the constitutional system has seemed inexhaustible. Unfortunately the cramping disadvantages that attend adjustment through indirection and subterfuge have been slighted in the face of a perennial wonder that the scheme could work at all in a changing world.

Adaptation has been accomplished partly through the constant revision of state constitutions. By this means a new foundation was given to the government as a whole when the suffrage, once closely restricted, was progressively broadened. The federal constitution provided that in each state the presidential electors should be chosen in such manner as the legislature might determine and that the representatives in Con-

gress (and since the adoption of the Seventeenth Amendment in 1913, the senators also) should be elected by those qualified to vote for members of the more numerous branch of the state legislature. This devolution of responsibility for a fundamental institution facilitated the political metamorphosis that accompanied what was virtually a social revolution during the decades before the Civil War, when frontier democracy was strong and a new ferment was rising in the cities. Later, states began to enfranchise women. The amendments incidental to the Civil War restricted but did not take away state control of suffrage. The clause in the Fourteenth Amendment which threatened a reduction of representation was never applied; the Fifteenth provided in effect that whatever the qualifications set by the states they must not relate to "race, color or previous condition of servitude." To these in 1920 the Nineteenth Amendment added sex. Meanwhile universal suffrage had been qualified in the south by combinations of taxpaying and educational requirements, supplemented by the machinery of registration. In other sections the adoption of literacy tests after the World War indicated that enfranchisement might have run its course. Not only the right to vote but also the operations of parties, which had become integral parts of the electoral process, fell within the control of the states. Toward the close of the nineteenth century the legislatures began to prescribe many features of party organization. Amid much that was perfunctory the citizen's relation to government was sometimes vitally affected. At a time when rivalry between parties was lacking in most parts of the country the provision that candidates for elective offices should be chosen in preliminary elections (direct primaries) has facilitated the juncture of forces which might otherwise have been divided and impotent.

The federal system is based upon the principle that the organs of the central government may exercise only the powers which are delegated to them, whereas the state legislatures have residual or reserved authority in the sense that they can do anything which is not forbidden by the Constitution of the United States or by that of the state and which is not inconsistent with actions of the national government, always supreme in its proper sphere. The matters which are expressly vested in the latter comprise the following: foreign affairs; defense, including (in addition to the maintenance of exclusively national forces) the right to direct the mode of

organizing militia and to commandeer it; taxation and borrowing; currency; foreign and interstate commerce; post offices and post roads; bankruptcy; patents and copyrights; weights and measures; naturalization; intoxicating liquors; the management of areas acquired with state consent for federal purposes, including the district which is the seat of the union; and through the courts (in addition to the enforcement of national law) the settlement of controversies between states and between residents of different states. The allotment of jurisdiction is for the most part concurrent, not exclusive. There are a few express exceptions, notably in the restrictions on the states in connection with foreign affairs and currency and in the provision for uniform rules respecting naturalization and bankruptcies. An important implied exception is the negative turn given by the courts to the clause that empowers Congress "to regulate commerce with foreign nations, and among the several states." The rule that the states cannot interfere with such commerce has been qualified in favor of various kinds of police legislation, but—even more than the stipulation that "the citizens of each state shall be entitled to the privileges and immunities of citizens in the several states"—it has nationalized the treatment of business. An incidental result has been to embarrass effective state control of economic matters unless attended by complementary national action. A large proportion of the regulatory enactments of Congress can be traced to this predicament.

Limited government, especially when federal, invites conflicting groups to couch their grim struggles as questions in the meaning of words. The course of constitutional interpretation has been fluctuating, not straightforward. On the whole the powers implied in those enumerated in the constitution have been allowed to expand, relieving much of the strain due to the unstable equilibrium of the system. Limits have been set, at least temporarily, to the potentialities of the two most ductile clauses. Regulation under the commerce power, where the articles dealt with are harmless in themselves, was seriously circumscribed by the invalidation of an act that sought to bar the products of child labor from interstate commerce [*Hammer v. Dagenhart*, 247 U. S. 251 (1918)]. The use of the national taxing power, although sanctioned by many precedents, was checked by the voiding of a prohibitively heavy tax upon the profits of establishments that employed children [*Bailey v.*

*Drexel Furniture Co.*, 259 U. S. 20 (1922)]. On the other hand, no limit has been set or is now likely to appropriations and administrative activities which do not involve direct coercion. The role of "the spending power of Congress" has already been momentous; it is questionable whether the federal system as drawn could have survived without it. The shifts by which the system keeps pace with events are increasingly administrative in a broad sense of the term. An immediate effect is to break down the strict separation of national and state administration which (after an initial period when state facilities were utilized optionally for numerous purposes under national laws) prevailed so long and generally that a fictitious constitutional necessity was imputed to it. Apart from factors of universal application, which despite geographical divisions tend to bring about some kind of union within every major function of government, dual administration is rendered additionally impracticable in the United States by the fact that the national legislative powers do not embrace whole subjects but phases only.

The value of administrative modes of accommodation is notably illustrated in connection with uniformity. The problem is a severe one. No other federal system has as many as forty-eight states. The frequent use of rivers as boundaries (not to mention more serious aspects of a lack of conformity between economic and political geography) has caused many important cities to arise at the edges of states, where business which is really local is technically interstate in character. The existence of common law in all jurisdictions except Louisiana has doubtless mitigated the confusion. In the growing field of statutes, the activities of commissioners on uniform state laws since 1889 have had marked success only in relatively limited phases of commercial law. Much more effective are the specialized associations of administrative officers, who are united by technique and who can supply separately a continuing impetus on behalf of their recommendations as a group. When adequate administrative discretion is allowed, such associations facilitate the maintenance of flexible uniformity through common regulations.

The geographical pattern of government within the states varies considerably. Local institutions developed differently in New England and the south and the elements have been mixed in other sections. Generally speaking, the entire area of a state is divided into counties and the latter into townships. Clusters of people may be

separately organized as villages; larger masses, as cities. In addition, partly because of the inadequacy of existing units, there has been a multiplication of ad hoc districts and corporations. The whole has been characterized by local self-government in the sense of the local choice of officers, who although minutely conditioned by state laws have not been subject to administrative supervision. Incidentally local officers have been responsible for enforcing many state laws of general concern. The check on them has been judicial and therefore sporadic and spasmodic. The dependence of local government on the state legislatures has nevertheless been galling. The attempt to prohibit special legislation for cities aggravated rather than relieved the problem, for it militated against the variety inherent in municipal affairs. In nearly a score of states liberation has been sought by introducing a species of federalism (see HOME RULE) which permits the exercise of power regarding matters of local concern under locally made charters. The devolution has been too grudging to be revolutionary. Legislative decentralization is not likely to go far until effective administrative supervision has been perfected. The growth of such supervision has been the most striking change in the relation of states to localities.

Internally the organization of the national and state governments rests upon the assumption of a separation of powers. The phrase is a vague one, serving variously to indicate a structural feature, a rule of law and a maxim. The separation that exists is really of authorities, for powers have been deliberately mixed in order to complicate the checks that are intended both to curb temporary majorities and also to lessen the risks of arbitrary action. Few governments have respected less the distinction between legislation marked by generality and stable, unbiased administration. As a rule of law separation of powers in the national constitution does not result from any explicit distributing clause but from the fact that legislative, executive and judicial powers are separately referred to and are vested respectively in the Congress, the president and the courts. The abstract doctrine has been influential but in fact has played little overt part in developing such notions as that legislative power cannot be delegated, that no restrictions can be placed on the president's power of removal and that the courts will not perform non-judicial functions. In the states despite the permission that federalism extended in behalf of diversity (stipulating only that the forms be

"republican") in major variations have been regrettably few; the national prototype is aped even in the stir of current administrative reform. Local government, beginning amorously with dominant councils, did not escape the contagion of the example, and independently elected mayors became general in cities. Innovation has, however, been bolder locally than elsewhere. Managers who are appointed by councils and who are supposedly professional have been introduced in hundreds of municipalities. The responsibilities of leadership unfortunately are still ambiguous.

The scheme of separately elected chief executives has reacted profoundly upon the structure of parties and the tone of politics. More than any other factor it has created and maintained a two-party system. Its centripetal force has partly offset the sectionalism which in a country wherein spatial considerations are likely to be important at all times has been especially rife during a century of unevenly progressive settlement. Nationally considered the major parties can best be described as loose leagues to capture the presidency. They have joined state organizations which in turn have been hardly more than confederations of county elements. Their quadrennial conventions (constituted voluntarily in a twilight zone between national and state power) have never gone beyond bare necessities. No traditions of training, no regular lines of recruitment, have developed to facilitate the selection of presidents and to foster continuity of leadership. The instability has been aggravated by the custom which frowns on more than two terms for any president. On the other hand, the system contains the ever present possibility of fresh blood. From the standpoint of trenchant criticism and vigorous politics the effect of presidential government has been blighting. The party which does not control the presidency not only lacks a focus of policy but must also contend against its prestige. What has been said of the presidency applies even more strongly to the governors, who are elected in all states. The term is four years in about half the cases; elsewhere it is less. Policy is inevitably spasmodic. In the face of so much disjunction it has become popular to apologize for party machines as coordinating mechanisms.

Legislative bodies in the United States, denied the responsibility of creating the government of the day, have been free to explore the advantages and defects of decentralized leadership in law-making. Bicameralism is general. The two houses

of Congress now have their counterparts in all of the states. The consideration of measures is further spread among a set of standing committees in each chamber; joint committees are the rule only in Massachusetts, Connecticut and Wisconsin. At their best the committees offer specialization without the preconceptions of administrative officials. Actual lawmaking presents the paradox of rigorous party control of legislative organization and nevertheless relatively little partisanship in the passage of bills. The reason for the latter lies to some extent in the nature of existing parties but, aside from their incompatibilities, it can be traced in part to the interplay of a stubborn localism and the lobbying conducted by single purpose leagues and self-protective associations. They render opinion dynamic. The parties are harvesters, not sowers; occasionally, when vital interests are affected, they intervene actively. The congestion of the legislative calendars is its own partial cathartic; minor measures are passed by unanimous consent. These characteristics of Congress and the state legislatures are reflected in their products. The bright, sometimes brilliant but essentially petty achievements of non-partisanship are found in plenty. Coherent purposes are nearly wholly lacking.

In electing legislators single member districts and plurality choice are nearly universal. Election at large now exists in some cities and in a very few the "single transferable vote" has been introduced, although in combination with the non-partisan ballot. Two United States senators are elected in each state for terms of six years. Renewal in the Senate is partial, one third being chosen every two years at the time when the entire membership of the House of Representatives is elected. The latter has been pegged by law at 435. In the state legislatures biennial sessions have become the rule. Apportionment continues to provoke the rivalry of city and countryside and of the deeper interests they involve. Equal representation in the United States Senate, although practically unimportant in voicing the claims of state governments as such, has so increased the leverage of certain areas that aided by non-restrictive rules of procedure the Senate has become the chief forum for the critics of an overweening industrialism. In many states, on the other hand, the over-representation of agricultural backwaters in the legislatures, fixed in constitutions, has handicapped the cosmopolitan, proletarian impulses of the cities.

The maladjustment of legislative apportionment lends significance to the machinery for direct popular action on measures, quite apart from the reasons that originally prompted it. The referendum is mandatory in the ratification of constitutional amendments in practically every state. In about half of the states there are schemes for the submission of statutory (and sometime constitutional) proposals by petition (the initiative) and for allowing measures already enacted to be brought before the electorate either at the option of the legislature or upon petition (called the referendum in either case). The possibility of a popular appeal sometimes liberates a new kind of leadership and the effect may be to shift the center of gravity, but in general the sources of energy in lawmaking are the same whether the engine is direct or representative. The initiative and referendum have ceased to spread; the idea of avoiding the confusion of issues, however, is likely to remain vital so long as some are more embarrassing than others.

An unusual amount of law is judge made, loosely speaking, in the double sense that common law prevails and that statutes as well as administrative determinations are subject to judicial review. The power assumed by the courts to decline to apply laws that they deem unconstitutional is more securely held because (save in the case of advisory opinions in some of the states) it is exercised incidentally to the handling of controversies. The basis of a remedy against its overuse already exists in the rule that doubts should be resolved in favor of the legislative body. The further step is to recognize how largely the meaning of the troublesomely broad constitutional provisions is a question of fact. The same considerations will lead to a relaxation of judicial review of administrative determinations. Meanwhile within the administration itself tribunals and appellate procedures are being devised which may result in an approximation to *droit administratif*.

The abandonment of *laissez faire* is indicated most forcefully in the multiplication of ad hoc regulatory boards. Far from representing sound legislation and perfected administration, they are significant as confessions of a need and as the crude beginnings of control. A society intent on exploitation and schooled to leave adjustments to initiative and competition has become uncomfortable and been forced to act without knowing what it wished to do. The first steps have taken the form of a congeries of unrelated statutes nearly devoid of policy, by which un-

digested problems have been devolved upon amorphous agencies that administer a kind of compulsory arbitration among conflicting interests.

Government in the United States takes up new tasks with the handicap of obstinate if not irremediable administrative deficiencies. Pioneering folk belittled experts and distrusted bureaucracy. The civil service was further weakened by the more glamorous as well as substantial inducements offered by private enterprise. The latter debauched what it affected to despise; a complicated system of spoils became the *modus vivendi* of its relations with government. Beginning definitely in 1883, selection by examination was introduced under the name merit system. Although now well developed in the national services it has been adopted in barely one fourth of the states and in only a part of the large cities. Moreover, even where it is used it is still vitiated by the shaky character of its foundation in bipartisan, inept civil service commissions and by failure to carry its principles high enough. The ideal of the system has been practical examinations adjusted to duties of particular offices. This has been true even in the tests that have taken the flexible form of requirements of education and experience. Tardily, in the light of notable tendencies toward permanence and promotion within the civil service, its relation to the educational system as a whole is being considered. Political institutions in the United States are slow in correcting the lack of organic union with the society in which they operate.

ARTHUR W. MACMAHON

See: LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL; CONGRESSIONAL GOVERNMENT; CONSTITUTIONS; CONSTITUTIONAL CONVENTIONS; CONSTITUTIONAL LAW; AMENDMENTS, CONSTITUTIONAL; JUDICIAL REVIEW; COURTS; SUPREME COURT, UNITED STATES; ADMINISTRATION, PUBLIC; CIVIL SERVICE; STATE GOVERNMENT, UNITED STATES; STATES' RIGHTS; CONCURRENT POWERS; GRANTS-IN-AID; COUNTY GOVERNMENT, UNITED STATES; MUNICIPAL GOVERNMENT; DECLARATION OF INDEPENDENCE; ARTICLES OF CONFEDERATION.

**BRITISH EMPIRE.** *Great Britain.* The British system of government is that of a limited monarchy expressing its essential ethos through parliamentary forms. Little of its basic character has been reduced to writing, and its institutions are continually changing under the influence of social pressure from different classes. It was essentially an aristocratic system in the mid-Victorian age, and, although the realization of uni-

versal suffrage in 1928 made it externally an extreme democracy, the influence of the historic aristocracy upon its functioning is probably still greater than in any other European state.

At the apex of the government the pyramid stands the crown. The legal powers of the king are still in theory immense. He can legally declare war and make peace. He can disband the army and navy. He is the sole fountain of honor. He can refuse his assent to legislation and dismiss a government which commands a majority in the House of Commons. But as the result of a long process of evolution, which effectively begins with the struggle between crown and Parliament under the Stuarts, the king has become a dignified influence rather than an active source of power. He must in fact act upon the advice of his ministers, and it is substantially true that he could not in fact deliberately act counter to their advice without a constitutional revolution, the ultimate consequences of which it would be difficult to foresee.

This does not mean that the influence of the king is not important. He may have lost the right to refuse his assent to legislation. He may have no practical alternative but to choose as his prime minister the leader of the party to which the electorate has given a majority in the House of Commons; it is almost certain that he could not now refuse dissolution to a prime minister who asked for it. But, as Bagehot said, he still retains the right to "advise, encourage and warn." He sees all the relevant official papers and may annotate them; he must be consulted upon all important changes in the policy and personnel of government. In a period of party crisis his immense national prestige confers great weight upon the advice he may choose to give. No one who studies the part played by the crown in the conflict over the House of Lords in 1911, over the Ulster crisis of 1913-14 or in the formation of the national government in 1931 can possibly doubt that he still plays a considerable part in the working of the constitution. It is none the less real because it is largely hidden from the public; and although doubtless in any serious difference between him and his ministers he must always give way, it would be a wholly mistaken estimate of his position to regard him as no more than a decorative symbol which binds together the different parts of the constitution. If he has to play the part of a neutral observer, such vital documents as the correspondence of Queen Victoria show how significant a pressure is still regarded as compatible with that role.



The true executive for practical purposes in the British system is the cabinet. This may be defined as a committee of the party or parties which can command a majority in the House of Commons. Its members are all privy counselors, and the cabinet may be said to have grown out of a group of royal advisers upon the Privy Council who gradually came to preside over the important departments of state. Until the reign of Anne the sovereign still presided over their meetings, but largely as a result of George I's ignorance of the English language that practise has been obsolete for over two hundred years. In its essential modern form the cabinet may be said to date from the time of the younger Pitt, for it was under him that its primary characteristics—secrecy, unity of outlook, collective responsibility and the supreme position of the prime minister over his colleagues—became definitive. Although its methods of working have altered as new needs have grown, these are still its basic qualities. Until 1917 it had neither a secretariat nor archives, as these were held to violate the secrecy of its proceedings; but in that year the prime minister (Lloyd George) set up a secretariat because the immense growth of business made necessary a strict record of the decisions taken. Although occasional protests continue to be made against the innovation, it seems probable that the secretariat has now become an established and integral part of cabinet machinery.

The pivot of the cabinet is the prime minister. Curiously enough, although the office may be said to date from Sir Robert Walpole in a general way and quite definitely from the younger Pitt's premiership in 1783, it never received official recognition until 1878, when in the protocol of the Treaty of Berlin Lord Beaconsfield was formally given that title. It is still an office without emolument; the prime minister usually (although not necessarily) becomes first lord of the Treasury, an office with no departmental duties. The prime minister, who becomes such by successfully accepting the king's invitation to form a ministry, has immense authority. He personally invites other politicians to accept places in the cabinet; he determines both its size and the disposition of offices; and it is a convention of the system that he may ask for the resignation of any colleague at any time. He presides over its meetings and largely controls its agenda. He is in fact the essential coordinator of policy and almost a court of appeal between other colleagues in conflict. He largely determines the order and char-

acter of legislative business (although he must carry important colleagues with him in so doing) and he is the essential agent in distributing the honors conferred by the crown. He is further the channel of communication between the king and the cabinet, and it is understood that the power to ask the king to dissolve Parliament belongs to him exclusively. In 1874 Gladstone and in 1924 Ramsay MacDonald obtained permission from the crown to dissolve Parliament without any previous consultation with their colleagues. Until 1902 it was still possible for the prime minister to be a peer; the precedent of 1923, when on the advice of all living ex-prime ministers King George preferred Baldwin to Lord Curzon, probably marks the final necessity that the prime minister be a member of the House of Commons. That is where essential discussion and decision take place; and a prime minister who could not lead that assembly probably could not now maintain his authority in the cabinet.

The average cabinet today consists of twenty-one or twenty-two members; a hundred years ago its average size was twelve. It is a reflection of the changed social character of Great Britain that, whereas until the mid-Victorian period the majority of its members were peers, there are now rarely more than three or four peers in a cabinet. It usually consists of the political heads of the great departments, together with two or three ministers (the lord president of the council and the lord privy seal particularly) who have no effective departmental functions; and a special preeminence belongs to the chancellor of the Exchequer as the coordinator of finance and to the foreign secretary. On two occasions, in 1912 and in 1925, the attorney general has belonged to the cabinet, but in view of his quasi-judicial functions this innovation is frowned upon by constitutional purists.

The modern tendency (most notably since 1918) is for the cabinet to deal with large problems involving the consideration of detail through committees which then report to the cabinet as a whole; this is an obvious convenience where experts have to be examined and great masses of work have to be gone through. There is a tendency also for the cabinet to be divided into an inner and an outer cabinet, distinguished less by the offices held by members than by their importance in the party or parties upon whose vote the cabinet depends. Much vital business is decided by the inner cabinet without necessarily consulting the cabinet as a whole; it is said by Lord Haldane that the decision to ini-

tiate military conversations between Great Britain and France was undertaken by agreement between the prime minister and four other members of the cabinet.

As an institution the modern cabinet seems to suffer from two grave defects. It is, in the first place, too large for effective discussion as a unit; and its members are mostly so overwhelmed by the pressure of business that they have too little time to devote to the general cabinet problems outside their own realm. Nor is the relation between the cabinet and the party behind it wholly satisfactory; recent developments in the Labour party suggest that the initiatory power of a secret committee to which private members of Parliament have no access may easily separate the mind of the cabinet from that of the party upon which it depends. Dubious too is the overwhelming power of the prime minister, particularly through his exercise of the power over dissolution. From being *primus inter pares* in the mid-Victorian period he has become much more akin in function to the president of the United States. Many proposals of reform have been discussed in the last ten years, mainly, however, through private initiative; they have not received even semi-official approval and it is improbable that any of them will go into operation except in terms of a thorough institutional reconstruction.

Behind and below the cabinet are the political undersecretaries on the one side and the departments, manned by the civil service, on the other. The former may be described as hopeful apprentices to cabinet office; apart from the financial secretary to the Treasury they can hardly be said to possess a definite sphere of function; their duties largely depend on the zeal, generosity and ambition of their political chiefs. An undersecretary whose chief is in the House of Lords may make a name for himself by that fortunate accident, but in general it cannot be said that the office of undersecretary has been seriously or properly utilized. It is still a way of trying out a young man on minor duties rather than a method of cooperation for proper political control in the department on the one side and an adequate relief to a cabinet minister's time on the other.

The British civil service is in some ways the most vital part of the system of government, and its evolution in the last sixty years is perhaps the most important contribution made in recent times to the technique of representative government. Until 1870 the civil service presented many of the worst features of a patronage sys-

tem, and John Bright's description of the Foreign Office as the outdoor relief department of the British aristocracy is not an unfair description of its character until that date. In 1854 a report by Sir Charles Trevelyan and Sir Stafford Northcote upon the organization of the civil service recommended that appointment by competitive examination should take the place of appointment by nomination. The report, as Sir Charles Trevelyan has stated, was the outcome of the fears produced by the revolutions of 1848 and it was put into operation by Gladstone in 1870. Since that time subsequent investigation has only confirmed the value of the principal recommendations made. Specialists (e.g. doctors and lawyers) and exceptional nominations apart, the service is now normally recruited by examinations devised to test general intelligence at the main stages of the educational system. Broadly speaking, it is divided into four main classes: writing assistants, who perform the mechanical tasks of an office; clerical assistants, who do routine work involving minor responsibility; the executive class, who do work which involves some degree of initiative and creativeness; the administrative class, who are concerned in the making of policy and accept the essential departmental responsibility. The service as a whole consists of some three hundred thousand persons, if the Post Office be included; but the whole administrative class, who are recruited at the stage of a university degree, number only about fifteen hundred. They have pretty complete security of tenure, a considerable degree of self-government (under the Whitley system) and normally retire at sixty with a pension.

It is difficult in a brief space to give any adequate idea of the character of these officials; perhaps it is sufficient to say that they constitute the only public service in Europe which has been able to combine bureaucratic efficiency with liberalism. It has maintained, on the whole, a remarkable tradition of loyal neutrality between governments of differing party complexion. It has shown remarkable inventiveness in adapting the police state of the nineteenth century to the needs of the social service state in the twentieth; an inventiveness perhaps due in large part to the fact that its most important members, the Foreign Office apart, have been drawn from the middle classes rather than from the aristocracy. The whole difference between an effective and an ineffective minister may be said to lie in his ability properly to utilize the inventiveness of his high officials. Although they remain largely

unknown to the great public they have a position which confers both dignity and power. They are on the whole free from the multitudinous embarrassments of red tape; and they have not so far displayed that tendency to a caste spirit which so often arises from a well settled corporate tradition. Probably no small part of this advantage is due to two facts: that there is a constant movement of high officials from one department to another, and that the general administrator is always supreme over the specialist expert. Admission to the service is controlled by an independent commission which is itself composed of civil servants, and the control of the establishment problems of the departments is centralized in a branch of the Treasury without whose concurrence no action can be taken.

The legislative assembly of Great Britain consists of the House of Lords and the House of Commons. The former chamber is composed of some 750 members. These are largely hereditary peers of the United Kingdom; but there are also the princes of the blood royal (who take no part in debate), twenty-four bishops of the Church of England, sixteen representative peers who are elected by the Scottish peers (and who sit for the lifetime of each Parliament), the remains of the declining Irish peerage (originally elected for life, the system being abolished by the Irish Treaty Act of 1921) and six law lords who sit for life. Until 1911 the powers of the House of Lords were theoretically the same as those of the House of Commons; although it has been a well settled convention since the Restoration—broken only in 1860—that the House of Lords should not touch a finance bill and that it should give way before the determined will of the lower House. In 1909, however, the Lords, which had already rejected a large number of bills proposed by the Liberal government, was persuaded to reject the budget of that year; and the prime minister after receiving a mandate from two general elections fought upon the issue forced through an amendment of its powers under a threat to create sufficient peers to overcome any possible opposition. The House of Lords can now neither amend nor reject a finance bill which is defined by the Parliament Act of 1911 as a bill so certified by the speaker of the House of Commons; and any other bill sent to it in the same form in three successive sessions of Parliament now becomes law despite its veto. Its inferior power has thus been translated into definite constitutional terms.

But the position remains thoroughly unsatisfactory. Of the 750 members of the House of Lords barely fifty attend at all regularly; only eight times since 1919 have more than two hundred taken part in a division, while over five hundred have never taken part in a debate. The chamber moreover is not only fairly new—half its membership dates only from 1895—but also overwhelmingly Conservative; there are only some one hundred Liberal and thirteen Labour peers. The chamber therefore tends to be largely inactive when a Conservative government is in office and bitterly hostile to Liberal and Labour governments. It has never produced really distinguished men of its own in modern times; save Lord Rosbery every person since 1874 who has played a distinguished part in its proceedings has originally made a reputation in the House of Commons. There has been general agreement for forty years that the chamber is an anachronism in a democratic state, but it has been impossible to discover principles of reform which would be generally acceptable. The Conservatives demand a large admixture of the hereditary principle, which the Labour party and a large part of the Liberal party reject altogether; the Labour party either desires no second chamber at all or one built upon some such principle as that of Norway; while all parties are agreed that a purely elective or a purely nominated chamber is not desirable. Most men therefore prefer the present position on the ground that a recalcitrant House of Lords can always be overcome in the last resort by the creation of peers. This is, however, a mere avoidance of a grave constitutional issue; and the only prediction that can safely be made is Lord Rosbery's famous aphorism that the House of Lords will pass in a storm.

Since the Redistribution Act of 1918 the House of Commons consists of 615 members, of whom twelve sit for university constituencies. The electorate is composed since 1928 of all adult persons over twenty-one. A mere plurality suffices to return a member, the parties having consistently since 1867 set their faces against any system of proportional representation, although an attempt was made in 1930 to introduce the alternative vote and proportional representation exists, by a curious compromise, in the university constituencies. It therefore often happens that there is a serious disproportion between the number of votes a party secures and the number of seats it obtains in the House of Commons; in 1925 the Baldwin government had

actually a majority of over two hundred and was in a minority of nearly three million votes in the country. University representation, which in the case of Oxford and Cambridge dates from the seventeenth century, is bitterly opposed by the Labour party on the ground that it is merely a method of adding to the number of Conservative members. It is certainly true that no university member has as such made any contribution to the quality of the House of Commons in modern times; Lord Hugh Cecil was, previous to his election for the University of Oxford, member for an ordinary constituency, and the famous classical scholar, Sir Richard Jebb, who sat for a time as member for the University of Cambridge, hardly played any part at all in the proceedings of the House.

The predominant feature of the House of Commons is its domination by the cabinet. The day of the private and independent member has passed, and there seems little reason to suppose that it is ever likely to return. The pressure of business is so great that the ordinary member has lost the opportunity of essential initiative, and the growth of party control has increased in proportion to the greater intervention of government in what was once deemed the realm of private affairs. The private member can still ask questions; the House remains also an admirable assembly for the ventilation of grievance. It performs well what has been termed its selective function; it discriminates with remarkable ability between the men who seek to attain office by impressing it. But it has no longer the time to discuss any subject thoroughly. Its effective power over finance is largely a traditional illusion. The change in the subject matter of debate from broad political to technical economic issues has meant a rapid decay in its power to shape the general process of administration. The immense although necessary growth in delegated legislation indicates that the very essence of the character of the state has changed, and the modern House of Commons has for the most part to be content to play a subordinate role if the necessary business is to be done. It still debates as finely as ever when it is left free to make up its own mind; but these occasions are so rare as to provide the exceptional rather than the normal instance.

The reason lies in the change from an individualist to a collectivist society. Modern England is occupied with the discussion of equality; and this involves a quantitative analysis which it is difficult to make effectively in a legislative as-

sembly of over six hundred persons. In the last century moreover the House of Commons was successful because the two historic parties were agreed in essence about the fundamentals of social life. They could afford, in Lord Balfour's phrase, to "hicker" about the accidentals because they had made a joint bargain with fate. This perspective has been completely altered by the rise of the Labour party. Since it exists to deny the fundamental principles of its opponents, the debate, especially in the light of universal suffrage, has shifted to the question of the rights of property in the state. There is today in Great Britain a notable disproportion in the distribution between political and economic power. The epoch of *laissez faire* has ended, but the House of Commons has not shown itself a very suitable body to determine what is to follow. With all its admirable qualities it looks very like a late eighteenth century institution trying vainly to cope with the problems of the twentieth. It is difficult to believe in the prospect of its success unless it is fundamentally reconstructed.

The success of parliamentary government was built on a partial fusion of the executive with the legislative; the success of the judiciary in Great Britain has been effected ever since the Act of Settlement of 1701 by insisting on its complete independence. There are three ranges of courts, broadly speaking, in England. The High Court is appointed by the lord chancellor, although nominations to the Court of Appeal, the House of Lords and the highest judicial offices, like that of lord chief justice, are made by the prime minister. The county courts, a body of purely civil tribunals dating from 1846, are manned by judges appointed by the lord chancellor. The lower courts are administered either by stipendiary magistrates appointed by the home secretary or by lay justices of the peace appointed (outside the county palatine of Lancaster) by the lord chancellor on the advice of special committees (largely political in complexion) in each area of the country.

The highest courts have great virtues, especially on the criminal side. The judges are genuinely independent and wholly free from any suspicion of corruption or political influence. There is perhaps a tendency to regard judicial appointment as a reward to eminent barristers who have played their part in the House of Commons; it is notable, for instance, that about twice as many judges in the last century have reached the bench through Parliament as from mere distinction at

the bar. It is also notable that in the same period the great judicial figures were either never in the House of Commons at all or else a failure there. The method of executive nomination has not proved very satisfactory in the matter of promotion; and if the system is notable for its administrative efficiency it is extremely costly to the litigant and not wholly satisfactory in the matter of an adequate certainty. It is also proper to note that in the realm of labor law English judges have too frequently displayed that "inarticulate major premise" which gives rise to decisions more notable for zeal than for objectivity.

The lower courts are less satisfactory. Although there have been many admirable county court judges, the tendency is to nominate men who have not been wholly successful at the bar; and there is practically no prospect of promotion. The result is that the county courts, which probably come nearest on the civil side to the lives of the people, are staffed by solid but second rate judges. The magistrates who occupy a paid position on the whole do admirable work, especially in London and on the criminal side. The lay magistrates, however, present a difficult problem. The position is usually the reward of political zeal and the nominees (who sit in couples) are devoid of legal training. The result, as might be imagined, is disproportion in the punishments inflicted, a grave tendency to partisanship in quasi-political and industrial cases and some tendency to class discrimination in minor offenses like disorderly conduct or drunkenness when in charge of a motor vehicle. Nor has any serious attempt been made in England despite recent innovations to deal with the problem of the law and the poor. The conservatism of the legal profession in England is perhaps its most notable feature; and a comprehensive inquiry into law reform in the manner of Bentham's great effort of a century ago is long overdue.

Local government in England is too complex to admit of any brief description; it has not been evolved on principle, but as a growth in terms of pressing need. The system of municipal government largely dates from 1835; that of the counties from 1888. Below these is a mass of lesser authorities—urban districts, rural districts and parishes—mostly late nineteenth century constructions but rarely distinguishable from each other in terms of coherent principle. The present position has well been described as a chaos of areas and of functions. That the system works at all is really due to the powers exercised (largely

through a system of grants-in-aid) by the ministries of Health and Education, whose control secures a desirable minimum of uniformity in policy.

The governance of local bodies has not greatly changed its historic forms. Mayor, aldermen and councilors in the boroughs; chairmen, aldermen and councilors in the counties, are still the usual system. The great changes in the last fifty years have lain in the immense development of the committee system on the one hand and of a trained and specialized local civil service on the other. The former has provided many opportunities for creative work by local politicians; the latter has prevented most of the corruption revealed by the famous inquiry of 1834. The local civil service indeed is not wholly satisfactory. It tends to be too compartmentalized, largely through equating the technician with the administrator; it is usually wanting in coordination and it lacks that imaginative habit of initiative which the central civil service has developed through attracting to its ranks some of the best intelligence trained in the universities. There is also too rigid a control over local experiment through the form in which the powers of local government are conferred; for once an authority steps outside the sphere of defined initiative it must seek parliamentary sanction—a seriously expensive adventure. Control from Whitehall, while admirable in many directions, is probably too rigid in some spheres and too lax in others. And since the local franchise is still confined to ratepayers, except where compulsory standards and objects are imposed upon an authority, for example in education or public health, it tends to mean local government very largely in the interest of ratepayers. Some of the experiments in municipal trading have been remarkable and the educational work of London, Durham and Manchester shows what an eager authority can do. But on the whole the system of local government in England shows competence rather than inspiration, and large revision of its basic principles has become an urgent task. This is undoubtedly realized in Whitehall; but the vested interests of the local authorities are powerfully protected, and it will need a government with immense determination to triumph over their conservatism.

HAROLD J. LASKI

See: LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL; CABINET GOVERNMENT; ADMINISTRATION, PUBLIC; CIVIL SERVICE; COURTS; GRANTS-IN-AID; COUNTY COUNCILS.

*Dominion of Canada.* The Dominion of Canada is a federation which is composed of nine provinces and the legal foundation of which is a statute of the imperial Parliament, the British North America Act, 1867, as amended from time to time. This act, however, must be read in the light of the fundamental conventions and common law principles of the British constitution, judicial decisions and certain Canadian statutes, orders in council and local constitutional customs.

Prior to the formation of the dominion considerable support developed for a legislative union like the United Kingdom; but the racial exclusiveness of French Canada and the geographical isolation of the Maritime Provinces made this impossible. Federation was the only practical alternative; "the Fathers," however, sought by creating a strong central government to improve on the American system, which seemed at the time, 1864, to be disintegrating in civil war. The provinces were given the exclusive power to legislate on certain enumerated subjects—some of them very broad, such as "all matters of merely local or private nature" and "property and civil rights in the province"; over two subjects—immigration and agriculture—the dominion and the provinces were given concurrent jurisdiction; to the dominion it was apparently intended should fall the residuum of legislative power. The dominion was also given unlimited powers of taxation, while the provinces were guaranteed a fixed annual subsidy from the dominion and permitted to levy only direct and license taxes. In addition the dominion executive was given power to appoint the lieutenant governors, the formal executives of the provinces, and the right to disallow any provincial act within one year of its receipt from the lieutenant governor. This was essentially Hamilton's scheme for the union of the American states in 1787.

Time, however, has substantially altered the spirit if not the letter of the constitution. The British North America Act as a statute has called for judicial interpretation; and under the influence of the Judicial Committee of the imperial Privy Council, the highest appellate court for the dominion, the powers of the provinces have been liberally construed and strengthened at the expense of the residual power of the dominion. Through the general adoption of cabinet government in the provinces the lieutenant governor has become merely a social functionary who neither reigns nor governs; and hence appointment by the federal government serves to in-

crease only federal patronage, not federal control over the provinces. Disallowance was freely practised during the first three decades in the interests of vested rights of property and of sound legislation and to keep the provinces within the ambit of their powers, but with the judicial strengthening of the constitutional position of the provinces it has tended to fall into disuse. Thus beginning as a Hamiltonian union the Canadian dominion has become a real federation, an indestructible union of indestructible and autonomous provinces.

Executive government in Canada is vested in the king, who acts through his representatives, the governor general in the dominion and the lieutenant governor in the provinces. In both fields convention requires that the governor act only on the advice of ministers politically responsible to the legislature. In addition to the fundamental conventions of the British cabinet system certain local conventions or practices of almost equal force have developed in Canada. Democratic sentiment virtually compels the prime minister to choose all his colleagues from the lower House. In addition tradition demands representation in the cabinet for groups of provinces, and as far as possible for every province, for the Protestant minority in Quebec and the Irish Catholic minority outside Quebec. Similar conventions have arisen in certain provinces. Racial and religious sentiment and sectional interests are vital political facts in Canada, and it has undoubtedly added to the stability of government and the contentment of the governed that these facts have been mirrored in the cabinet.

In the organization of the administrative services the dominion and the provinces at first followed the contemporary British model by placing all branches of the service under ministers responsible to Parliament. In 1903, however, Canada followed American precedent and placed wide powers of regulation over railways in a Board of Railway Commissioners, largely independent of the government of the day. Since then many other boards or commissions, more or less independent of cabinet control, have been set up in the dominion and in the provinces and entrusted with administration over such specific subjects as public utility rates, old age pensions, workmen's compensation, the grain trade and the management of national railways. As for the civil service, only within recent years has the federal service broken the shackles of the spoils system. Since 1908 the greater part of the service has been established on a merit system which

applies alike to appointment and promotion and which is administered by an independent commission. The merit system followed is largely that of ad hoc examination for specific appointments as in the United States, rather than the British system of academic examination to test general ability. Saskatchewan alone of the provinces has a comprehensive merit system; in other provinces the spoils system is still frankly followed.

Legislative power in both the federal and provincial fields is exercised by the crown in Parliament. The whole field of legislative power of the dominion is distributed between the provincial and federal legislatures. No power is reserved to the people as in the United States. Both federal and provincial legislatures within the ambit of their power are sovereign authorities. The dominion Parliament consists of the House of Commons and the Senate. All provinces except Quebec are now unicameral, although at one time four other provinces had upper houses.

The federal Senate consists of ninety-six members appointed for life by the governor general (in reality by the government of the day), twenty-four from each of four sections—the Maritime Provinces, Quebec, Ontario and the four western provinces. Four or eight members (one or two for each section) may be added in case of deadlock of the two houses, but this power has never been used. Intended as a bulwark for provincial rights and as a restraint upon democracy, the Senate was endowed, like the House of Lords at the time, with powers equal to those of the lower House, except that it might not initiate bills for the raising or spending of revenue. But the Senate has had fatal defects: in an age of democracy it has no popular foundation, and appointments have always been treated as party patronage. It tends to be an active critic of government legislation when its majority is politically opposed to the government of the day; at other times it is relatively passive. Under these circumstances the Senate has never enjoyed sufficient popular support to enable it to play an important role.

The House of Commons is elected for five years, although it may be dissolved at any time before the expiration of its statutory term. Quebec has a fixed representation of sixty-five members; other provinces are allotted representatives after each decennial census in the proportion which their respective populations bear to that of Quebec. Since 1915, however, no province may have fewer members in the House of Com-

mons than in the Senate. The dominion Parliament has full power to regulate elections to the House of Commons, including qualifications for the franchise. Universal adult suffrage based on nationality and residence now obtains for federal elections, while in the provinces similar qualifications prevail except in Quebec, where the vote is still denied to women. In Canada as in England political parties are unrecognized by law, except that the leader of the opposition in the dominion Parliament and in certain provinces is paid a statutory salary like a minister of the crown.

The British North America Act of 1867 makes provision for a federal system of courts, but to date only two federal courts, the Supreme and Exchequer courts of Canada, have been created. All other courts are constituted by the provinces. Virtually all judges above the rank of police magistrate are, however, appointed by the federal executive and paid from the federal treasury and hold office on good behavior. The regulation of civil procedure in provincial courts falls to the province, while criminal law and criminal procedure belong exclusively to the dominion. English common law holds in all provinces but Quebec, where French civil law obtains, except in criminal matters. All courts, however constituted, form part of a single judicial system and may be called upon to administer the law whether it emanates from the federal or the provincial legislature or from the imperial Parliament itself. Similarly provincial officers form part of a single system of law enforcement; the officer primarily responsible for the enforcement of criminal law is the provincial attorney general, who acts through subordinate provincial officers.

The administration of justice is perhaps the most creditable phase of government in Canada. Law and order have been effectively maintained throughout the dominion's history. For this the causes would appear to be that a single system of criminal justice prevails throughout the whole dominion; that the judiciary, although not brilliant, has been incorruptible and free from political interference or popular control; and that Canada has in general followed closely recent British procedure, which admits of relatively speedy justice.

As in the United States the final interpretation of the powers of Canadian legislatures falls to the courts. Where questions of legislative competence arise in ordinary cases involving private rights, the courts simply refuse to enforce *ultra vires* statutes. In addition questions may be re-

ferred for advisory opinion by the governor-in-council to the Supreme Court of Canada, or by His Majesty to the Judicial Committee of the Privy Council, a method used for the settlement of many constitutional issues. Since there is no right of suit between the provinces or between a province and the dominion, disputes between these units are also normally settled in the same way.

Local and municipal government is under the control of the province, hence there is considerable variety both in local institutions and in methods of state control. In general, however, the province exercises control largely by legislation and grants-in-aid in such matters as education. Small elected councils are the principal institutions of popular control, although municipal government has been considerably modified by such American practices as popular election of the mayor (the reeve in villages), annual elections, separation of powers between the council and independent boards in such matters as education and control of police, and the plebiscite in important financial matters. Despite these inroads responsibility is still largely concentrated in the council. Because of this fact and the absence of party politics in municipal affairs, municipal and local government has a tolerably good record.

Changes in Canadian political institutions have come less by reason of a priori theory than by pragmatic adaptations to meet the problems of governing half a continent with a relatively small and scattered population and of uniting two compact racial groups into a single political entity. No less important has been the subtle influence of American practices and ideas. Yet despite changes Canadian political institutions remain essentially British.

ROBERT A. MACKAY

*Commonwealth of Australia.* The Australian Commonwealth is based on two main principles: responsible government and federalism. The first is historically antecedent to the second, having been established in five of the six Australian colonies between 1855 and 1859; in the sixth, Western Australia, it was established in 1890. Before federation the constitutions resembled each other in that they were all contained in or derived from acts of the imperial Parliament; they were all "flexible," with constituent power vested in their legislatures; they all assumed responsible government (resting on convention rather than enactment) and they all established

bicameral legislatures, the cabinet being responsible to the more democratic assembly. This system of government was not disturbed by federation, save that the colonies (which took the name of states) surrendered certain powers to the federal authority.

Since federation constitutional innovation in the states has been concerned with the franchise, systems of voting, relations of the two houses of legislature and the referendum. Woman suffrage has been established in all states. Preferential voting has become general. Queensland instituted compulsory voting in 1915. The Commonwealth Electoral Act of 1924 made both registration and voting compulsory throughout the commonwealth in elections for the commonwealth legislature. Tasmania has established both proportional representation and compulsory voting. Queensland after experimenting with the referendum as a means of deciding conflicts between the two houses abolished the upper house in 1922. Conservative forces in New South Wales have endeavored to use the referendum as support for the upper house. A statute has been passed making its abolition dependent upon the approval of a majority vote of the people. The decision of the Privy Council as to the validity of the statute is to be given in 1932. Abolition is almost impossible except in New South Wales (and formerly Queensland), where the upper houses are constituted by nomination; a government wishing to abolish the upper house in such a case may secure a majority in it by new nominations, although the governor retains a real, if imperfectly defined, discretion in refusing to nominate. In Victoria, South Australia, West Australia and Tasmania the legislative councils are elected on a property franchise, which varies from about 30 to 40 percent of the lower house franchise. There are various provisions for avoiding deadlocks. The Labour party is pledged to abolish the councils, which check democratic programs although they cannot persistently resist popular feeling.

Local government in the Australian states is comparatively restricted. The colonies started under autocratic centralized government. Centralization has persisted in large measure because it is in harmony with the geographical peculiarities of the country. Close settlement is impossible except in the limited regions of good rainfall; a large part of the continent is still unincorporated and must remain so. There is considerable variety of nomenclature in the local government systems of the various states, but all are based on



the grant of powers by state legislatures and are subject to close supervision by the state government. The existing system in New South Wales derives chiefly from amending and consolidating legislation of 1906. The state is divided into municipalities and shires, or counties. These can unite for certain purposes to form county districts, of which there are now four. Shires are divided into ridings, municipalities into wards. The former are governed by councilors, the latter by aldermen. The franchise is usually limited to owners or rent paying occupiers of ratable property. The functions of shires and municipalities comprise such matters as the care of roads and bridges, local sewerage and water supply, markets, trams and other amenities. Shires and municipalities can raise money by a rate and have limited and strictly regulated borrowing powers; they also receive grants from the state. There is a state department of local government under a cabinet minister. The limited importance of local government in comparison with England and most other countries is shown by the fact that it has little or no concern with such traditionally local matters as police, education, health administration and public benevolence. By contrast the municipalities of the capital cities of Australia perform functions of great importance. The management of metropolitan utilities (for example, by the Melbourne and Metropolitan Board of Works) is on a large scale and is efficient. Municipal government in Australia is generally honest and in the past has been outside party politics. To an increasing extent, however, especially in industrial centers, elections are now being fought on a party basis; and the government of Sydney has been temporarily vested in a commission in an effort to combat corruption.

To the individual citizen state government is more important than local government. Conditions of economic geography and history compelled the state to assume functions which were beyond the power of either private enterprise or local cooperation. State governments are responsible generally for police, justice, education, health, the regulation of commerce and industry (unless interstate in character), public works and public "development," which include land settlement, railway building and management, national roads, water supply and irrigation, agricultural research and information, mining regulation and forest regulation and ownership. In addition some states have at various times maintained government brickyards, timber mills,

bakeries, fisheries and similar enterprises. There is necessarily a large civil service, which sometimes exercises considerable influence at elections but is kept free from patronage and the spoils system by competitive entrance examination and organization under a public service board or commissioner. The entrance examination is not severe, and the grade tests and other devices adopted for promoting merit are not sufficient to secure a generally high level of executive ability. In the ordinary departments of government administration is carried on by a combination of amateur (political head) and expert (permanent civil servant). The great public enterprises, however, are in the hands of variously constituted boards or commissions established by statute. Such organization is devised to free the management of the enterprises from political pressure which would impair efficiency. Political considerations are nevertheless largely responsible for the financial weakness of many public enterprises. Business principles would demand greater independence, but this is hard to reconcile with the principle of responsible government.

Since the proclamation of the commonwealth on January 1, 1901, the British principle of responsible government has been combined with the American principle of federalism. If neither principle has destroyed the other, as was prophesied in the debates on the constitution, the two have not always worked harmoniously together. The first proposals for federation came from outside Australia in Earl Grey's scheme of 1847, and the federation question was kept partially alive by individuals (W. C. Wentworth, C. Gavan Duffy and others) and by minorities which had to contend with public indifference. As the colonies developed and came into closer touch with each other and the outside world they began to feel the practical inconveniences of separation, such as the barriers to intercolonial trade, the beginnings of tariff wars, the problem of defense and inability to deal satisfactorily with immigration questions. Pressure from outside made itself felt through the German occupation of New Guinea, French penal policy in New Caledonia and Asiatic immigration. Public opinion began to see the need of a government which could speak for the whole continent on matters affecting its common welfare. The Federal Council, "a rickety body," was the first institution set up to meet this need in 1885. In 1891 a convention chosen by the colonial legislatures laid down the principles of a federal union; be-

## Government

tween 1897 and 1899 a popularly elected convention adopted the present frame of government. After some amendment it was approved by popular referendum and was then embodied with little modification in an act of the imperial Parliament of July 9, 1900. The act recites the desire of the citizens of the six colonies to create "one indissoluble Federal Commonwealth." Equally important, however, was the intention of the federating colonies to retain their existing powers intact "except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government" (resolutions of the convention of 1891). This intention, which was a product of the strong particularist tendency in Australian history, the strongly practical character of the federal movement and the comparative weakness of external pressure, led the Australians to prefer the American to the Canadian model of federation. Section 106 of the constitution provides that "subject to this Constitution" the preexisting constitutions of the states shall continue "as at the establishment of the Commonwealth," and section 107 reserves to the states all powers not explicitly surrendered to the commonwealth. The states were granted equal representation in the Senate, they retained their own governors and the commonwealth government was given no power of disallowing state legislation. The High Court is the chief arbiter of the fundamental law of the commonwealth. In ordinary litigation the final appeal may be brought to the Privy Council by leave of the Privy Council itself or of the High Court or of the state supreme court from which the appeal is brought direct. In certain essential constitutional matters, however, the High Court alone has the right to allow the appeal to be brought. The High Court has been in practise the "balance wheel" of the constitution.

The commonwealth government, nevertheless, has greatly extended its powers at the expense of the states. The reasons for this are political, financial and legal. The method of election to the Senate, by which the citizens of each state vote as a single constituency, and the strength of party organization have turned the Senate into a party house instead of the champion of "state rights" which it was expected to be. Fundamentally, the people of Australia are more interested in economic issues than constitutional issues; and although direct economic initiative remains with the states, the commonwealth power over immigration and tariff pro-

tection is of prime importance as creating the conditions under which economic enterprise must work. The constitution gave the Federal Parliament concurrent powers with the states in general taxation subject to the general proviso in section 109 that in case of conflict federal laws prevail. It also gave to the commonwealth Parliament exclusive powers over customs and excise. It imposed only a temporary limit to the full exercise of the spending power. As a result, the commonwealth Parliament has been able to use the power of the purse to swing the balance of the constitution in its favor. It has also, in the opinion of some eminent authorities, made use of an indefinite appropriation power to spend money for objects not explicitly included in those assigned to it by section 51 of the constitution. Nevertheless, the Financial Agreement of 1927 achieved a temporary balance in the financial powers of states and commonwealth. The expansion of commonwealth powers through judicial interpretation is best illustrated by the decisions [*Engineers' Case*, 28 C. L. R. 129 (1920); 44 *Hours' Week Case*, 37 C. L. R. 466 (1926)] which have given the Commonwealth Court for Conciliation and Arbitration power to regulate the wages and working conditions of state employees and have made its awards paramount over state laws. Until 1920 the majority of the High Court had followed Chief Justice Marshall's principles in interpreting the federal pact, but in that year it adopted a "natural" method of interpretation which ignores "implied prohibitions" and "mutual non-interference."

These considerations together with the unequal incidence of the federal tariff have stimulated secession movements, particularly in Western Australia. In contrast with the secession movements is the Labour policy of unification. Amendment of the constitution requires a majority of the voters and of the states in a referendum vote. Although amendment by this process is not intrinsically difficult, experience has shown that it cannot be achieved except by agreement of the political parties. There is thus a perpetual stalemate in the party struggle in so far as it involves constitutional change. The tendency since the war has been toward increasing cooperation between federal and state authorities. The Premiers' Conference, a body unknown to the constitution, is coming to be regarded by the state governments as partial compensation for the Senate's failure. The Loan Council, an assembly of the Australian treasurers, has unified the borrowing machinery of

commonwealth and states and fixes the amount which any government may borrow at a given time, although it has no concern with the objects for which money is borrowed. Both these institutions are coming to be of decisive importance in Australian government, particularly in times of crisis. Both are signs of a tendency in government to act increasingly through conference, co-operation and "influence" as well as by command.

The political parties are slow in adapting themselves to the changing conditions of statesmanship. Until the rise of the Labour party Australian politics had a strongly marked regional and opportunist character. The Labour party introduced a discipline which has been copied by the Country party and to a far less degree by the Nationalist party, the chief anti-Labour force. Under the Labour discipline ministers are responsible to the parliamentary caucus, which is supervised (more or less effectively) by an external executive appointed by the party conference, which in turn derives from the trade unions and the political branches of the Labour party. This system has existed in Australia for many years and is making the old theory of responsible government (as expressed, for example, by Bagehot) obsolete. The tendency is for Parliament to become a diminishing factor in the governmental system.

Self-government in the commonwealth has extended into the sphere of foreign relations. Here again Australian public opinion is hardly conscious of the meaning of dominion status. It is not concerned with legal definitions but insists that the real unity of the empire shall not be impaired.

W. K. HANCOCK

*New Zealand.* New Zealand is a self-governing dominion of the British Commonwealth of Nations. It has complete autonomy in domestic affairs, participates in imperial conferences, controls dependencies such as the Cook Islands, administers the mandate for western Samoa and shares in the mandate for Nauru.

It was colonized by the New Zealand Company and its subsidiaries. The Maoris ceded sovereignty over it to the British crown by the Treaty of Waitangi in 1840. Until 1852 the governors, administering a species of crown colony government, were in almost constant opposition to the company and the settlers, who insistently demanded self-government. The history of these years illuminates the first mod-

ern period of British economic imperialism by its revelation of the conflict of ideas concerning the rights of native races, disposition of waste lands and responsibility for defense. The New Zealand Constitution Act of 1852 granted representative government but reserved native affairs to the governor. The control of waste lands was handed over to the New Zealand Parliament and the companies also surrendered their lands. Responsible cabinet government dates from 1856, and in 1863 the control of native affairs was obtained by the colony.

The Parliament consists of an elective House of Representatives of eighty members and a Legislative Council of approximately forty members appointed by the governor general for seven-year terms. Since 1892 the governor general has accepted the ministry's advice regarding appointments to the Legislative Council. Public opinion seems content with the revisory powers of the nominated council, and proposals to make it elective have been in abeyance for almost twenty years.

There has been manhood suffrage without property qualifications or plural voting since 1889 and women have voted since 1893. For purposes of representation rural population is weighted by an additional 28 percent, which serves to accentuate the political power of the small farmers in the North Island district. The political influence of the large number of crown tenants and civil servants does not appear excessive. Appointment to the civil service is on a non-political examination basis and little corruption has been known. The Labour party, which is usually in definite minority opposition, numbers some of the civil service unions in its large trade union support. There is no use of the initiative or recall, but under a series of acts beginning with the Alcoholic Liquors Sale Control Bill of 1893 a referendum on the question of the prohibition of the liquor traffic is taken every three years.

The judges of the Supreme Court hold life appointments terminable by a vote of both houses. The lower courts are presided over by permanent stipendiary magistrates. The police and prison systems are centralized and staffed by permanent officers. Standards of justice are high, the independence and integrity of the judiciary is unquestioned, and there have been no serious evidences of police graft in the dominion's history. Procedure is simple and comparatively inexpensive. The legal profession is organized on the British model, except that there is no

distinction between barristers and solicitors. Appeal lies from the Supreme Court to the Privy Council.

From the earliest period the company and then the state have undertaken economic functions to a greater extent than in most other countries. In a new country organization had to be created, and there was a strong feeling derived from the company in favor of group action. This was reinforced by the radicalism of the gold rush immigrants in the 1860's and by the inauguration in 1870 of a national borrowing program for public works and immigration. Immigration and development after 1870 caused congestion and social discontent when economic depression followed falling prices and closer settlement was hindered by land monopoly. The radical program of the 1890's, including graduated land taxation, repurchase, leasing and restriction of area, tariff protection, industrial arbitration, factory legislation, state enterprises, pensions and other welfare measures, was an attempt to break through this situation.

Economic relief came after 1900 with rising prices, the advent of refrigeration for meat and dairy produce and the opening up of the North Island for small scale dairying. The small farmers, who still retain the balance of political power, reversed the radical trend after 1912, but a considerable measure of state economic activity and welfare legislation remains. Public utility services such as education, hospitals, land survey, railways, post office, telephones, cables and radio (including broadcasting), public works and hydro-electric development are organized on a national basis, with results generally considered satisfactory. An elaborate body of factory and welfare legislation includes the Arbitration Court, which has regulated wages and labor conditions since 1894; old age and widows' pensions; the Unemployment Board (since 1930); and a Child Welfare Branch of the Education Department. There are also state life, fire and accident insurance and a Public Trust Office, which competes strongly with the legal profession in probate, conveyancing and executor business. Radical ventures in state enterprise have not been continued, however, and private capitalism, notably freehold farming, is firmly entrenched.

In 1921 a board was established to control the export of meat. The principle has since been extended to dairy produce and other exports (but not to wool). These boards operate under enabling acts but are mainly controlled by the

farmers through their strong rural cooperative organizations. There is government representation on the boards, whose compulsory powers have been used sparingly.

The provincial councils established by the 1852 constitution were powerful, especially after the compact of 1856 gave them control of the waste lands. Education, public works and railways were first developed provincially, particularly by the wealthier southern provinces. Conflict with the central government over the disposal of the waste lands after the national development policy began in 1870 resulted in the abolition of the provincial system in 1876. Since that date New Zealand has had a unitary government of increasing centralization. The system of local government still rests upon the Counties Act and the Municipal Corporation Act, both of 1876, which replaced the provinces by a system of county councils supplemented by municipal institutions and functional bodies such as harbor and drainage boards. The number of local authorities functioning in 1929 was 687. The post-war period witnessed a rapid growth of local borrowing and taxation. There is considerable demand for revision of the complex local government organization.

By the Treaty of Waitangi the Maoris retained the ownership of their lands but difficulties soon developed over land purchases, resulting in two wars, from 1843 to 1847 and from 1860 to 1872. The first unregulated sales were reviewed and largely disallowed by the governors and since 1865 the Native Land Court has functioned efficiently and equitably. Confiscations after the second war accelerated depopulation and left many grievances, but in the present generation considerable progress has been made in settling difficulties and relations are now satisfactory. The Maoris are conserving their remaining lands and have made remarkable economic progress. Since 1867 they have had four members in the lower House and representation also in the Council. There is always a Maori member of the cabinet.

J. B. CONDLIFFE

*Union of South Africa.* The Union of South Africa was formed out of the four colonies of the Cape of Good Hope, Natal, the Transvaal and the Orange River Colony. The Cape of Good Hope, first colonized in 1652 by the Netherlands East India Company, was occupied by the military forces of Great Britain in 1795. After a brief period under the rule of the Batavian Re-

public, to which it was ceded by the Peace of Amiens, it reverted to British rule in 1806 and the peace negotiations of Vienna finally regularized the British position. Its population strengthened by British immigration, the colony was granted representative institutions on unusually liberal lines in 1852, attained responsible government in 1872 and by a series of annexations reached its present boundaries toward the close of the nineteenth century. Natal owes its origin to the Great Trek—an emigration, heaviest in 1836, of farmers of Dutch origin from the Cape of Good Hope. The Republic of Natal, set up by these hardy pioneers, or *voortrekkers*, was annexed by the British government in 1843. Comparatively few of the *voortrekkers* remain and Natal has become the most English in character of the four provinces. It received representative institutions in 1856 and responsible government in 1893.

The independence of the Transvaal, the scattered territories north of the Vaal, was recognized by Great Britain in 1852 by the Sand River Convention. These territories gradually assumed form as the South African Republic, the constitution of which dated from 1858. Financial chaos and military disasters facilitated the annexation of the republic in 1877. It was given a modified independence under the suzerainty of the British crown as a result of the Boer War of Independence of 1880-81 and the Pretoria Convention and regained almost complete independence under its old name by the London Convention of 1884. The discovery of gold led to the influx of a large number of new immigrants, mainly British. Annexed as the result of the Boer War (1899-1902), it underwent a brief crown colony regime and by royal letters patent of 1906 achieved responsible government without going through any intermediate stage. The Orange Free State, at first loosely connected with the *voortrekker* government in Natal, became a British crown colony in 1848. In 1854 it was disannexed and its independence recognized by the Bloemfontein Convention. Like the Transvaal it became a crown colony after the Boer War and attained responsible government in 1907. The two Boer republics presented certain interesting characteristics. The Orange Free State, the less adventurous of the two, was governed under a rigid constitution as compared with the flexible constitution of the Transvaal. Both had for the greater part of their existence unicameral legislatures. In the South African Republic the executive was quite unique and the original settlers,

forming one of the most thoroughgoing democracies of modern times, constituted a close oligarchy, which ruled the newer settlers and the native population.

Economic difficulties, including especially the questions of the customs union renewal and railway rates, led to the calling of a thoroughly representative National Convention, which met in 1908 and 1909. The constitution drafted by this body was approved by the four colonial parliaments as well as by a popular referendum in Natal and formed the basis of the South Africa Act (9 Edward VII, c. 9) passed by the British Parliament in 1909. On May 31, 1910, exactly eight years after the signing of the peace treaty which ended the Boer War, the Union of South Africa came into being.

The constitution of South Africa is, except for three reserved sections, wholly flexible. The South Africa Act is a creative not a restraining document. The act, it has been said, merely aimed at setting up a sovereign Parliament and making provision for certain matters until that Parliament decided otherwise. The idea of a sovereign Parliament unfettered by constitutional restrictions is deeply rooted in the traditions of the country, the South African Republic having developed it no less than the British colonies.

The Parliament of South Africa consists of the king, a Senate and a House of Assembly. The Senate consists of forty members: eight, four of whom are to represent native interests, are nominated by the governor general in council; the remainder are elected, eight in each province, by electoral colleges made up of the representatives of the province in the House of Assembly and the members of the Provincial Council sitting together and voting according to the single transferable vote system of proportional representation. Senators must be over thirty years of age and elected senators must possess immovable property amounting to £500. The maximum duration of the Senate is ten years, but it may be dissolved at any time simultaneously with the House of Assembly or within 120 days after the dissolution of the House of Assembly. In 1926 the term of the nominated senators was limited to the life of the government. The House of Assembly consists of a maximum of 150 members elected in the ordinary way by single member constituencies. Its maximum duration is five years. Legislation other than money bills may originate in either house. Disputes between the houses are settled by a joint sitting, a system which in normal circumstances operates so as to

give the Senate a suspensive veto for a period of from twelve to eighteen months. The Senate has not hitherto proved a great success. Perhaps its failure is partly accounted for by the fact that there was nothing corresponding to it in the old republic tradition. Despite the provision that four of the eight nominated members of the Senate are to be chosen to represent the interests of the natives the Senate has never inspired native confidence. Recently proposals have been made to use it for giving representation to the voteless natives of the northern provinces and to make it a kind of specialist House in Native Affairs, thereby attracting to it men of talent. The House of Assembly, by reason of the single member system, does not always adequately express the will of the electorate. Diffused minorities are largely unrepresented. The fact that for all practical purposes non-Europeans are disfranchised (except in the Cape of Good Hope) and are totally excluded from membership of both houses is a great weakness in the eyes at least of non-South African critics.

The union executive follows the usual British dominion model. The maximum number of ministers in the cabinet is eleven. The English system of a permanent departmental head (secretary) under the political departmental head (minister) prevails in South Africa. Permanent boards and commissions have been set up for the administration of the railways and harbors, all of which are publicly owned and operated, native affairs, the tariff and minimum wages and for the development of the electrical supply and the iron and steel industry. A Public Service Commission of three members, nominated by the governor general in council, exercises a general supervision over the personnel of the administration. Although there have been individual cases of political patronage, nothing in the shape of an organized spoils system exists.

The administration of justice is entirely in the hands of the union; there is no separate provincial or municipal judiciary. The constitution established one Supreme Court for the entire union; the preexisting superior courts in the provinces were made divisions of the Supreme Court of South Africa. An Appellate Division of the union Supreme Court serves as the court of final appeal. There is no appeal as of right to the Judicial Committee of the Privy Council, but the king may on petition grant leave to appeal. The courts have no check on the constitutionality of legislation.

In the light of the history and peculiar difficul-

ties of South Africa it is surprising that the form of government set up was not federal. One of the first acts of the convention was to vote down federalism. Among the variety of individual points of view contributing to this result were unfavorable interpretation of the functioning of federalism in Canada and Australia, a conception of the union as a continuation of the Cape of Good Hope's process of annexation and a feeling that the disunion after the Boer War necessitated heroic measures to secure effective co-operation. Certain concessions to federalism were made, but in all essentials the government is a legislative union. The provinces set up by the South Africa Act, although in geographical boundary and (with one exception) in name identical with the previous colonies, have no legal continuity with them. They can be abolished at any time by the union Parliament; their legislation can be vetoed by the union government and, if in conflict with union acts, is void to the extent of the conflict. They have no exclusive legislative powers. Concurrently with the union Parliament (which in general allows them a free hand within these narrow limits) they may make laws on education, hospitals, agriculture, roads, local government, poor relief, shop hours and a few minor points. Higher education is exclusively a union matter. Financially the provinces are limited to certain direct taxes and assigned revenues and depend upon subsidies from the union government for approximately half their income.

In each province there is a unicameral legislature known as a provincial council, which elects by proportional representation an executive committee of four members sitting, like the council itself, for a fixed period of three years on the Swiss model. An official nominated by the union government for a term of five years and known as administrator presides over this committee and over the province generally. His powers and status resemble those of the French prefect and he combines somewhat incongruously with the very differently formed executive committee. The provincial councils have not been an unqualified success. The attempt to create non-party executive committees has only resulted in transferring the wrangles of the council chamber to the committee room. Widely criticized in every province except Natal, where they are considered a guaranty of the rights of this English speaking province, their early disappearance is nevertheless improbable for various reasons.

Local government was not changed by the act of union. Municipal government, carried on by elective councils, is generally satisfactory; many of the towns provide a wide variety of public services. One of the greatest governmental defects of the union is the lack, except for the divisional councils in the Cape of Good Hope, of an effective system of rural local government. The burden of taxation falls on the towns (which are under-represented in Parliament) and rural communities have not been taught self-help or responsibility.

The internal development of the union has been marked by bitter party feuds and unhealthy symptoms of political patronage. Industrial disputes of an acute character took place in 1913, 1914 and 1922, but since then liberal labor legislation and administration have done much to conciliate European workers. From this legislation the native Bantu worker, who supplies most of the labor of the country, has been generally excluded. The future status of the native is the most important problem of the union. A uniform native franchise of all provinces has been mooted and various types of communal representation have been discussed. Besides objections of principle the chief difficulty toward realizing such schemes is the vested interests of Cape native voters, whose rights are specially entrenched in one of the three rigid clauses of the constitution. The outbreak of the war in 1914 was a crushing disaster for South Africa, arousing great inter-racial bitterness and preventing the early attainment of national unity. A rebellion broke out in parts of the Transvaal and Orange Free State, and a strong Nationalist party grew out of its repression.

The presence of neighboring British territories raised hopes, which have not materialized, for an extension of the union's boundaries. In 1922 Southern Rhodesia definitely rejected entrance into the union; it became a self-governing colony in 1923. Until 1930, the governor general of the union was also high commissioner for Southern Rhodesia and for the native protectorates of Basutoland, Bechuanaland and Swaziland. As a result of the imperial conferences of 1926 and 1930 these two offices have been separated. The governor general is now the personal representative of the king (not the British government) in the union and the formal head of the union government, while the high commissioner in addition to supervising the territories mentioned is also the representative of the government of the United Kingdom in the Union

of South Africa with semi-ambassadorial functions. Customs union arrangements still tie the union to the territories but the renewal of the agreement with Southern Rhodesia in 1930 was consummated with great difficulty. The Appellate Division of the South African Supreme Court has jurisdiction over appeals from the court of Swaziland and the High Court of South-west Africa as well as from the High Court of Southern Rhodesia, which, like the union, is governed by Roman Dutch law. In 1925 South-west Africa, which the union administers as a Class C mandate under the League of Nations, was granted a measure of self-government with institutions somewhat similar to those of the provinces; it will probably ultimately be incorporated in the union.

South Africa is a land of dualism. A special South African nationality exists in law within the wider field of British nationality and a special South African flag is recognized side by side with the Union Jack. In addition to Bloemfontein, which is the home of the appeals court, there are two capitals, Cape Town being the seat of the legislature and Pretoria of the administration. Finally, there are two official languages, English and Dutch, the latter term including the South African form of Dutch—Afrikaans—which has almost entirely replaced the Dutch of Holland for state purposes. No feature of its institutions mirrors the history of South Africa more clearly than this dualism.

EDGAR BROOKES

*Irish Free State.* The "Articles of Agreement for a Treaty between Great Britain and Ireland," drawn up in 1921 after years of civil war and much rancor (see IRISH QUESTION), provided that the new Irish Free State was to have "the same constitutional status in the Community of Nations known as the British Empire as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa." The status of Canada was agreed upon as the criterion of the relations of the Free State to the empire. Northern Ireland exercised the right granted it in article XII of the treaty and withdrew from the Free State on December 7, 1922. A constitution, which came into operation December 6, 1922, was drafted by a committee which took the constitution of Great Britain as a basis but instituted important changes drawn from those of the United States, Switzerland and Germany and from their own experience. Many of the

provisions proved quite unworkable under Irish conditions and amendments have been frequent. Constitutional changes have been easily accomplished as a result of the important provision (itself amended so as to extend its operation for an additional eight years) that for eight years amendments could be made by simple legislative act.

All the committee members were suspicious of party government and party organization, an attitude derived from intimate and often painful personal experience in Ireland and the United States with the power of the party boss and the baleful influence which he may come to exercise. They had been subjected to personal abuse and occasionally to maltreatment because of the heterodoxy of their political creed, and they knew that a strong party organization inevitably led to the suppression of independent political thought. They knew also that in its earlier stages the greatest requirement of the Irish Free State was independence of political thought and opinion. Consequently in addition to specific guarantees of freedom of person, conscience and expression the constitution embodied every known device for the subjection of political parties.

The constitution provided for a legislature to be known as the *Oireachtas* and to consist of the king and two houses, the Chamber of Deputies (Dail) and the Senate (*Seanad*). A unicameral legislative system would probably have been adopted had there not been an agreement to provide seats in the upper house for representatives of the old "loyalist" classes; the *Fianna Fail*, or Republican party, aims to abolish the Senate as soon as possible. All citizens over twenty-one years of age, regardless of sex, can vote in Dail elections, and all voters are eligible to membership in the Dail. The legislative term, originally four years, has been limited to six by constitutional amendment and fixed at five by legislation; the Dail may be dissolved on the advice of the Executive Council, and in such a case new elections must be held within thirty days.

The mode of selecting the Executive Council followed rather the example of Switzerland than of Great Britain. The president was to be elected by the Dail; he was then to nominate from five to seven ministers as his Executive Council, to be elected en bloc. Certain extern ministers, not members of the council, were to be elected directly by the Dail on the basis of peculiar fitness for particular posts. The total number of ministers was limited to twelve. In practise this

divided responsibility did not work; an amendment in 1927 therefore increased the maximum number of ministers in the council to twelve, thus making possible the elimination of the extern ministers. As a result all ministers are now members of the Executive Council; each except the president is responsible for an administrative department. By an amendment of 1929, one member of the council may be a senator. The constitution provided for vocational councils to advise the ministers, but aside from a more or less sporadic and unconvincing agitation nothing has been done to call them into being.

The same council, under the presidency of William T. Cosgrave, has been continuously in office from the first. Its supporting party, *Cumann na nGaedhal*, had almost uncontested domination of the Dail during the first five years because of the absence of the *Fianna Fail* members, who were unwilling to take the oath of allegiance required. Only when the oath was made a condition of nomination in 1927 did the followers of De Valera take their seats. When they immediately thereafter attempted to remove the oath through the referendum and the initiative, Cosgrave used his slight governmental majority to eliminate these features from the constitution. In the early years the opposition of the Labour party, under the leadership of Thomas Johnson, aided in crystallizing the legislative processes. Since 1927 De Valera has been leader of the parliamentary opposition, which includes the vast mass of Republican opinion. Party discipline in the Dail is very strong.

While the Dail has undergone only the process of party solidification so abhorrent to the spirit of the original constitution, the Senate has been radically altered. It consists of persons who have "done honour to the nation by reason of useful public service" or who represent important aspects of the nation's life. There were temporary provisions for the constitution of the first Senate; every three years thereafter one fourth of the seats were to be vacated, and the eligible voters (those over thirty years) were to elect the new members from a panel prepared by the Dail and the Senate. One election was held under this system, in 1925; it was boycotted by *Fianna Fail*, only about one fourth of those qualified voted and the system was generally adjudged undesirable. In 1928 the constitution was amended to reduce the Senate term from twelve to nine years, one third of the members retiring every three years; the age limit for eligibility was reduced from thirty-five to thirty



years; and the full power of election was given to the two houses voting together under a system of proportional representation, an arrangement which has brought the party system into the Senate as well as the Dail. The length of time for which the Senate may postpone the operation of an act passed by the Dail was extended from nine to eighteen months, with a possible additional two months if the Dail repasses the same measure.

The single transferable vote system of proportional representation was provided for in the constitution. While most people profess to be satisfied with its continuance there are demands for a change, principally to the alternative vote system with smaller constituencies. It is agreed that proportional representation carried the new state safely through a civil war and much political disturbance, but it is argued that under stabilized conditions the system is unduly ponderous for a small state.

The judicial system of the old British regime has been completely displaced by a system of courts which is still in its experimental stages. At its head as a court of final appeal is the Supreme Court, while a High Court, circuit courts and district courts are provided as courts of first instance. The Supreme Court and the High Court are given express power to pass on the constitutionality of laws. Constitutionally there is still a right of appeal to the Privy Council, but this right has proved futile in practise. The judicial system works well on the whole, but there is serious discontent at the delays in procedure.

The entire system of internal administration has been radically altered toward greater centralization. Of the older British system of local government only the county councils remain. The small rural district councils, the boards of guardians and many other petty local authorities have been abolished and their functions transferred to the county councils under the direction of the Ministry of Local Government and Public Health. In the larger cities city managers acting with an elected advisory council have been appointed as chief executives. This system will be adopted for the county councils in the very near future. Another departure is the system of state ownership with delegated control of public utility service, such as the Electricity Supply Board operating the Shannon hydro-electric scheme; this has been adapted to such services as fisheries and home industries through a system of state control with commercial management.

Because of the backward industrial state of the

country and the absence of industrial initiative and confidence the initiative in nearly every industrial advance has had to be taken by the government. In addition to actual ownership of certain projects the state has granted subsidies to the beet sugar industry and has provided loans for agriculture and industry. A permanent Tariff Commission, set up to pass upon applications for tariffs, has granted nearly every application. The land problem has been the subject of a series of acts since 1923 the effect of which has been to break up more and more of the large estates. The 1931 act is calculated finally to solve the problem. In the interest of economy the government has been backward in the provision of social services. That the public finances have been rather well handled is indicated by the fact that during the wave of financial difficulties which overtook country after country in 1931 the credit of the Irish Free State stood very high.

While the Free State is not yet a properly functioning democracy, there is every indication that it soon will be. Except for the early years of internal conflict and for such restrictions as are due to the continued existence of armed revolutionary organizations, civil liberties have been consistently maintained. Political interest is evidenced by the fact that over 75 percent of the electorate generally votes in elections. The educational system has been remodeled and the press is active. While the censorship of films and books may assume serious political significance at any moment, its present aim is moral rather than political. The influence of the Catholic church is strong and will probably increase with the passage of time.

ANDREW E. MALONE

See: LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL; DOMINION STATUS; COLONIES; COLONIAL ECONOMIC POLICY.

*British Commonwealth of Nations.* The British Commonwealth of Nations is the term, now sanctioned by many official acts, used to describe the metamorphosis of the old imperial relations between Britain and her dominions into a new constitutional structure based upon equality of legal status. In official usage it is interchangeable with British Empire, but it is applied only to the relations of the United Kingdom and its dependencies with the six fully autonomous dominions in which equality of status is admitted. Even here Newfoundland has not been admitted by other powers to an international parity with

the other dominions—Canada, Australia, New Zealand, the Union of South Africa and the Irish Free State—since it has not been admitted to membership in the League of Nations. On the other hand, even though India by an international anomaly occupies a seat in the League Assembly as an original signatory of the Treaty of Versailles it is not a full member of the commonwealth and appears at imperial conferences by grace. Although promised eventual dominion status it is still legally and in fact subordinate to the will of the British Parliament.

The Act of 1649 created the first British Commonwealth—without a crown. In the modern British Commonwealth of Nations the crown is almost the sole bond of unity. This revival of the term commonwealth owes its adoption to the school of imperial statesmanship that produced the term *diarchy* to describe the rule over the provinces in India. It is an effort thoroughly Platonic to create a state of fact by a myth—through the power of a word; or, viewed from another angle, to disguise an existing state of fact by calling it something quite different. Lionel Curtis and the Round Table disciples of imperial federation had attempted to create a true commonwealth that could tax its federal members and legislate on defense and high policy through a federal (imperial) legislature. Although federation failed to come about even under the welding influence of wartime sentiment, the term commonwealth was nevertheless adopted. It was given wide popular sanction by the speeches of British and of dominion ministers, particularly General Smuts, during the imperial war conferences in the last two years of the war. Its first really official use was in the oath of allegiance included in the so-called Anglo-Irish Treaty of 1921 and given legislative currency by the Irish Free State Constitution Act of 1922. The treaty itself also spoke of the "Community of Nations known as the British Empire."

The expression British Empire continued to be used even in the League of Nations for official purposes and the expression British Commonwealth of Nations enjoyed only a propagandist usage until after the Imperial Conference of 1926. The Balfour Report of 1926, as the famous formula on equality of status came to be known, was a model of reconciling through a happy formula unity with diversity and equality of status with the functional hegemony of the mother country. But it merely recognized facts; the remaining legal and diplomatic unity of the empire depended on dominion cooperation.

Indeed, by persuading the dominions to accept a formula of signature in which the king stood as the sole high contracting party under the Heads of States formula, the British negotiators at this conference succeeded in suppressing for the time internal difficulties which had been raised at Geneva and elsewhere by the Irish Free State over the *inter se* application of treaties and multilateral conventions. Since the king's name was used to group all the signatures for the dominions and Great Britain as well as India, the international practise indicated that the great seal appeared on the final authority of the king as the head of a single state—the British Empire. However, whereas the United Kingdom of Great Britain and (since 1922) Northern Ireland had previously been represented by the signature of a plenipotentiary who signed for the British Empire as a whole, exempting from the binding force of his signature all those territorial units that were separate members of the League or such colonies as desired to be left out, under the new form of signature the United Kingdom appeared as a unit of the British Empire along with the dominions, *primus inter pares*. From 1927 onward the powers issued to the plenipotentiary for the United Kingdom no longer included the dominions, although they did include the dependent empire with the exception of India.

The separate international personality of the dominions may be said to have been recognized by other states to the degree that ministers plenipotentiary have been exchanged with all but Australia and New Zealand by one or more of the most important foreign powers, including the United States. There is at least one dominion minister in the capital of each first rate power except Russia. The Irish Free State has even been granted a special seal by the king himself to be applied to all international documents in place of the great seal of the United Kingdom. There is therefore apparently nothing left to prevent separate international action by any dominion except a constitutional understanding really of international character. This entente is limited to maintaining "consultation" on matters of common interest and a common person as the bearer of the crown, which is responsibly and separately advised by the ministers of every member of the commonwealth through a governor general, who is now purely viceregal in his capacities and subject to actual choice by the dominion concerned. The use of British diplomatic channels is left available to the dominions,

and the primary category of citizenship in the British Commonwealth of Nations, through agreement on basic laws and allegiance to a common king, is retained.

The Imperial Conference of 1930, accepting the report of the Conference on the Operation of Dominion Legislation of 1929 and recommending the Statute of Westminster, gave a legal basis to equality of status (*see* DOMINION STATUS). The royal signature to this statute in December, 1931, removed all the bars to a dominion's changing any imperial law. Although the preamble contains an agreement that "any alteration in the laws touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom," it has no enacting force of its own and is merely a statement of international agreement in the light of the rest of the document. In strict law perhaps the right of disallowance and reservation still remains and is admitted for any dominion act which in the judgment of the British Treasury violates the terms of the Colonial Stock Act of 1900. But this right as well as much of the right of appeal which still remains to the Judicial Committee of the Privy Council might be presumably altered by any dominion except in so far as its constitution prevented it. And after agreement by the proper dominion authorities these constitutions might themselves be altered. The limiting of dominion legislative competence to their own territories and to conformity with British acts (through the Colonial Laws Validity Act of 1865) disappeared along with the limitations under the Colonial Courts of Admiralty Act of 1890 and the Merchant Shipping Act of 1894.

It must be admitted by those who claim that the Statute of Westminster and the Irish Free State's seal taken together complete the juristic conditions of a personal union foreseen by J. S. Ewart of Canada that the vestigial control over the constitutional acts of the federal dominions and New Zealand by the Parliament of the United Kingdom still constitutes a formal bar to complete independence of dominion action. And if constitutional understandings are held to render this of no effect, then constitutional understandings at the same time still preserve some aspects of a confederation for the commonwealth. For instance, the laws governing the throne require unanimous consent to change; meanwhile they remain British laws. Similarly there has so far been constitutional

agreement to retain a common basis of imperial citizenship which extends further than even the old doctrines of allegiance would have pushed such community under a personal union [*see* Calvin's Case, 7 Rep. 1 (1608), and Isaacson v. Durant, 17 Q.B.D. 54 (1886)]. British treaties so far cover all British subjects in the advantages which are claimed, although there is a growing tendency for foreign states to dispute this blanket clause and the application of the adjective British to all dominion shipping.

International usage also indicates that the British Commonwealth of Nations has not yet achieved the complete recognition of the separate state personality of the dominions that is accorded to independent states. It has been acknowledged that the dominions are entitled to seats on the Council of the League of Nations and to the election of their nationals as judges to separate seats on the Permanent Court of International Justice. Canada and the Irish Free State have sat upon the Council, but no dominion has yet had one of its nationals upon the World Court. Indeed the Committee of Jurists engaged in revising the Statute of the Court in 1929 seemed almost unanimously opposed to or suspicious of the claim advanced by Sir Cecil Hurst that in cases where they were parties at interest to a dispute the dominions have the right to have separate dominion judges added to the Court even if a British judge is sitting. A more convincing evidence that foreign powers do not yet concede independent state personality to the dominions on the personal union basis appears in naval conferences. The dominion delegates succeeded in the London Naval Conference of 1930 in being treated as the heads of delegations. But the British Commonwealth of Nations—so termed in the resultant treaty—must accept a quota as a single unit, as if it were only one state.

A confederate character of indivisible statehood inheres in the privileges claimed by the members of the commonwealth to extend mutual tariff preferences *inter se* without violation of the most-favored-nation clauses of commercial treaties. The *inter se* exemption from the operation of such international conventions as those on copyright, customs formalities and transit are still claimed under the shelter of the indivisible character of the crown *vis-à-vis* foreign states. No doubt the *inter se* reservation attached to the signature of the optional clause of the World Court's Statute and to the General Act of 1930 is primarily of constitutional concern only to the members of the British Com-

monwealth. Yet it does indicate a peculiar relationship which has international significance. The refusal of the Irish Free State to insert the reservation is probably in its immediate bearing of only academic interest to foreign states. But it raises the logical issue of whether a full member of the League of Nations can or should stand in a juristic relation to a group of other states which might prevent independent action.

So long as consultation on matters of high policy results in a degree of unanimity, of which the only serious breach so far is the main Locarno Pact, foreign powers are justified in regarding the potential neutrality of the dominions as a strategic rather than a juristic possibility. If defense forces are freely exchanged and naval bases open to the British fleet are maintained in the dominions, their freedom from attack would depend on suzerainty rather than on right. Only General Hertzog has claimed neutrality for a dominion in any official pronouncement. And he has not been willing to face the question of what the status of the British admiral in South Africa would be. Probably neutrality would involve a formal right of secession—also claimed by the general but merely "noted" by the last Imperial Conference.

Although in these various respects the commonwealth remains a confederation of states rather than a league of states under a personal union, the inherent political power to treat the crown as a divisible body no doubt exists in the dominions. They might treat it as a crown acting as separately for their separate kingdoms as once it did for Scotland and England (to 1707) or for Great Britain and Hanover up to the accession of a female ruler of England, Victoria.

The present organization of the commonwealth therefore continues to defy exact juristic classification, even though all tendencies point to the completion of the personal union status with a purely symbolic crown, which permits and encourages consultation with a view to joint action but which does not enforce legal unity. The sanctions against a violation of this constitutional unity, which depends upon the use of the Imperial Conference to secure unanimous agreement and joint legislative activity, are now almost wholly extralegal and could be made entirely so if any dominion persistently desired it.

But the bonds of empire even on this basis are by no means so tenuous as their legal statement would seem to imply. Only the Union of South Africa was able in 1931 to remain on the gold standard after the British relapse in September.

Even on a dominion in the strong economic position of the union with its gold exports the pressure has been increasingly heavy to follow Britain in order that South African producers should not be competitively penalized in shipping into their best market—the British. The banking structure of all the dominions except Canada is intimately connected with that of Great Britain. Ireland is an economic adjunct of England in every sense. Only Canada is substantially outside the British market's orbit. And if the tariff antagonism between the United States and Canada continues, even Canada despite the overwhelming preponderance of American capital invested in its industries may be forced increasingly back within the imperial system.

Except for Canada's steps toward an economic rapprochement with the West Indies the dominions are as yet uninterested in the dependent empire either as a market or as a source of raw materials. They rely upon England mainly as a steady market for their commodities under increasing tariff preferences in 1932 generalized by Britain's 10 percent basic tariff; and as a stabilizing influence in a world in which large scale wars are all too possible. British emigration to the dominions still more than the shipment of British goods has been brought to a standstill by the growth of dominion nationalism. Allowing for the abnormal character of the depression, this development is a marked feature of the post-war period. Cultural attachments of certain types in education and literature flourish, but even here nationalism plays a limiting role.

It is to the organization of a type of machinery like that of the League of Nations, but infused with more intimate sentiments, that Britain must look for the future of imperial cooperation. The machinery of direct consultation or of periodic conferences for all sorts of expert as well as political purposes has so far proved to be more feasible in securing cooperation than has the erection of any sort of secretariat or permanent advisory body in London. It is true that the dominions maintain high commissioners in London, but their functions are primarily economic and ceremonial and not constitutional or even really diplomatic. On important matters the governments consult directly or through visiting cabinet ministers. The experiment of cabinet ministers resident in London undertaken just before and during the war by Canada and by New Zealand has hardly afforded hopeful results. Liaison officers, like the Australian official who cooperates with the Imperial Defence Com-

mittee and the cabinet secretariat, may be increasingly employed.

Although the meetings of imperial forestry, metallurgical, surveying and similar conferences in London and occasionally in the dominions seem to produce more propaganda than concrete cooperation they are nevertheless both useful and necessary. The few imperial bodies on which the dominions are equally and permanently represented do not as yet have very important functions. The Imperial Economic Committee and the Imperial Shipping Committee have been mainly useful in intelligence work and scientific surveys. The Empire Marketing Board has been dependent on the secretary of state for dominion affairs and on the British Parliament for its funds and in the main for its guidance. At the Imperial Conference of 1930 its control was turned over to a trust and its funds guaranteed for a period, but these funds were ruthlessly slashed in the 1931 British economy program.

Uniform legislation to implement what amount to international conventions goes somewhat further in the British Commonwealth of Nations than in general international treaties. Laws on nationality are thus arrived at after conferences. The 1930 conference adopted a draft agreement on merchant shipping which it was hoped that the dominions might accept and carry into effect. The Statute of Westminster is to be passed by three dominions—Australia, New Zealand and Newfoundland—before it becomes operative for their laws. Although the way is left open for the use of legislation from Westminster, to apply to the dominions only at their own request, the form of concurrent legislation will no doubt be more usual as being more in conformity with the dignity of the dominions. In strict legal theory no Parliament of Westminster can bind its successors: the Statute of Westminster might therefore be repealed. But this is pushing theory into the realm of palpable fiction.

The constituent organ of the commonwealth, the Imperial Conference, has so far shown more ability to achieve constitutional changes than has the Council of the League of Nations. But it has done so only because it constantly tended to strip the central government at London of imperial powers. Whether it will be equally effective for construction of new ties or organs of the commonwealth still remains to be seen. Certainly the embryonic organs of an imperial secretariat in London are not yet as articulated or as useful as are those of the League. Perhaps

in the improbable event of any sweeping degree of success for the movement toward closer economic union within the empire these imperial organs of a permanent secretariat might develop. Any common tariff or currency policy would create a need for them.

The colonial conference and the colonial empire are the responsibility of England alone and do not concern the dominions. The colonial secretary is now separate from the secretary of state for dominion affairs, as their permanent civil service staffs have been formally since 1925 and in fact since about 1910. The Dominions Office itself is a purely British department, although like the Foreign Office and the British consular and diplomatic service it is at the disposal of all the dominions for consultation and other services.

It has as yet proved no more possible to organize a central imperial court of judicature than a secretariat or a representative federal council of a permanent character. The Judicial Committee of the Privy Council retains some powers of hearing appeals from the dominions. It includes a few dominion judges, who attend irregularly, but they are appointed from England. Its popularity as a court of final appeal from the dominions has never been great, and it is as at present constituted an anomaly from the constitutional point of view. The Irish Free State has taken the extreme position of practically nullifying the few appeals which the Judicial Committee has allowed from the Free State under the Treaty of 1921 and the Constitution Act of 1922, section 66. Its announced intention to abolish the right of appeal after the passage of the Statute of Westminster is held in abeyance by negotiations to secure first a modification of the Treaty of 1921, a procedure on which the British government seems to have insisted. The government of the Union of South Africa seems similarly antagonistic to the Judicial Committee and the other dominions are restive.

Special ad hoc arbitral tribunals, chosen in the usual manner but from within the British Commonwealth, have been proposed by the report of the Imperial Conference of 1930 to hear justiciable disputes between the governments. It is significant that recourse was rather to arbitration tribunals than to a type of court analogous to the Permanent Court of International Justice or even that of Arbitration, with its permanent panels. It is also noteworthy perhaps that for the first time in an official document sanctioned by the British government the members of the

commonwealth are spoken of in this connection in the Imperial Conference Report of 1930 as "*States members . . .*" (author's italics).

The significance of the British Commonwealth of Nations for political theory is highly disputable. Traditionalists will see in its juristic evolution the working out of the logic of national sovereignty to the ultimate conclusion of independent statchood for the dominions. Pluralists will point to the indeterminate character of its present unity as an illustration of the victory of factual complexity over juristic categories. Proponents of an international order based on a voluntary and contractual but workable regime of international law will see in it the model of a new legal order. Even believers in a world super-state will probably regard its existence as prophetic of the retention of unity in the face of nationalism.

Because of its juristic anomalies it may be made to serve all these theoretical causes. But if political theory be an attempt to understand facts and to derive from them both scientific descriptions of a present order and a clue to ideal tendencies, the British Commonwealth of Nations must be presented as an order of fact that is indeed *sui generis*, since its members have succeeded so far in having the best of two possible worlds: the status of independent contracting parties for privileges and exemptions or the status of parts of a single international unit—whichever is the more useful at the moment. From the point of view of other states this may eventually present objections. At present its convenience in stabilizing international peace is stronger than any harm it does to international practise through conflict with traditional juristic concepts.

Nevertheless, it must be admitted that the existence of a permanent or apparently permanent constitutional basis of legal uniformity on certain matters raises for juristic theory in a more acute form the problem presented by the League of Nations and other international legal and political machinery. Granted that the dominions in fact now judge the limits of their own commitments and responsibility in international matters, does not the degree of unity remaining in the commonwealth force from the classic theory of sovereignty the admission that an area of uniformly observed and enforceable law so binding in its character as to restrain legislatures to its observance may transcend the boundaries of nationalism and create an international legal order as effective in controlling conduct as con-

stitutional law within the state? Where does self-limitation by the state end and reciprocal limitation by a total world context begin?

To the hardened Austinian the answer will be, "Where self-interest lays down the ultimate limits of national advantage and survival." But the answer to this, in turn, may be that precisely those factors dictate the continuance of the community of nations called the British Commonwealth in its present hybrid form. May these same forces not cause a reorientation generally of political theory, if suicidal national egotism does not destroy the whole structure of international controls?

W. Y. ELLIOTT

See: DOMINION STATUS; IMPERIAL UNITY; COLONIES; COLONIAL ECONOMIC POLICY.

FRANCE. The essential organs performing the functions of the government of France are the Chamber of Deputies, a body of popular representatives, which is in fact all powerful, and the civil service, subordinated to the former. These two features characterize the French government and account for the differences which despite superficial similarities exist between it and the British or the American government.

The tradition of highly centralized administration is firmly rooted in the history of the French people, on whom the Latin political genius left a deep impress during the four centuries of Roman rule in the province of Gaul. Submerged in the early stages of the feudal period, the Roman ideas of *imperium* and *auctoritas*, of a central government guarding the peace by a policy of intervention and authoritarianism, were revived by the crown when it became the bulwark of the common people against the lords. The French people willingly exchanged their whole hearted allegiance for assurance of internal order and defense against external aggression. During eight centuries with their support the kings continued to extend their territorial boundaries to the limits of present day France, encountering ever decreasing opposition as they successively transformed their realm from a feudal state (987-1461) into a limited monarchy (1461-1610) and finally into an absolute monarchy (1610-1789).

When the *ancien régime* broke down in 1789, the various elements in the nation although united were, however, still unsubordinated to a common law. The highly centralized and actively functioning administrative system revealed wide discrepancies in different localities. All statutes,

taxes, justice, administrative regulations, varied according to social class and economic status. Basically it was a system of privilege controlled by the king, who was himself the head of the privileged hierarchy, with the aid of the privileged classes and corporations. Nor did any class whatever its position in the social scale enjoy a modicum of freedom. In the absence of a procedure like *habeas corpus* guaranteeing personal freedom and of even the embryonic traces of such freedom of speech and of the press as were to become sacred in England with the passage of Fox' Libel Act of 1792 all alike were dependent upon the wisdom, the justice and the mercy of the sovereign and his agents.

By 1789 the bourgeois grown numerous and wealthy could no longer tolerate a regime which condemned them to inequality at the same time that it permitted them no more significant political role than passive acquiescence. The result of their disaffection was the French Revolution and the transference of legal sovereignty by the Declaration of the Rights of Man and the Citizen of 1789 and by the constitution of 1791 from the king to the nation. But the revolutionary assemblies failed completely to launch a permanent constitutional government. Having no knowledge of the rules of political debate they allowed themselves to become embroiled in factional disputes or succumbed passively to the tide which swept France in ten years from a constitutional monarchy (1789-92) to the revolutionary government of the National Convention (1792-95), thence to the constitutional republic of the directorate (1795-99) and finally to the quest for authority and order culminating in the establishment of the Napoleonic consulate and empire. The liberty temporarily achieved by the revolution was extinguished by Napoleon; nevertheless, the important concrete gains of its assemblies, such as the abolition of inequalities before the law and the complete revision of private law, owed to him their consolidation and perpetuation. Napoleon reorganized the administrative system, completing the work of the kings of the *ancien régime*. Symmetrical, uniform, centralized in the extreme, the system he established assured the expeditious enforcement of all laws in the remotest regions of the country. The division into local units, of which the most important are the department and the commune, all provided with identical machinery and guarded by the principal local officer, the prefect, who is the head of the department acting at once as the agent of the central government

which appoints him and as the chief administrator, is still in force today. Occasional outcries for decentralization or deconcentration in the nineteenth and twentieth centuries have resulted in relatively slight modifications.

The question of what authority was to create the laws thus to be administered occupied Frenchmen for sixty years after the fall of Napoleon in 1815. Joining in the struggles were the proponents of two conflicting currents of ideas: those who desired an authoritarian government in the hands of a sovereign open to discreet advice from representative assemblies of limited power and those who advocated government by opinion through the medium of powerful assemblies and resting on a foundation of extensive political liberties. An invitation to the frequent seizure of power by a new group was extended by the centralized nature of the administrative system. The slightest blow aimed at its head could paralyze the whole system. Whatever contingency subjected the ministers in Paris to a new master simultaneously made that person master of the whole nation. On the other hand, few of the governmental changes in nineteenth century France deserve the title of revolution. None of them touched the social and administrative institutions; they involved a simple transfer of authority from one individual, dynasty or class to another while the nation looked on passively, more predisposed to obey than to protect its liberty. Between 1815 and 1830 the Bourbons and the aristocracy attempted to revive the monarchy founded on divine right; from 1830 to 1848 Louis Philippe and the bourgeoisie maintained a constitutional monarchy; between 1848 and 1851 the democrats tried their luck, yielding to Napoleon III, who for the next nineteen years tried his. In the end the only profit from these transient experiments was won by the nation, which received a political education. From 1815 to 1848 it was initiated into the practices of parliamentary government. By instituting popular election of members of the municipal councils in 1831 and of the councils of the *arrondissements* and of the departments in 1833, the July Monarchy taught the people to take part in local government. Universal suffrage was introduced by the republic of 1848. When the government of Napoleon III, originally founded on authoritarian principles, developed without the application of violent external pressure into the liberal empire, which lasted from 1867 to 1870, it indicated the true direction in which the French nation was moving.

The Franco-Prussian War and the collapse of the empire in 1870 marked the decisive turning point. For the first time in fifty-six years a political crisis found no individual or dynasty appearing to take over the government and begin a new experiment. The desperate condition of France frightened the aspirants for power and the field was left clear for the slow, deliberate working out of a permanent form of government. This task was performed by the National Assembly of 1871-75. The majority in the Assembly were royalist, but because they were divided into Legitimists, supporting the elder branch of the house of Bourbon, and Orléanists, whose allegiance belonged to the younger, they were unable to concert in establishing a monarchy, although they made such an attempt in 1873. In this deadlock the Republican minority, gradually strengthened through by-elections, was able to secure the adoption of a series of constitutional laws which except for slight modifications are in force today.

These laws, three in number, were passed on February 24, February 25 and July 16, 1875, and deal respectively with the organization of the Senate, with that of the public powers and with the relations between the public powers. In striking contrast to the elaborate texts of earlier French constitutions the laws which have acquired the name of the constitution of 1875 are extremely brief; only essential points are explicitly treated, the rest being ignored or vaguely implied. The difference may be explained by the fact that the constitution of 1875 was a compromise between radically differing factions. They agreed to establish a parliamentary republic with the legislative function vested in two assemblies and the executive in a president. As a concession to the republican group the Chamber of Deputies, or lower house, was elected popularly. The royalists obtained in compensation an upper house, the Senate, and a president whose nature and attributes they expected would permit an easy transition to a monarchical form of government. The president was to be elected by the Chamber and the Senate convened in joint session as a National Assembly, or congress, for a term of seven years; since seven years allowed ample time for the appearance of a royalist majority in both houses, the National Assembly might then, before a presidential tradition had been established, create a throne for the prince of its choice. This prince would find legal sanction for all the prerogatives of a monarch in the constitution, for according to the compromise

of 1875 the executive was endowed with the right to initiate legislation, to grant pardons, to fix the length of the period during which the legislature should sit, to suspend it during sessions and to dissolve the Chamber of Deputies with the consent of the Senate. There was no doubt in the minds of the royalists that the Senate would support the monarch. They had carefully designed an upper house which would necessarily be a stronghold of the Right. Out of the three hundred senators 225 were to be elected for nine years by a special electoral college in each department, consisting of the deputies for that department, the members of the General Council of the department and of the councils of the *arrondissements* and of a delegate from each municipal council. In this college the small communes and the rural element, traditionally conservative, would have a preponderant influence. The other seventy-five senators were to be chosen for life by their colleagues.

The factor with which the royalists failed to reckon was the strength of the lower house and the prestige it might acquire. In actual fact it is the Chamber of Deputies which has had the guiding hand in the development of the present form of the French government. The Chamber is elected for four years by universal manhood suffrage, the electoral procedure having vacillated between the *scrutin de liste*, according to which each party presents to the voter a list of candidates for the whole department, and the *scrutin uninominal*, or *d'arrondissement*, with the elector voting for a single deputy. Except in rare instances public opinion since 1875 has manifested a continuous trend toward the left and under its aegis the Chamber has progressively developed its power at the expense of the other governmental branches. Scarcely two years after the establishment of the constitution President MacMahon put the presidential prerogative to the test by dismissing the premier and subsequently dissolving the Chamber. These events, centering about the so-called crisis of May 16, 1877, had important consequences. When the nation in the ensuing election of deputies returned a republican majority, which withheld supplies until the reactionary ministry was dismissed, the presidency suffered a permanent blow and subsided into what it has since remained, at least ostensibly—the office of the recognized representative of the French nation. The direction of policies and executive responsibility passed to the premier and the cabinet, whose existence had been only vaguely implied



in the constitution by such indirect references as the provision that "the ministers are collectively responsible to the chambers." But substantial and final power devolved upon the Chamber. Since the crisis of 1877 the Chamber has been assured of surviving for the full extent of its four-year term. Secure from the menace of dissolution by either president or minister, it holds the fate of the government in its own hands, for the principle has become firmly established that the cabinet must retire on a hostile vote of the Chamber but not of the Senate. Since the multiple party system prevails in France and division is into numerous groups representing a wide variety of subtle or finely shaded difference, the average life of French cabinets has been short. The cabinet is composed of political leaders recruited from a number of groups which have united for the time being to form a majority; it can last only so long as its program or actions retain the support of this none too reliable majority. It is the strategy of the opposition to use the procedure known as interpellation, which has so often proved fatal to cabinets; a debate is precipitated on a question upon which the groups in the majority cannot possibly agree. Too much significance should not, however, be attached to the instability of the French ministerial system. The cabinets following each other in this rapid succession reveal strong points of similarity; all of them depend upon approximately the same majority. There is indisputable continuity in the parliamentary history of the Third Republic, and "upsets" in policy have been less frequent in France than in other nations.

Thus the fragmentary and ambiguous constitution of 1875 has served as a practical instrument. Its most profound deviation from original intention, the arrogation of preponderant power by the Chamber, occurred as a simple matter of evolution and adaptation, necessitating no change in the constitution itself. Textual alterations have been made only in matters of detail; the most important of these was effected in 1884 when life members were eliminated from the Senate and the constituency of the electoral college choosing the senator was modified to give the municipalities a representation proportional to their importance. One of the notable lacunae of the constitution of 1875 was the definition of civil liberties, and some contention has arisen particularly with regard to freedom of association. By degrees, however, freedom of assembly, of the press and finally of association has been

recognized, although even today the personal liberty of the citizen is not safeguarded by a specific and definitive statute.

The civil service is divided into a central service at Paris and a local service in each department working under the direction of the prefect. Each branch of the central service is connected with a definite ministry and functions under the supervision of the cabinet member at the head of the ministry. The *fonctionnaires*, as the employees of the civil service are called, are recruited through competition, enjoy the advantage of stable positions and are entitled to a pension on retirement. As yet, however, no comprehensive law has been passed to define their general status. The unions which they have frequently formed sometimes engage in bitter disputes with the supreme authority, thus weakening the old traditions of corporate discipline.

The counterpoise against *la tutelle administrative* and the centralized nature of the French government is to be found in the minute segmentation of public opinion apparent in the Chamber. What formal changes have been introduced since 1871 into the uniform, symmetrical administrative system inherited from Napoleon have been on the whole illusory. But through the medium of the Chamber the spirit and interests of the localities have become a vital influence upon the policy of the central government. A close bond exists between the department and its deputy. Members of the Chamber as a rule sit in at least one local council of their constituency and often in many. As a result of this constant contact the deputy in Paris unless he belongs to one of the extreme factions is seldom inclined to sacrifice local interests to the demands of a party group, particularly in view of the ease with which he can transfer from one group to another or at any moment vote against an impatiently tolerated leader. The narrow margin by which the ministry usually retains its power gives the deputies an opportunity to act as a check upon the prefects, who in their turn depend upon the ministry for retention in office. It has been said that the real heir of Napoleon is not the prefect but the deputy. Thus the old framework of administration has become an instrument commodiously adapted to the political ideas and forms of the Third Republic at the same time that it satisfies the French love of tradition and preserves the harmony between the government and the inveterate predilection of the nation for order, equality and moderation. The administrative courts, the *conseils de préfec-*

*ture* and the Conseil d'État (*q.v.*) keep constant watch over both the prerogatives of the state and the rights of the citizen and provide a valuable safeguard against possible excess.

MAURICE CAUDEL

See: LEGISLATIVE ASSEMBLIES; ESTATES GENERAL; PARTIES, POLITICAL; FRENCH REVOLUTION; ADMINISTRATION, PUBLIC; CIVIL SERVICE; COURTS; COURTS, ADMINISTRATIVE; CONSEIL D'ÉTAT.

**BELGIUM.** Although the provinces of the Pays-Bas which comprise present day Belgium became united as an independent state only in 1830, the political traditions of the nation had their inception in the Middle Ages. While the feudal system was still firmly implanted in neighboring lands, the region developed into a flourishing center of economic, intellectual and artistic activity. It had rich soil and an intelligent, industrious population; but its most striking advantages were its location at the crossroads of the commercial routes of western Europe and its easily navigable rivers, which provided a natural corridor for trade. Then as now the population was divided linguistically into two elements, the Flemish, speaking a Germanic tongue, closely akin at the present time to Dutch, and the Walloons, a French speaking people. In a stimulating competition each of these elements established powerful and before long wealthy local guilds and associations for advancing their interests. Great towns like Ghent, Bruges, Ypres, Liège and Louvain sprang up in all of the nine districts which are roughly coterminous with the nine provinces of modern Belgium. From the twelfth century onward the burghers of these towns frequently found themselves in a position to curb the power of the feudal lords. Thus there grew up a tradition of local autonomy which retained its vitality throughout the vicissitudes of the coming centuries. In the late Middle Ages the house of Burgundy gained feudal suzerainty over most of the region as the result of a series of inheritances; the Spanish Hapsburgs controlled it from 1555 until 1713; Austria governed it as the Austrian Netherlands from the Treaty of Utrecht until 1795. The spirit of the towns survived these regimes and remained strong enough to withstand the more insidious influence of French domination from 1795 to 1815, although during this period the Napoleonic regime left an indelible impress upon the public and private law, the administrative and judicial systems, of the future Belgian state. During the union with Holland from 1815 to 1830 the urge toward local

autonomy gathered fresh strength as a reaction against the irksome Dutch hegemony.

In 1830 the Belgians revolted against Holland and the following year promulgated, through a National Congress summoned for the purpose, the constitution which is in effect today. The constitution consecrated tradition by establishing a delicate balance between the central and local authorities. In its clear provisions for civil liberties also there may be traced a connection with the charters of the mediaeval communes; but more immediately perhaps these provisions were derived from the stock of ideas bequeathed by the French Revolution. The Belgian constitution was drawn up in the atmosphere of liberalism permeating Europe in 1830. Like the revolution which preceded it, it was created through an alliance of the Catholics with a liberal group whose effective influence was assured because the Catholics needed its support to win freedom from Protestant Holland. Since English parliamentary institutions were during this period at the height of their vogue among continental liberals, it was natural that the Congress should seek to import them into Belgium; for such a move they had before their eyes the recent example of the French Charter. A hereditary monarchy was established with the house of Saxe-Coburg and Gotha, still regnant today, occupying the throne. But in fact by the machinery which it created for parliamentary responsibility the constitution made the king only the nominal head of the state and entrusted executive authority as well as the direction of policies to the cabinet, which was to be answerable to the legislative body, consisting of the Senate and the Chamber of Representatives.

Since its establishment the Belgian constitution has been revised twice, the first time in 1893 under pressure of the rising socialist faction, the second time in 1921 following the World War. The chief changes have concerned the composition of the Senate and the question of suffrage and mode of election. It is chiefly with regard to the latter question that Belgium has demonstrated the capacity for political innovation which has won her the title of the "land of experiments." In 1893, after having maintained a rigorously limited suffrage since 1830, it adopted universal suffrage for men over twenty-five, with a system of plural voting for propertied, educated and certain other classes, and made the exercise of the electoral right compulsory; in 1899 it introduced proportional representation; in 1921 it established universal suffrage, with-

out plurality, for all men over twenty-one and extended the vote to women for all local elections and to certain defined classes of women in national elections. In accordance with the amendment of 1921, the Senate consists of three classes, which as listed in descending numerical importance are those elected by direct popular vote from candidates qualifying in one of twenty-one "categories of capacity," those chosen by the provincial councils and those coopted. The members of the Chamber of Representatives are elected directly by the whole national electoral body. Both houses sit for four years unless earlier dissolved.

Actual supremacy rests with the Chamber of Representatives. The crown while at times exercising great personal influence has abstained from overt interference and never exercises its power of veto. The Senate has as a rule passively accepted the role of a subordinate house, although its constitutional powers are virtually equal to those of the Chamber. At present the complex pattern of its composition on the one hand prevents serious disagreement between the two houses, since three fifths of the senators are elected on the same occasion by approximately the same voters as the representatives, and on the other enables the Senate to perfect the details of bills by considering them in the light of superior technical knowledge and experience. The latter is the particular function of the coopted senators, among whom have been included many eminent individuals. Since 1857 the tradition has been firmly fixed that the cabinet is responsible only to the Chamber and not to the Senate. Although the Belgian parliamentary system differs from the French in that the Chamber is subject to dissolution by the executive, the cabinet is nevertheless kept in hand by the constant danger of being itself overturned. The system of proportional representation has tended to give each party a relatively constant strength in successive chambers; and since the adoption of universal suffrage the safe preponderance of the Catholic party has been replaced by a distribution of the three parties, Catholic, Liberal and Socialist, which necessitates a none too stable coalition to form a government. Another disrupting factor is the mutual antipathy which still manifests itself in the Chamber between the Flemish and the Walloons. As in France and because of a similar faith in the doctrine of the separation of powers the supremacy of the Chamber is further augmented by the lack of judicial review for legislative acts.

The National Congress of 1830 included local government as a fourth power comparable to the legislative, executive and judicial branches and provided for the "attribution to the provincia' and communal councils of all that is of provincial or communal interest." The power of the provincial government is in fact not extensive. Its legislative body, the provincial council, which is popularly elected every four years, has slight actual jurisdiction, and its activities are further curtailed by the right of the king to annul any act not conformable to the general welfare. A governor, appointed by the king and directly responsible to the minister of the interior, acts, like the French prefect, to whose powers his own are, however, much inferior, at once as the chief provincial executive and as the representative of the central government. Belgium has developed to a unique degree the institution of the Permanent Deputation, a group of six councilors meeting frequently in the presence of the governor. Exercising a wide variety of functions, including the preparation of material for the council's discussions, the execution of certain of its acts and the supervision of the communal authorities, the Permanent Deputation has become one of the most important and independent of Belgian local institutions. It is, however, the commune which has preserved in its greatest vitality the mediaeval tradition of local autonomy. According to the common continental practice all of the 2630 communes of Belgium, whatever their size or importance, are organized on the same plan, each having a communal council popularly elected for six years; a burgomaster appointed from the members of the council nominally by the king, but in reality usually upon the council's recommendations; and a body of *échevins* elected by the council from their own midst to act with the burgomaster as the chief executive. A spirit of deference pervades the attitude of the central and provincial authorities toward the communal governments. By law the councils are assigned jurisdiction over all that is of communal interest; and in contrast to the narrow interpretation given the similarly vague jurisdiction of the provincial councils there is little limit on their activity so long as it does not conflict with the specific provisions of national laws.

MAURICE CAUDEL

See: PARTIES, POLITICAL.

ITALY. The present constitution of Italy had its beginnings in the Statute granted by Charles Albert, king of Piedmont, in the revolutionary

days of 1848. Like its prototypes, the French constitution of 1830 and the Belgian constitution of 1831, its purpose was to introduce representative institutions and safeguard the elementary rights of the individual but at the same time to serve as a curb on democracy. Hurriedly drafted, it was little better than a bundle of constitutional maxims, badly thought out and badly pieced together. Legislation was entrusted to the crown and two houses of Parliament. Apparently it was intended that except in matters of finance the three should be equal in power. The Senate was appointed by the king from certain categories of high officials, ecclesiastics and men of intellectual rank or large incomes, all of them to be over forty years of age. The Chamber of Deputies was elected on a restricted franchise; no man under thirty and, implicitly, no woman could be elected, and there was no payment of members. The king could dissolve the Chamber, whereupon new elections had immediately to be held; but apart from this there was no statutory provision for meeting cases of disagreement among the three legislative powers. Nor was there any serious attempt to define the relations of legislature and executive. The king nominated and dismissed the ministers; under another article of the Statute ministers were made responsible, but there was nothing to show to whom the responsibility was due. Implicitly the king could choose his cabinet without reference to party, and there was no provision and perhaps no intention that it should correspond with the political composition of the Chamber.

The Statute called itself "the perpetual and irrevocable fundamental law of the monarchy." This reads as though it were intended to form a rigid constitution, and there is no provision for amendment. But the omission was perhaps due to careless drafting, and it is more likely that the aim was to guard against any withdrawal of the crown's concessions, to stereotype the joint rule of crown and Parliament and to establish for all time certain elementary rights; it was for these reasons that the Statute required each succeeding king to swear to observe it. At all events the practise of the constitution was silently but steadily modified in the direction of complete parliamentary rule. Ministerial responsibility to Parliament became unchallenged, and the cabinet was generally chosen from the parliamentary majority, although in the absence of strongly defined parties the full implication of this was only gradually understood. The financial supremacy of the Chamber was on the whole

established, although the Senate retained its right to amend the budget. The Statute limited parliamentary approval of treaties to involving a territorial change or new financial liabilities, but Parliament tacitly assumed its right to be consulted on all treaties. It came to be accepted that a provision of the Statute which had ceased to be observed, lapsed. But until 1922 Parliament was very reluctant to make any formal change in the Statute; obsolete provisions were not repealed, and no laws were passed to give effect to the new constitutional principles which had silently asserted themselves.

While parliamentary government thus evolved on the lines of modern democracy, there had been a corresponding development of the rights of the individual citizen. The Piedmontese electoral law of 1848, effective in Italy until 1882, gave the franchise to those males who paid forty lire in direct taxation or half that amount if they possessed certain educational qualifications. Cavour intended it to "bring the suffrage down to the shopkeeper who had a little competency of his own and a good pot-au-feu every day"; in Piedmont, a land of small holdings and a fairly diffused education, it included the great mass of rural householders. But when the rest of Italy was annexed, the south with its large estates and its illiteracy had few electors, and in 1874 only 2.2 percent of the whole population possessed votes. It needed a whole generation to bring about any extension of the franchise. Not until 1882 was it extended to all males who had passed through the elementary school. As elementary education had become compulsory, at least in name, in 1877, this would in time have meant universal suffrage. But the process was likely to prove too slow; in 1900 the electors barely exceeded 7 percent of the population. In 1912 the vote was given to all males of age except illiterates under thirty, and in 1919 the disqualification for illiteracy disappeared. Voting was by *scrutin de liste* from 1882 to 1891 and proportional representation was introduced in 1919. The absence of a parliamentary tradition, the fact that the constitution had come from the educated middle classes rather than from the masses, the ignorance of the south—all combined to make a large part of the population indifferent to their citizenship. The influence of government was extensively used to control the elections; in most constituencies of southern and middle Italy the candidates were the nominees of the government or their local agents. The election of 1921 was the only one

in which voting throughout the country was really free. None the less, as the Socialists and Christian Democrats became strong parties at the end of the century, popular interest in Parliament grew very rapidly; and after the World War the non-governmental parties were able to return more than half the deputies.

The Statute guaranteed most but not all of the elementary rights of the individual. All citizens were made equal before the law and after 1850 could be tried only in the king's courts; all financial privileges were abolished; there could be no arbitrary confiscation of property; a man could live and move where he pleased and his home was made inviolable. A few years later the postal act (1862) and the penal code secured the secrecy of correspondence. There were, however, some serious limitations to personal freedom. The press was freed from censorship (an ecclesiastical censorship over books of devotion soon became a dead letter), but a vague and dangerous proviso sanctioned a law "to restrain its abuses" and an act of 1848 penalized attacks on king or Parliament and provocation of class hatred. The right of meeting in public places was subjected to police regulations, and under the strict wording of the Statute meetings could be forbidden by the police. This, however, was very rarely acted on and a subsequent law of 1889, which required the conveners of a meeting to give previous notice to the police, seemed implicitly to recognize the freedom of assembly, although the police still possessed the right of breaking up meetings under certain circumstances. The Statute was silent as to the rights of combination and association, but in practise full liberty was recognized and the penal code by punishing criminal and dangerous associations admitted the lawfulness of all others. In the short reaction of 1898-99 the government introduced a bill which empowered the prefects to forbid meetings in public places and allowed the government to suppress any association whose object was to "subvert social order by overt acts." When the bill was shipwrecked in the Chamber, the government enacted it by royal decree; but after the fall of the reactionary ministry the fullest liberty was allowed to trade unions and all other associations down to the revolution of 1922.

Royal decrees (*decreti-leggi*) such as this were flatly contrary to the Statute, which laid down that "the King . . . makes the decrees and regulations necessary for the execution of the laws, but without suspending or dispensing with their

observation," thus plainly excluding any action contrary to the existing law. But even before 1898 some not very serious attempts to legislate by decree had been made; and the precedent of that year threatened the whole constitutional structure, until the Supreme Court pronounced that a *decreto-legge* had only the status of a bill before Parliament. Vague as the ruling was, it quashed any recourse to decrees for the time being. During the World War decrees were revived again, partly of necessity, and they became dangerously common. But in 1922 the Supreme Court again intervened, and no more were issued in the brief interval up to the days of Fascist rule.

Under the Statute and amending legislation judges and magistrates were appointed by the government under strict rules as to qualifications—in some cases after an examination. Judges of the Supreme Court were appointed by the cabinet itself, other judges and magistrates by two special committees. There were no unpaid magistrates. The Statute and supplementary legislation enacted in 1856 made all magistrates irremovable after three years' service. Since 1873, a commission of magistrates has been consulted upon transfers of magistrates from one district to another, but the decisions of the commission are not binding upon the government. More serious penal cases and all cases of a political character come before juries which are drawn only from the educated middle classes.

The Statute left the somewhat amorphous local government of Piedmont unaltered, and it was not until 1859 that all communes, large and small alike, were placed on the same footing, with fairly extensive powers; provincial government was left a mere skeleton. After the annexation of the middle and south the question became acute between the quasi-autonomists of the new provinces and those who believed that only a centralized state could mold the divergent parts into a whole. For a time the latter had their way, but in 1878 mayors (*syndics*) became elective, a few years later government control was curtailed, and in 1903 the powers of the councils were much extended. The compulsory powers of the communes extend over streets, communal roads (which are more than half of all roads), lighting, sanitation, elementary and some secondary education, relief of the poor, local police and prisons. The permissive powers, which, however, are subject to the prefect's veto, cover all "services or offices of public

utility," which may include such matters as theaters, municipal music and museums. There was much complaint even before Fascist days that the prefects, who are government officials, used their power to check useful developments. The Communal Council meets twice a year and in the meantime the work is done by a junta, which carries out the resolutions of the council and drafts the budget and by-laws. There are no intermediate bodies between commune and province. The provinces, which have an average population of about 450,000, control provincial roads, rivers, most secondary and technical education and the care of lunatics and have certain supervisory powers over elementary education and charities. Their councils meet once a year, nominally at least for a month's session; they appoint deputations corresponding to the communal juntas.

Thus by the close of the World War the constitution, originally confined to Piedmont but extended to the whole of the peninsula as Italian unity was gradually achieved, between 1859 and 1870, had traveled far from Charles Albert's Statute. The king's position was nominally unaltered, but in practise he had come precisely as in England to be a symbol and an influence, not a power. The Senate, still a nominated body, had almost gone into oblivion and had tacitly surrendered its right to amend the budget. The Chamber of Deputies had practically absorbed all legislative power and—at least in principle—controlled the administration; the powerful bureaucracy, however, still often evaded its orders. General manhood suffrage existed; and although government still used its influence in many of the constituencies and although in parts of the south apathy paralyzed public life, the electorate was free and active in the large towns and throughout the north. Individual rights had broken through the restrictions and silences of the Statute and were now amply secured. But changed as was the constitutional structure, the new developments only translated the spirit of the Statute into fact. They had come about more by custom than by law, and the frame of the Statute remained hardly impaired. It was a peaceful, silent movement, untouched by any constitutional upheaval.

This development was roughly reversed by the Fascist revolution of 1922. The main constitutional results of Fascism have been to replace democratic government by the rule of a single political party or in actual practise by that of an individual autocrat; and to nullify

most of the personal rights which characterize popular government.

After eight years of change the Chamber of Deputies remains but is elective only in name. The electoral plan, which effectively cancels all contact between the Chamber and the voters, is based on the "corporative system," which now regulates the industry of the country. The committees which control each group of employers or workers, and which are strictly subordinated to the government, nominate 800 persons, double the number of the Chamber; certain non-industrial units nominate a further 200. From these nominees the Grand Council of Fascism selects 400 but can go outside the nominated lists to any extent. The 400 names are submitted to the electors, who can vote Yes or No only for the list as a whole. To secure even more thorough obedience the Grand Council can remove any deputy. It is the boast of Fascism that it has subordinated the legislature to the executive and has made Parliament a "technical institution" to advise on details only.

All power is centered in the "chief of the government." No measure can come before Parliament except with his consent. He can override the law in any matter that pertains to institutions of public utility, and this gives him unbounded authority over the economic and social framework of the country. The vicious system of *decreti-leggi* has returned in full force; and although they must subsequently be approved by the Chamber, the Chamber is too completely in the chief's hand to refuse consent. The cabinet consists of officials who are merely his executive agents and have no collective responsibility. He (no longer the king) commands the army and navy; he can dismiss judges and magistrates who are suspected of views contrary to those of the government; all government posts are occupied by Fascists, who as such are bound to obey him; the Court of Accounts, which audits the state's finances, is directly dependent on him. In practise no one is placed on the bench unless he can prove his adherence to Fascism, and the bench thus becomes the monopoly of one party. No possible focus of opposition survives. Free local government has disappeared and all communes are ruled by *podestàs* appointed by the ministry. The king retains his nominal right to refuse consent to a law, but he is as impotent to act as before. The Senate still exists, but it may only debate such matters as the chief permits. Overshadowing Senate and Chamber is the Grand Council of Fascism, con-

sisting mainly of high officials of the Fascist party, who are nominated by the chief and meet only at his summons. Apart from some major constitutional questions it discusses only such matters as he allows. Subject to this veto it supervises the whole discipline of the Fascist party; and as that party is the only one recognized by the state, the chief through the Grand Council controls the life of the country.

The Italian constitution has thus changed from a democracy to a virtual autocracy. There is a corresponding revolution in the rights of the citizen. All security for personal freedom has disappeared. All charges of a political nature (and political charges often cover a very wide field) come not before the ordinary courts but before special tribunals, composed mainly of Fascist officials and officers of the Fascist militia, from which there is no appeal and which may hear cases in camera. Juries have been displaced by "assessors" who are appointed by officials of the government and in consequence are taken from the ranks of the Fascists only. No lawyer or journalist or doctor or teacher can practise without the approval of a Fascist committee, and in effect all but Fascists—at least nominal Fascists—are barred. Workers have no legal status in respect of their wages unless they join a Fascist "syndicate." Every association or union of whatever nature must submit for approval its rules and list of members, and the prefect may dissolve and seize the property of a society which in any way opposes the government. No meetings—not only political meetings but even meetings for charity or sport—can be held without the consent of the police or the prefect. The prefect may confiscate any newspaper which criticizes the government, and as a consequence the opposition press has ceased to exist except clandestinely. It is a crime punishable by not less than three years' imprisonment to express ideas contrary to those of the government, and the police are the sole judges of the offense. Under the penal code of 1930 any person suspected of disaffection may be required to live in an appointed place under police supervision or he may be sent to a penal settlement. A man's home is no longer secure against the police, the secrecy of the post is systematically violated and espionage is universal. There is little personal liberty left to Italians.

BOLTON KING

See: FASCISM; FUNCTIONAL REPRESENTATION; NATIONAL ECONOMIC PLANNING; PAPACY; CATHOLIC PARTIES.

GERMANY. Politically, Germany is one of the oldest countries in the world, with a tradition of sovereign imperial government extending, except for a short break during the nineteenth century, over more than a thousand years. The German people as a race is composite, with strong Slavonic intermixture in the east, a sprinkling of Jewish blood almost everywhere and many ties of consanguinity with Rhaetians, Italians and French in the south and west; it has, however, a firm conviction of being aboriginal, "von der Maas bis an die Memel, von der Etsch bis an den Belt." Many Germans believe that they are descended from the people who defeated the Romans in the time of the emperor Augustus and that they would still be a free nation with a clannish form of tribal government if they had not succumbed to the violent imposition of Christianity by Charlemagne and to the subtler influences of Roman law and statecraft in the early Middle Ages. Others, of a less romantic disposition, cling to the tradition of the Holy Roman Empire with its unparalleled richness of town life and the conception of a natural alliance between the ideas of empire and citizenship which underlay the policy of the imperial chanceries before Vienna became the capital and the seat of a cumbrous bureaucracy. Still others look to the rise of Prussia and the War of Liberation against Napoleon or to Bismarck's empire as the true foundation of Germany. All of these, however, rely on proved past merits which are to be conserved rather than on an ability to do new and better things in the future.

The fact that Germany, with natural frontiers toward north and south, has had no fixed boundaries toward east or west is of primary concern in foreign policy; nevertheless, it has considerable importance for internal politics and government. The conflict between "westerners" and "easterners" has been an ever recurring problem to German politicians, who have to steer a path between the opposing points of view of the two parts of the country. In the east as much as 80 percent of the land is in large estates tilled by a kind of serf labor; in the west as much as 90 percent is in small farms cultivated by the owner and his family. The east is conservative, the west liberal. In the former human life is governed by a strange mixture of determinism and individual obstinacy; in the latter life is easy. In the west tolerance and long suffering patience, by no means irreconcilable with a shrewd sense of a good bargain, count for as much as, in the east, a severe obedience to duty

and a profound conviction that life means ruling or being ruled. The loss of Germans in the territories ceded under the Treaty of Versailles is slightly greater in the east than in the west. The western frontier districts moreover still have direct contact with French, Franco-Swiss and Dutch civilizations, contacts which even in periods of acute conflict such as 1923-24 or 1931 help form national character and build up an intelligent public opinion concerning government. In the east contact with Russia has been artificially severed by the provisions of the peace treaty; and the bitter struggles among Poland, Lithuania and Germany, while fanning nationalist feeling, have weakened the influence and reduced the share of the frontier provinces in the domestic policy of their countries. Such factors explain a slight but unmistakable predominance of the west and southwest over the east in the German government in the last decade; the comparative prosperity of such cities as Stuttgart, Mannheim, Ludwigshafen, Frankfurt, Hanau, Cologne or the Ruhr towns as against Munich, Plauen, Leipzig, Breslau and Königsberg and the rapid growth of such a typically western industrial combine as the I. G. Farbenindustrie (Dye Trust) are partially related to this governmental balance.

Two far reaching governmental changes have taken place since the outbreak of the World War. In accordance with the constitution of the empire the outbreak of war transferred the civil power of government to the military authorities; administration consequently became highly centralized and the war bureaus went far in the direction of state socialism. The very fact that the Parliament kept its constitutional functions during the war and even strengthened its influence during the last stages only tended to emphasize the overwhelming importance, as opposed to local government, of the political center of government in Berlin and its more or less socialist tendencies, only thinly veiled by the semblance of military power. The breakdown of the monarchies, sudden and violent in Bavaria, Prussia, Brunswick and elsewhere, peaceful in certain other states, notably Württemberg and Baden, brought another great change in form and substance. While most civil servants served the new government loyally, the influence of the army in public life disappeared with the monarchy. The personal relation between the sovereign and every member of the *Offizierkorps* (including officers of the reserve and therefore almost all civil servants of higher grade) had

meant much more to the general spirit of government in the German states than the monarchic form of government itself. The full effect of these changes did not appear at once; on the contrary, a superficial study of German government during the years of consolidation after the restoration of the currency in 1926 might have led foreign observers to conclude that, except for the outward signs and emblems of the republic and the stronger hold of the central government on finance (since Erzberger's reform of finance), the government of 1929 was not essentially different from that of 1913. Only the crisis of June and July, 1931, fully revealed the transition which had taken place from *Rechtsstaat* to *Wirtschaftsstaat*, the transfer of governmental power from the public services—the bureaucracy—to the party organizations and the economic interests behind them.

While constitutional lawyers differed as to whether Germany under the constitution of 1871 was a federation of sovereign states or a federal state with strong reservations in favor of state sovereignty, it was evidently not a centralized state like France, Italy or Great Britain. The component states were sovereign, free to choose their own form of government—whether a republic like Hamburg, a parliamentary monarchy like Württemberg or Bavaria or a more or less feudal monarchy like Prussia or the Mecklenburgs. The governments of the states governed the Reich through the Federal Council (*Bundesrat, q.v.*), the members of which voted according to instructions from their governments. The council had the deciding voice not only in legislation but also in directing domestic policy. Special provisions were made to protect the smaller states against a possible *Majorisierung* by Prussia, which, however, had seventeen votes in the council, enough to veto any constitutional amendments. Patronage remained almost wholly with the states. The Prussian governmental departments, for instance, wielded a much greater influence than the corresponding departments of the Reich. The Reich had the paramount power of taxation, but taxes were assessed and collected by the states.

Under the Weimar constitution of August 11, 1919, the substance of sovereignty rests with the Reich. The states became *Länder*, or provinces, and most of the state assemblies, for one reason or another, lost their former standing and influence. The Reichsrat, which replaced the powerful Bundesrat and in which the governments of the *Länder* were represented according to popu-



lation, was made distinctly subsidiary to the Reichstag, elected by universal, equal, direct and secret vote of all men and women over twenty. The Reichsrat may object to measures passed by the Reichstag, but if the latter repasses them by a two-thirds vote they become law unless the president within three months submits them to a popular referendum. The federal constitution may be amended by a two-thirds vote of the Reichstag (two thirds of the members being in attendance), even though the Reichsrat may disapprove, but the latter has the power of demanding a referendum in such cases. The constitution enumerates specifically the powers of the federal government. These include various exclusive and concurrent powers as well as a broad optional power over social welfare and public order and safety and the power to establish general principles to be observed by the *Länder* in dealing with certain questions, such as education, religious associations and land law. All powers not assigned to the federal government remain with the *Länder*, but under the so-called principle of *Kompetenz-Kompetenz* the national government can extend its own powers by national legislation. The fundamental supremacy of federal over provincial law is generally assumed to follow from the statement in the constitution that "Reichsrecht bricht Landesrecht."

The constitution goes so far as to prescribe the broad outlines which must be followed by the *Länder* in their own constitutions; it provides that every *Land* must have a republican form of government, with a unicameral assembly elected on the same basis as the Reichstag and controlling the provincial government (*Landesregierung*). Of the sixteen *Länder* only Prussia has a second chamber (*Staatsrat*), consisting of representatives of its subsidiary provincial legislatures (*Provinziallandtage*) and possessed of practically the same rights with reference to the Prussian Landtag as the Reichsrat with reference to the Reichstag. At the time of the framing of the constitution various attempts were made to restrict the power of Prussia in the Reich. Although it possesses over half the nation's population, its vote in the *Reichsrat* was restricted to two fifths of the total, with the further provision that half of the Prussian votes must represent the subsidiary provincial governments in Prussia rather than the Prussian government itself. The provision in the constitution which permits the Reich to change the boundaries of a *Land* on the basis of a plebiscite of the people

concerned and without reference to the wish of the *Landesregierung* looked to a possible future partitioning of Prussia.

Various other constitutional provisions and practices have contributed to centralization. Among these is the system of election on the basis of proportional representation by party lists throughout the Reich. Patronage has gone from the states partly to the government of the Reich, partly to the parties forming the government, partly to big business. Taxes are assessed and collected by the Reich; a percentage of certain revenues is assigned to the *Länder*; in addition, certain grants and subventions are paid by the Reich to the provinces. Even military command is more strictly centralized than it was under the imperial constitution, a fact of great importance in connection with article 48 of the new constitution, which authorizes the president in case of need to take coercive measures against a *Land*. Political centralization has proceeded side by side with economic centralization, both in banking and in the more important industries. Decentralized local industries and agriculture have again and again had to apply to the central authorities for financial assistance. Centralization will to all appearances proceed still further, although the inability of both government and industrial leadership to cope with the increasing burden of nation wide activities became manifest during 1930 and 1931.

The constitution provides for a president to be elected by direct popular vote for a term of seven years. He is given extensive powers, but all his political acts require ministerial countersignature. He appoints and dismisses the chancellor, who forms his cabinet with the consent of the president and Parliament. The chancellor practically directs the policy of the Reich; this means, under the republic as under the empire, that he controls not only the administration but also the general trend of legislation and the holding of the balance between the conflicting interests of industry and labor, agricultural and municipal policy, producers and consumers. The government in Germany furthermore assumes direct responsibility for health (state hospitals, control over the medical profession) and social welfare (compulsory state insurance, factory inspection, slum clearance and so on), for public entertainments and sports and above all for education up through the university.

General experience seems to indicate that bureaucracy thrives on centralization, while federal and local government favor the participation

of voluntary lay functionaries in public administration. The German development shows a different trend. The federal state before the war relied mainly on the efficiency and probity of the civil service, which in spite of the complaints of the commercial interests about the overstaffing of government departments and municipal offices created a feeling of security more than worth its financial cost. During the first years of the republic the civil service by the sheer force of its numbers contributed very materially to the maintenance of orderly government. During the period of inflation, since civil servants received approximately the value of their normal salaries and since almost every family group included at least one or two civil servants, they were the means of supporting millions of persons throughout the period of inflation. As late as 1928 or 1929 they seemed to be the mainstay of the German state against the political radicalism and the economic class hatred which through communism and trade union bureaucracy, on the one side, and through the National Socialist and Stahlhelm movements and the growing restlessness of the large commercial employees' organization, the *Deutschnationaler Handlungsgehilfen-Verband*, on the other, threatened to destroy all government. Since then, however, this stabilizing power of the civil service has been shattered. With increased unemployment, with almost 100 percent of the youth who before the war would have joined the army now swelling the ranks of the storm troops (*Sturmabteilungen*) of the radicals and with big business getting an ever stronger hold on the central government the Reich has not been strong enough to protect itself through protecting its servants. A policy of curtailing salaries, restricting appointments to higher posts and taking away security of tenure and pensions has set in and has lowered the status of the civil service and sensibly impaired its efficiency.

Centralized Germany tries to govern itself without a strong civil service. The federal government has no complete civil service of its own for the administration of internal affairs. In general the execution and in some cases the details of federal legislation are left to the state administration. The departments of the central government exercise a certain supervision over the state administration of federal laws; article 48 gives the federal government an ultimate agency of control over the states. Considerable reliance is placed upon the functioning of trade union, guild or Fascist organizations (*Bünde*). This in

turn works to the detriment of democracy; for representation, according to the new conception of the state, is to be understood as belonging not to individual voters on the principle of equal rights, but to groups in accordance with their importance for the commonwealth and, until this relation has been fixed by law, to the strongest group. It is no longer the ability, the sense of responsibility and the independent mind of an expert that are wanted for the public service; it is the loyalty of the greatest number of followers, respect for the badge and for orders issued from headquarters, which carry those groups to power.

In a country which for half a century at least has been informed about public affairs by newspapers serving the cause of no less than five (now seven) large parties and about a dozen smaller ones, public opinion can hardly be expected to find a strong, clear expression. During the years immediately preceding the war Germany went through two or three crises in which popular feeling became so violent as to influence the attitude of the imperial government, notably after the *Daily Telegraph* affair and a few other acts of supposed or real political interference on the part of the emperor. No very marked influence of popular will or public opinion on the government is to be noticed since 1919. The formal right of referendum or initiative (constitution, art. 73, sect. 2, 3, 76; cf. Prussian constitution, art. 6) is robbed of much of the educational value it has in Switzerland or some of the Scandinavian countries by the severe conditions prescribed. In the Reich the initiative has been tried twice between 1919 and 1931, both times unsuccessfully. Since an absolute majority of all those on the voting registers is required for constitutional amendments, the vote is practically public. Those who go to the polls on such an occasion are expected to vote for the measure. The opposition exhorts its followers to abstain from voting but "to have a good look at those who vote and to remember." Elections can hardly be said to express the will of the people. They must vote for parties instead of individuals; and proportional representation excludes by-elections, which in England do so much to provide opportunities for criticism or support of the government.

The influence of the government on public opinion has increased through the monopoly which it exercises in broadcasting and the more or less direct control it enjoys over the programs of German radio stations. But even in critical

times governments have been very slow to wield this power. A recent emergency decree authorizing the government to demand from any newspaper the publication, without comment, of any governmental proclamation or declaration has remained a dead letter. Theaters and cinemas are remarkably unfettered by government censorship. Today not a single large newspaper is an out and out supporter of the government, much less its official mouthpiece.

Both civil and criminal courts enjoy full independence, and nominations for judgeships are generally free from party interference. In a few cases the old tradition of appointing high court judges exclusively from the ranks of the judiciary (including public prosecutors) has been forsaken and barristers have been appointed, but as a rule a judge's career leads him, after he has passed his state examinations, successively from his first office as an assessor to district court, appellate court and high court judgeships. The system of special administrative courts had been inaugurated long before the war and works to general satisfaction. The *Staatsgerichtshof*, created by article 13 of the Weimar constitution to decide conflicts between state and federal law, has thus far found few opportunities to show its usefulness. It does not possess the right of judicial review over the constitutionality of federal legislation. A national system of labor courts, paralleling the ordinary district and appellate courts and possessing its own final court of appeals, the National Labor Court (*Reichsarbeitsgericht*), was instituted in 1927 (see COURTS, INDUSTRIAL).

Like the courts the Reichswehr (the small voluntary military force permitted under the Treaty of Versailles) and the small navy have been kept out of party politics. As in the case of his colleagues the minister for defense must resign on a vote of no confidence directed against him. Minister for Defense Dr. Otto Gessler, during whose period of office the German Reichswehr practically came into being, was a civilian and a member of the democratic left.

The second part of the constitution contains an elaborate statement of the rights and duties of the individual. Among these is a provision (article 165) for the establishment of a hierarchy of workers' councils in individual establishments, economic districts and the country as a whole. These were to cooperate with employers and other classes of the population in the creation of district economic councils and a federal economic council. The latter body was to be

consulted by the government on all proposed economic and social legislation. The system of councils in individual establishments has been functioning vigorously, but in the absence of the intermediate structures only a provisional federal economic council has been created (see NATIONAL ECONOMIC COUNCILS).

The constitution expressly provides for the separation of church and state; a series of concordats between the German states and the Holy See or the Evangelical Synod make for a better relation than would a closer union involving the appointment of ministers by the head of the state. Prussian Protestants complain about the increasing influence of Catholicism in public life. The Catholic Center is the only party which since February, 1919, has never been out of the frequently changing government coalition; most of the time in fact it has led it, at least in domestic affairs. This record corresponds to the real strength of a party which has the supreme merit—in a democracy—of embracing all orders and classes.

#### A. MENDELSSOHN BARTHOLODY

Sec. LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL; CIVIL SERVICE; GRANTS-IN-AID; NATIONAL ECONOMIC COUNCILS; COURT DISTRICTAL; REPARATIONS; POLISH CORRIDOR; HOLY ROMAN EMPIRE.

SWITZERLAND. In the course of the last half century the government of Switzerland has attracted a measure of attention quite disproportionate to its size. Before the World War the interest of foreign observers was due mainly to the fact that it was a European republic and an Old World democracy. As a republic it was almost unique and as a political unit that had never been anything but a republic it was entirely unique in Europe. Furthermore the continued use in some cantons of the *Landsgemeinde*, an annual meeting of all the voters to elect the executive, adopt the budget and discuss and pass on new legislation, and the novel political devices of the initiative and the referendum, which are attempts to infuse the spirit of the *Landsgemeinde* into modern representative institutions, made Switzerland a democracy in spirit as well as in structure.

Now that the World War has so vigorously republicanized Europe, that the Swiss system of direct democracy has been so extensively copied elsewhere and that Switzerland herself has so steadfastly refused to extend the suffrage to women, the persistent interest which Switzerland still arouses abroad as a political experiment

seems due to causes that are different but hardly less significant.

In the first place, it is more and more frequently pointed to as having alone succeeded in solving the so-called minorities problem which has come to loom so large on the European horizon. It is to this aspect of Swiss policy that Woodrow Wilson had already alluded when long before the war he wrote: "The Cantons . . . having allied themselves, went on to show the world how Germans, Frenchmen and Italians, if only they respect each other's liberties as they would have their own respected, may by mutual helpfulness and forbearance build up an union at once stable and free" (*The State*, rev. ed. Boston 1901, p. 300-01). The secret of this success, which the World War at first seemed to threaten but finally confirmed, is to be found in two distinct institutions: national federalism and international neutrality. Until the Napoleonic period Switzerland was a very loose confederacy of sovereign cantons. In 1848 after a brief civil war she became a federal state by adopting what was a conscious and deliberate imitation of the bicameral constitution of the United States. In spite of the closer union thus realized and in spite of the growing centralization which modern industrial civilization has brought with it the Swiss cantons remain their own masters in all such vital matters as public instruction, church organization, judicial procedure and direct taxation. Internally, linguistic and religious minorities govern themselves in accordance with their own wishes. Externally, they are protected against any violation of their international preferences by the policy of permanent neutrality which Switzerland with more political wisdom than logical consistency has succeeded in maintaining in spite of her membership in the League of Nations.

The Swiss military system may be said to constitute the second governmental feature which awakens most interest abroad. It is based on the principle of general compulsory service but it differs from the system of conscription prevailing among other European nations in that it does not provide for a large standing army nor give rise to a numerous and influential class of professional soldiers. In many respects the Swiss army is the most distinctive characteristic and the most typical product of the governmental system of the country. It would doubtless be the most difficult to introduce elsewhere because it is based on ancient and peculiar traditions of what might be called conservative national de-

mocracy. Unless restrained by such a tradition the armed and trained masses which it organizes and places under the command of officers drawn solely from their own ranks would constitute a permanent menace to the state. And unless disciplined and inspired by such a tradition the army would be a mere rabble unfit to face a technically superior foe. As it is, the growing importance of the pacifistic Socialist party, on the one hand, and the increasing mechanization of modern warfare, on the other, constitute a double challenge to the future of the Swiss military system.

The third outstanding feature of political Switzerland is that even among those states in which democracy is neither estopped by open or disguised dictatorship nor frustrated by corruption Switzerland may be said to stand alone in that its conception of democracy is not limited to electoral equality. The latter is essentially a conquest of the nineteenth century, but its basis had been laid long before in the economic structure of the country. The early abolition of serfdom, the importance of communal lands, the prevalent practise of equal distribution among direct heirs of personal and real property and the example of direct political democracy in the primitive *Landsgemeinde* cantons had limited social inequality to an extent quite unknown in the neighboring monarchies, long before political democracy was formally and universally established. As a result democracy, which elsewhere triumphed defiantly and remains aggressive and even revolutionary, in Switzerland became or rather continued moderate in its demands and conservative in its temper. Its ideals are those of the social average and its standards those of liberal mediocrity. It is suspicious of all who rise above and generous toward all who fall below. But even if impatient of superiority in all its forms it deprecates violence as a means of restoring equality. Although about a fourth of the electorate are enrolled in a party which calls itself socialistic, even this minority is truly revolutionary in its aims only if and when in the opposition. When saddled with governmental responsibilities it readily conforms to the standards of the majority, which may be defined as liberally conservative and firmly national.

These general characteristics of the political temper of the Swiss people have found expression in the fundamental features of their political institutions in both the cantonal and the federal spheres. These institutions are devised to assure continuity of policy and to prevent any dramatic

outbursts of leadership. The executive, generally a committee of from five to nine members, usually representative of both majority and minority, is seldom if ever headed by an outstanding personality. The members of these collective governments are in most cantons elected by the people; in the confederation they are chosen by the legislature. Once put into office they remain there practically for life although they are subject to periodic reelection. In their general outlook as in their administrative efficiency they therefore resemble permanent officials more than politicians. As a body they are correspondingly strong, but as individuals they count for relatively little. They dominate the rather amateurish legislatures but whenever even their most important measures are rejected by the electorate at the polls, as not infrequently happens, they humbly submit to the will of their masters.

The federal legislature, the Federal Assembly, is composed of the National Council and of the Council of States. In the former the cantons are represented according to population. To the latter body the cantons send two members each; these members are now generally elected by the voters themselves, but in a few cantons they are still chosen by the cantonal legislatures. One outstanding characteristic of the Swiss federal legislature is the absolute equality of the two houses; neither enjoys any special prerogative or even any priority. The federal budget, for instance, may be first discussed in one house or in the other, as seems most convenient. All the cantons and municipalities have only one law-making body.

In the confederation, as in all cantons and towns, the right of final legislative decision is vested in the voters themselves. This right is so freely exercised in some cantons and cities that the functions of the legislature appear more advisory than truly legislative. In the confederation, in most cantons and in all the more important municipalities popular control of legislation is exercised by means of the referendum. In five of the oldest and smallest cantons it is still exercised at the *Landsgemeinde*; the same institution also exists in many municipalities. Not only the referendum, which is nothing but a right of popular veto, but even the initiative, by means of which the people themselves can introduce new measures, have in actual practise served only as conservative safeguards.

Neither in the federal nor in the cantonal sphere has the judiciary the exalted position it enjoys in Anglo-Saxon communities. The judges

are very numerous, not very well paid, often chosen for political rather than professional reasons and do not enjoy the social prestige of the most successful lawyers. The federal tribunal has never been given the right to reject federal legislation on constitutional grounds, despite various proposals to that effect. According to Swiss political theory the federal legislature is the sole judge of the constitutionality of any legislative action it may take.

Thus the governmental system of Switzerland works slowly, timidly, honestly and on the whole not ineffectively. Compared with the parliamentary systems of all surrounding countries it inspires confidence but hardly enthusiasm. It is bound to disappoint lovers of the heroic; but it both satisfies the needs and faithfully expresses the character of a small, prosperous, unimaginative but peaceful, laborious and solid people whom both their historical experience and the geographical propinquity of their great and more adventurous neighbors have rendered doubly cautious.

W. E. RAPPAUD

See: LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL; GRANTS-IN-AID.

THE NETHERLANDS. The soil of the Netherlands is a product of the sea and the great rivers that find their mouths at the coast of Holland: the Rhine, the Meuse and the Scheldt. As Napoleon said, Holland is a "deposit" of these rivers. The Rhine takes its course through the main part of Germany; the Meuse flows through Romanic speaking regions. Descending the streams of those rivers tribes of Germanic and of Romanic origin met in Holland. Throughout the centuries foreigners from many countries immigrated into Holland, particularly Jews and Huguenots, who fled from the Portuguese, Spanish and French inquisitions and whose influence on the development of Dutch trade and industry has been very great. Like the United States, Holland has thus been a melting pot in which immigrants from very different origins have blended together into one nation fused mainly by the fire of eighty years of war for liberation from Spain.

At the beginning of the sixteenth century the Low Countries (Holland and Belgium, then called Flanders) were a part of the Holy Roman Empire. Charles v as emperor gave new privileges to the Low Countries by constituting them a unit within the empire in return for an annual contribution. His son and successor, Philip the

Second, increased the taxes and tried to halt the growth of Protestantism by introducing the Inquisition into Holland. The resulting revolution and war lasting from 1568 to 1648 was a struggle for religious and political freedom. These principles were laid down in 1579 in the Union of Utrecht, which marked the separation of Belgium from the northern provinces and presaged the independence of the latter in the Republic of the United Provinces of the Netherlands. It was in the same period that Grotius wrote his famous *Mare liberum* (1609) to prove that the Hollanders were allowed to find their own way to the Indies. There is in the history of Holland a close connection between the ideas of religious and political freedom and those of freedom of the seas and free trade.

The republic was a federation in which the power of the provinces was generally greater than that of the union. Executive power in each province was vested in a stadholder, or governor, a title which was carried over from the days before independence and implied the existence of a sovereign ruler in some foreign land. The stadholder, who might be the same individual in several or all of the provinces, was generally chosen by the provincial states, although at times several of the provinces vested the office hereditarily in the house of Orange. The extent of the stadholder's influence over public affairs depended on his personal qualities. Thus the influence of William III in Holland was so great that although he was at the same time king of England it has been said that in reality he was stadholder in England and king in Holland.

The invasion of Holland by the French in 1795 forced the stadholder William V to flee to England, and Holland became a part of the French Empire. After the defeat of Napoleon Belgium, which before the French Revolution had been under the control of the house of Austria, was joined with Holland to constitute the Kingdom of the Netherlands; the rulership was made hereditary in the house of Orange and the son of William V ascended the throne as King William I. In 1830 the ties of union, which had never been very strong, were broken by a Belgian revolution; and in 1839, all attempts at maintaining the union having failed, Belgium was permitted to secede as a separate kingdom.

The constitution of 1814, which set up a hereditary constitutional monarchy, drew largely upon the structure of the Republic of the Netherlands and upon the English Parliament. It has been revised many times—in 1815 and in 1840

to take account of the accession and the secession of Belgium; in 1848, 1887, 1917 and 1922 to provide for a steadily broadening democracy. Ministerial responsibility to parliament was established in 1848. In 1917 universal suffrage for all men and women on the basis of proportional representation was provided for in elections of members of the municipal councils, the provincial states and the lower house of the national legislature. There is an explicit stipulation that every representative shall vote according to his own conscience and shall not be required to consult his constituents, a reaction from the tradition during the republic that the deputies to the States General were merely the mandatories of their constituents.

Legislative power rests with the crown acting through the ministers and with the legislature, the States General. The lower house, or Second Chamber, consists of one hundred members elected directly by the people. It is the more powerful of the two chambers: government measures are submitted to it first for consideration and it has the power to initiate legislation. The upper house, or First Chamber, is elected by the provincial states on the basis of their importance; it has no power to initiate legislation and can only reject measures submitted to it or accept them without amendment. Executive power rests with the crown acting through the ministers. There is a council of state (*staatsraad*) which is appointed and presided over by the crown and which is consulted on legislative and executive matters. The spoils system does not exist in the Netherlands and the integrity and independence of the judiciary have been effectively maintained.

The country is divided into eleven provinces, each of which has its own assembly, or states, elected for a term of four years. The states meet only twice a year, but it chooses from its own members a permanent commission of six (four in Drenthe) which is in charge of the administration of the province. The chief executive officer of the province, however, is the commissioner, who is appointed by the crown and presides over both the states and the commission. The provincial states are entitled to pass ordinances for the general welfare of the province and to raise taxes subject to certain restrictions; provincial ordinances are subject to approval by the crown.

Subordinate to the provinces geographically are the communes, or municipalities. These have considerable power of local self-government, a

reminder that the origin of the democratic institutions of the Netherlands is to be found in the rise of the power of the cities. At the head of the municipality is a council which is vested with local legislative power and with the administration of local government. Each council chooses from two to six aldermen, who assist the burgomaster in the day to day administration. The burgomaster, who is nominated by the crown, has the double and accordingly difficult task of being the head of the municipal council and of representing the central government in the municipality. In order to maintain the principles of democratic government and at the same time secure greater efficiency in the practical administration of the growing tasks of the councils a large part of their business is delegated to special institutions, primarily mixed (private and public) companies, which are controlled by the municipal council and by the burgomaster and aldermen.

A peculiar feature of the local administration is the *waterschappen*, which arise from the necessity of building and maintaining dikes in those sections which are not protected from the sea by natural dunes. They are associations charged with the special task of maintaining the dikes; membership in them is compulsory and they stand on the same constitutional basis as the provinces and communes. The administration of the entire system of dikes rests with a special ministry (*Waterstaat*).

The legislature of the Netherlands is at the same time the supreme legislature for the colonies. In recent years, however, important steps have been taken in the direction of self-government for the Netherlands East Indies. A legislative assembly (*volksraad*) with its seat in Batavia on the island of Java was established in 1916 and met for the first time in 1918. Originally intended as a purely advisory body, it was converted by the Netherlands India constitution of 1925 into a legislative assembly whose assent must be asked for all ordinances presented by the governor general. The assembly is empowered to deal with internal affairs subject to the constitution and to statutes passed by the Netherlands legislature. The crown and in emergencies the governor general himself may override decisions of the assembly. The members of the *volksraad* are partially nominated and partially elected on the basis of three groups—Europeans, natives and foreign orientals.

A. C. JOSEPHUS JITTA

See: LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL.

SCANDINAVIAN STATES. *General.* The three principal Scandinavian countries—Denmark, Norway and Sweden—are so closely related racially, culturally and linguistically that the prospect of political union between them inevitably suggests itself. As early as 1380 Norway had joined Denmark in a personal union and in 1397 there was actually effected a similar union between the three countries, which lasted with considerable difficulty and strife until 1523, when Gustavus Vasa set up an independent national government in Sweden. Norway gradually came to be administered as a province of Denmark and in 1814 it was ceded to Sweden, with the understanding that it was to be a separate kingdom joined to Sweden by a common ruler. The Norwegian people refused to acknowledge this cession and on May 17, 1814, adopted their own constitution as a free and independent kingdom. After a brief war with Sweden a compromise was effected under which Norway accepted the personal union with Sweden in return for the right to retain its own constitution with only such changes as the common crown required. The union went through many conflicts and crises before it was finally dissolved in 1905 on the initiative of Norway.

Since then the three countries have been distinct political entities, but the cooperation which they practised even before 1905 has taken on an increasingly important aspect. Since 1907 annual conferences of members of the parliaments of the three countries have been held for the discussion of matters of public law and economic policy of special interest to the three countries. In late years delegates from Iceland and Finland have taken part in these conferences. In the World War, as in previous wars beginning with the Crimean, the three countries jointly announced their neutrality. Various conferences of foreign ministers, of prime ministers and even of the kings themselves were held to deal with the problems of neutrality and of economic and financial adjustment entailed by the war. The three countries have adopted essentially uniform legislation on a wide range of subjects in the civil law and family law fields, including the laws of marriage and divorce. Their central banks and governments cooperate on questions of monetary policy. A movement for a closer cultural and educational association between the countries took formal shape in the organization of *Norden* societies in each of the three countries in 1919. Branches of the society were organized in Iceland in 1922 and in Finland

in 1924. Political union as such, however, is still very far away; to it the history of past unions, the conscious nationalism that has developed in each of the countries and the different problems of foreign relations oppose apparently insuperable obstacles.

KNUD BERLIN

*Denmark, Iceland and Norway.* Denmark. Denmark possesses an area of about 44,300 square kilometers (including the Faroe Islands) and a population of about 3,600,000. For nearly two hundred years, from 1660 to 1849, it was governed autocratically; under the impulse of the revolutionary events of 1848 the king granted a very liberal constitution on June 5, 1849, in accordance with the proposals of a popular assembly which he had summoned. This constitution was modeled most closely after that of Belgium but with more liberal suffrage rights. It introduced responsible ministers and a bicameral national legislature, consisting of two houses—the popular assembly (Folketing) and the national house, or senate, (Landsting), both chosen by vote of all male citizens over thirty. The constitution also created independent courts, guaranteed the usual civil rights and liberties and abolished all class privileges. In general the governmental structure created in 1849 still exists, but the constitution has been idly loped i ith the al European parliamentary practise.

This development, however, did not take place without a protracted political battle. In 1866 the composition of the Landsting was changed so that half of the elected senators were chosen by the large taxpayers, while the government appointed a certain number of life members. When a majority in the Folketing then demanded the resignation of the government and the introduction of a purely parliamentary rule, the Landsting opposed this demand as unconstitutional. Beginning about 1875 the conflict between the two houses was so bitter as to threaten the finance bills; and for nine years, from 1885 to 1894, the Estrup ministry governed by means of provisional financial decrees promulgated by the king alone. In 1894 there was a reconciliation; but in reality the Folketing won, although its victory was not complete until 1901, when a distinctly Left cabinet succeeded the earlier Right governments. Since that time parliamentary rule has prevailed in Denmark. Since none of the principal parties has had an absolute majority in the Folketing, which is the control-

ling house, the various parliamentary governments have generally been minority governments which have been able to count on more or less reliable support from other parties.

In 1915 thorough constitutional changes were effected. The suffrage rights for both chambers were made more democratic; the voting age for the Folketing was reduced to twenty-five years, that for the Landsting was raised to thirty-five years and woman suffrage was introduced for both.

For purposes of local government Denmark is divided into twenty-two counties, each of which is administered by a governor (*amtmand*) appointed by and responsible to the minister of home affairs and automatically chairman of the county councils. Local government in urban centers is largely in the hands of the municipal councils. In rural communities the parish councils are in charge of administration, subject to control by the county council.

The judiciary consists of about a hundred lower courts, usually composed of one judge; two courts of appeal (*landsretter*), which also serve as courts of first instance for major civil and criminal cases under certain conditions, in collaboration with a jury of twelve members; and a Supreme Court consisting of a president and twelve judges.

The government has not, except in the case of industrial accidents, intervened into the administration of national systems of social insurance. It has, however, effectively subsidized and closely supervised the voluntary insurance organizations which provide protection against sickness, invalidity, accident and unemployment. The highly efficient cooperative system was evolved almost entirely without government aid.

Iceland. Iceland was first settled about 874 A.D. chiefly by immigrants from Norway; in 930 the Althing was established as the highest governmental authority. For the next 300 years Iceland continued as an independent republic, celebrated in its rich saga literature. The contest for power, however, among the leading chieftains' families gradually created such anarchy that in 1262 the island was made a dependent tributary under the kings of Norway. When Norway joined Denmark in 1380, Iceland followed as a Norwegian dependency; as Norwegian independence lapsed, it came to be governed from Denmark as a Danish tributary or colony. Together with the Faroe Islands and Greenland it stayed in Danish hands when Norway was transferred



to Sweden. The Althing, which had gradually degenerated to the position of a court of justice, had been entirely abolished in 1800 and Iceland had practically no local independence. In 1843 the Althing was revived, but only as an advisory body. After 1849 vain attempts were made from the Danish side to introduce the new Danish constitution into Iceland, where the independence movement had become more and more powerful. In 1874 Iceland was granted a free constitution with a large measure of self-government and a legislative Althing. But these concessions did not satisfy the demands of the Icelanders. Of equally little avail was it that in 1903, after the parliamentary form of government had been introduced in Denmark, Iceland received a special cabinet minister, responsible only to the Althing—a grant equivalent to a parliamentary form of government. In 1918, during the World War, a compromise was effected in the so-called Danish-Icelandic Union Law, by which Iceland was recognized as an independent country with, however, the same king as Denmark and with Denmark in control of its foreign affairs and of the fishing in its waters. The union agreement is to run for only twenty-five years, after which it can be denounced by either party.

The present fundamental law is the Constitution of the Kingdom of Iceland of May 18, 1920. In general it is modeled after the Danish constitution, with the important difference that the Althing consists of a single chamber. The Althing, however, follows the procedure of the Norwegian Storting and divides itself into two sections, called the upper and lower; in case of disagreement between these two sections over any legislation except financial appropriations a decision can be reached only in a joint session of the entire Althing and by a two-thirds majority. There are three ministers. The regime is of a decidedly parliamentary character. The system of local government differs from the Danish in that there are no county councils; the local and parish councils function directly under the central government. Neither are there any courts of appeal, but appeals go directly from the lower courts to the Supreme Court.

Iceland, whose population exceeds 100,000, has in recent years undergone a marked development, particularly in its fisheries. Having declared itself permanently neutral, it has no military establishment except three fishery inspection ships under the Icelandic flag.

Norway. Norway covers a territory of about 325,000 square kilometers and has a population

of about 2,800,000. The Norwegian constitution of 1814, which is still the country's basic law, provides for a peculiar single chamber system, which in course of time has undergone a remarkable change to a parliamentary type quite opposed to the type originally intended. Like the Swedish form of government adopted in 1809 and the American constitution of 1787, which were its most immediate models, it intended in accordance with Montesquieu's doctrine of the division of powers to create a sharp distinction between an independent executive power, exercised by the king, and an equally independent legislative body, the Storting, or General Assembly. The king was therefore to choose his own ministers, who were not to have seats in the Storting or even access to it. The power to legislate and to impose taxes was given to the Storting alone; the king could only propose measures and exercise merely a suspensive veto; he had no right to dissolve the legislature, which was elected for three years.

The Storting originally, however, had the right to remain in session only for two months every three years; the right to suffrage was practically restricted to the owners of real property; and the assembly, although chosen as a single chamber, divides after the election into two sections, a larger, the Odelsting, and a smaller, the Lagting, which in all legislative matters had the power of veto against each other, so that when they disagreed final decision could be made only in a joint session of the entire Storting and by a two-thirds majority. This was intended to assure the balance between the executive power of the king and the legislative power of the assembly. Further assurance was contained in the provision that constitutional changes could be made final only by a new Storting after new general elections and by a two-thirds majority, and that these constitutional changes should never alter the principles or spirit of the original law.

Nevertheless, in the course of time the constitution has been changed almost entirely, chiefly in its spirit and principles rather than in its structure: the independent executive power of the king has all but disappeared and the Storting has become the sole decisive agency which, as in other parliamentary countries, practically determines the formation or resignation of the cabinet. The chief contributing cause to this development has been the fact that during the union with Sweden the Norwegian king was also the king of Sweden and that consequently the struggle for separation from Sweden had to be carried

on against the royal power. To this was added the gradual democratization of the Storting, which culminated in 1898 with the introduction of general suffrage. As early as 1869 moreover an annual Storting had been introduced and in 1884 the Storting had despite the king's repeated veto forced through an amendment which made possible the personal attendance of the ministers at legislative sessions.

Although the main features of the constitution of 1814 still remain, the form of government is now decidedly parliamentary except for the fact that the king is still unable to dissolve the Storting. The Norwegian parliamentary governments, however, are usually, because of the sharp party divisions in the Storting, purely minority governments, which function only because and so long as the opposition parties cannot overturn them.

Local government is largely decentralized. There are popularly elected district and town councils, which elect an administrative committee from their own membership. These councils send representatives to a county council, presided over by a governor who is appointed by the crown but administers county affairs in accordance with the decisions of the county council. The units of local government have large powers in connection with such matters as taxation, education, health, housing and poor relief.

All judges are appointed by the king and may not be removed except by legal judgment. In the county and town courts, in both civil and criminal cases, two lay judges generally sit with the trained judge and participate in the decision not only on the facts but also on the law of the case. Criminal cases which may involve sentence of more than three years are heard by a *lagmadsret*, composed of three legally qualified judges and a jury of ten. The jury passes only on the question of guilt, and seven votes are required to convict. In criminal cases the Supreme Court acts only as a court of cassation and may not reverse a case on other than legal grounds. An interesting feature of the Norwegian and also of the Danish judiciary is the system of conciliation councils, elected for three years by the municipal councils. No case can be taken to the courts until after an attempt at settlement has been made through these councils.

KNUD BERLIN

*Sweden and Finland.* Sweden. The national code of laws, which was built up about 1350, contains what is probably the first written consti-

tution for the whole of Sweden. It provides the broad outlines for the government of a unitary state ruled by a single monarch elected by delegates from the self-governing provinces. In 1191 an aristocratic assembly (*Herrdag*) was summoned for the first time to deal with national affairs; after 1435 it occasionally included representatives of the burghers and the peasants. With the national Vasa dynasty (1523-1654) succession to the throne became hereditary. The new demands of the "age of greatness" led to a marked development, reflected in the Constitution Act of 1634, in national organization and administration. The Riksdag had already become consolidated into four estates (nobles, clergy, burghers, peasants), which cooperated through common standing committees.

Beginning with the end of the seventeenth century, when the crown with the cooperation of the lower estates established a royal dictatorship, Sweden witnessed a succession of changes in political power and constitutional provisions with now the king, now parliament, dominant. The royal dictatorship never developed into a royal absolutism; the kings obeyed the law not from choice but from duty. But the Riksdag was gradually thrust aside, especially during the reign of Charles XII, with whom the dictatorship ended. With the constitution acts of 1719 and 1720 as a foundation there developed a strong parliamentary autocracy mainly supported by the bureaucracy, which through the officials in the capital controlled the nobles, through the increasing worldliness of the priesthood gained power in that estate and through the mayors of the cities and their councilors became a force in the estate of burghers. This bureaucratic parliamentarism was overthrown with the coup d'état of Gustavus III in 1772, and a new constitution gave more power to the king. The constitutional changes of 1789 increased his power even more. The son of Gustavus III, mentally weak but stubborn, was unable to withstand the political storms of the Napoleonic era and was overthrown in 1809 by a revolution headed by officials and the military. A new constitution, which is still in force, was hastily drawn up in the midst of raging warfare.

Under the constitution of 1809 the Riksdag became more powerful, but the monarch retained much of his former authority in accordance with the constitutional ideals of the age and the need for a strong government. Eighteenth century experience with the misuse of parliamentary and monarchical power, and the current theories of division of power are reflected in the

balance set up between the legislative and executive powers. Since the old Riksdag of estates no longer had any basis in the structure of society and the prevailing points of view and had become a serious obstacle to needed reforms it was supplanted in 1866 by a bicameral system. Partly as a result of the influence of American models described by de Tocqueville competence and authority were equally divided between two chambers of different origin. The First Chamber was chosen for a term of nine years (since 1921, eight years) by the newly created county councils, which were based on fairly plutocratic suffrage rights and, in towns not represented in these councils, by the town councils; the Second Chamber was elected directly for a three-year term (since 1919, four years) on the basis of a more democratic suffrage. General suffrage for men was introduced for the Second Chamber in 1909 and for the electoral bodies for the First Chamber in 1921. Suffrage for women on the same basis as for men was established in the latter year. The democratic Riksdag, equipped with a number of standing committees common to the two chambers and provided with large secretariats, has proved exceedingly powerful. The personal prerogative of the king, which included the right of absolute veto, has been gradually replaced by a parliamentary regime which has strong support in a widespread democratic point of view and in a social order which includes a self-conscious, prosperous industrial working class and a large and important group of property owning farmers.

The king selects the prime minister after conferences with the Riksdag party leaders and the speakers of the two chambers. The prerogatives of government are exercised by the king in council, but the advice of the ministers carefully conforms to the expressed wishes of the Riksdag. The Riksdag supervises the work of the ministers and their advice to the king in council through the inspection of the cabinet records by one of the standing committees and through the continuous contact with the foreign policy of the government maintained by one of the Riksdag boards. The Riksdag can also secure the removal of a minister who does not respect its wishes or does not possess its confidence, although the constitution does not specifically provide for this. The central administrative departments are relatively independent of their respective ministers, but they must obey the orders of the government so long as these are in accord with specific laws.

Elections to the Riksdag, within the Riksdag and to the communal assemblies are since 1919 based on proportional representation. This makes the formation of stable majorities difficult. Since general suffrage came into effect, no individual party has succeeded in securing a majority in either Chamber. With a single exception all governments since 1905 have been minority governments.

The country is divided into twenty-four counties (*län*) and the county corporate of Stockholm. The governors, who are the heads of the county administration and the police, are centrally appointed. Each county has its council, the members of which are elected by the communes in the county. The counties are subdivided into rural and urban communes; each parish, borough or town forms a commune. The very comprehensive communal self-rule, based on legislation beginning in 1862 but placed on a purely democratic basis in 1918 and revised in 1930, is the predominant feature of local government. The towns although subject to the authority of the governor are governed by elected town councils or by assemblies of all electors formally supervised by the magistracy, consisting of the mayor and other members of the town court elected by the people. The rural communes are governed by an assembly of all electors and an executive committee or communal board of five to eleven members elected by the assembly. All communes having over 1500 people must and all other communes may transfer the greater part of the responsibility of administration from the assembly to a town or parish council.

The system of courts is collegial, with the exception of the rural district courts. The latter consist of a judge and twelve unpaid jurors, elected for six years by the people of the locality. The unanimous decision of the jurors both as to law and fact is the decision of the court; where the jurors disagree the judge decides. Appeals are permitted on all cases, except that since 1915 minor civil and criminal cases cannot be carried to the High Court of Justice. There is a supreme administrative court and various special courts, including since 1929 a court with final jurisdiction over labor agreements.

Finland. The constitutional history of Finland parallels that of Sweden until 1809, when Finland was separated from Sweden and joined to Russia under a common ruler but with its own constitution, which consisted of the Swedish constitutions of 1772 and 1789. From 1899 to 1905 Russian oppression of Finland became ac-

centuated and the revolution of 1905 in Russia was accompanied by similar action in Finland, marked by the establishment of so-called Red Guards and by a general strike. As a result the Finnish parliament received a new organization in 1906. The existing four-estate organization was replaced by a single chamber, created by general suffrage and proportional representation. The Russian Bolshevik Revolution of 1917 was followed by a declaration of the independence of Finland in December, 1917. Bitter civil war between the government, supported by the bourgeois classes and soon allied with Germany, and the radical social democracy, which was actively supported by Russian Bolshevik troops, finally ended in the triumph of the former. The Constitutional Law of July, 1919, converted the country into a democratic, parliamentary republic. In January, 1928, a new legislative charter was prepared.

The president of the republic is chosen for a six-year period by indirect popular suffrage; he has very widespread authority, which must generally be exercised, however, in cooperation with a minister. Among other matters he has independent constitutional powers in certain questions and suspensive veto power. Through constitutional changes in 1930 his power has been further increased, principally to strengthen the established order in case of danger from threatening Communist influences. The members of the cabinet must, according to the constitution, enjoy the confidence of parliament. Because of the number of parties most cabinets have been minority governments or bureaucratic administration ministries of no definite political color and of short duration.

The national assembly consists of a single chamber elected by general suffrage and proportional representation for three years; since 1930 Communists cannot be elected. Constitutional questions must after having been approved by parliament be postponed until a new assembly meets after new general elections, unless a five-sixths majority agrees that the measure is urgent and a two-thirds majority favors its adoption. Ordinary legislative proposals must on request of a third of the members of the Riksdag be postponed to the first session after new general elections. Certain financial measures, such as loans and new taxes, can be passed only by a two-thirds majority.

The principal administrative division is the province, whose administration is under the control of a governor appointed by and subordinate

to the Council of State. The provinces are divided into communes, administered by boards controlled by the central government but nominated by the popularly elected councils. The scope of local self-government has expanded, especially in municipalities, and now includes among other matters poor relief, health, fire protection and education, especially elementary education. The Swedish speaking Åland Islands group enjoys a comprehensive autonomy, and Swedish, like Finnish, is a recognized national language throughout the country.

The administration of justice is in the main organized as in Sweden.

GEORG ANDRÉN

See: LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL.

**RUSSIA. *Imperial Russia.*** The Russian Empire became a constitutional monarchy only as late as 1905, when as a result of the revolutionary movement following the war with Japan Emperor Nicholas II granted his subjects civil liberty and the right to elect a representative legislative body. The Fundamental Laws of May 6 (new style), 1906, served as the basis for the new constitutional monarchy.

They provided that the legislative power should be shared by the emperor and the two houses of parliament—the State Duma and the State Council. Half the members of the latter were appointed by the emperor; the other half were elected by various electoral classes, or curiae: the clergy, the zemstvo provincial councils, the nobility, the academies and universities and the representatives of commerce and industry. The First and Second Dumas, chosen under the relatively liberal electoral laws of December 24, 1905, had majorities opposed to the government and were almost immediately dissolved. In 1907, contrary to the explicit provisions of the Fundamental Laws, the franchise was changed by imperial decree. Members of the Duma were thereafter elected by provincial electoral conventions consisting of representatives of the following electoral curiae: landowners, city inhabitants of the first and second taxpaying classes, peasants and industrial workers. The method of voting in the conventions coupled with the changes in the franchise assured a large majority in the Duma for the rich landowners and for the Russian as opposed to the non-Russian elements in the population.

Both houses dealt with legislation and the budget and had the right of interpellation; the army and navy, however, remained under the

direct control of their special councils with legislative functions and ministers responsible only to the emperor. The Duma's power over the budget was very limited. The emperor possessed an absolute veto over all legislation, and he alone could initiate changes in the Fundamental Laws. His power to prorogue the sessions of both houses or to dissolve the Duma was frequently used to dispose of the necessity of consulting it when it was unsympathetic. For when the Duma was not in session the ministerial council with the consent of the emperor was empowered to issue temporary laws. Such laws, however, could not change the Fundamental Laws or the statutes or election laws of the two houses and had to be submitted to the Duma within two months after the resumption of its sessions.

Full executive power, including complete control of the administration, rested with the emperor, who was still termed the autocrat-ruler in the Fundamental Laws. He had absolute control over foreign affairs; he appointed all government officials including the ministers, who were responsible to him alone. Responsibility was individual, not collective. The cabinet did not represent a cohesive unit and even the resignation of the prime minister did not entail similar action on the part of the other ministers. A vote of non-confidence by the Duma had no political consequences whatever.

The Fundamental Laws of 1906 thus created a dual constitutional monarchy, with the executive power completely separated from and independent of the legislative authority. The split between the two branches of government became very acute during the World War. The "progressive bloc," including the majority of the members of the Duma, tried in vain to induce the emperor to form a "ministry of general confidence." Instead, the Duma was brushed aside and complete and open control of the government assumed by the emperor and his ministers. The dissolution of the Duma on March 11, 1917, only a few days after it had assembled, was one of the immediate causes of the revolution.

For administrative purposes the empire was divided into ninety-eight large administrative units consisting of seventy-eight provinces, eighteen territories and two regions. Administration was effectively centralized through the provincial governors appointed by the emperor and responsible to the emperor and the minister of the interior. The governors controlled the police as well as all the officials and organs of government, including those of zemstvo and municipal

self-government in the forty-three provinces in which they existed. In Poland, Lithuania, the Caucasus and other sections a number of provinces were grouped under a governor general with powers greater than those of a governor. Finland, which had its own diet, was except for a short period after the 1905 revolution effectively controlled by a centrally appointed governor general. Central control was an important agent in carrying out the strong policy of Russification pursued by the central government in all areas where non-Russian elements were large. The larger cities were independent of the provinces but were administered by centrally appointed city captains (*gradonachalniki*), who had powers similar to those of the provincial governor.

The emancipation of the serfs in 1861 had been followed by far reaching governmental reforms. Zemstvo self-government was provided for sections of Russia proper in 1864 and town self-government in 1870. Legal reforms in 1864 provided for public trials, the use of juries in criminal cases and judicial independence. Elective justices of the peace were created to serve as courts of first instance for petty criminal and civil cases; appeals in such cases lay to district conferences of the justices of the peace. More serious cases came under the jurisdiction of district courts, in which juries were used; the courts of appeal were the judicial chambers (*sudebnye palaty*). Two departments of the Governing Senate served as the final courts of cassation for civil and criminal cases respectively. In 1889 the justices of the peace were replaced in rural districts by land captains (*zemskie nachalniki*), appointed by the minister of the interior to perform administrative as well as judicial duties; not until 1912 was the system of elective justices restored in these districts.

The members of the zemstvo district councils were elected on a curia basis which assured control by the landowning nobility. The district marshal of the nobility, elected by an assembly of the nobility of the district, was chairman of the council, which elected an executive committee (*uprava*) from its own members. The zemstvo provincial councils consisted of representatives elected by the district councils and of the district marshals and the chairmen of the district executive committees as ex officio members. The provincial marshal of the nobility, elected by the district marshals, was chairman of the provincial council, which also elected an *uprava*. The control of the nobility was even stronger in the pro-

vincial than in the district councils. The councils could legislate with respect to education, health, roads and public welfare in general, but their power and effectiveness were greatly curtailed by the legislation of 1890, under which the approval of the provincial governor was required for their acts and their choice of officials. City councils, elected on the Prussian three-class system of representation, and their executive officers and committees were subjected in 1892 to the same control as the *zemstvo*. Nevertheless, the *zemstvo* and municipal councils did much to advance education, public health and general economic well-being and to develop a valuable type of public official.

Peasant self-government functioned through the village community (*q.e.*), which owned the village land and allocated it to individual householders, retaining the right of redistribution. An assembly of all the peasant householders of the village elected the elder and the village representatives to the assembly of the canton (*volost*). The cantonal assembly elected an elder and the members of the *volost* court, composed entirely of peasants who applied customary law. The powers of the *mir* and *volost* organizations were strictly limited and were subject to close control by the central bureaucracy, which used them as effective agencies for the collection of rents and taxes and the performance of other local tasks.

The emperor was the head of the established Orthodox church. The Holy Synod, at the head of which was a collegium of high ecclesiastics appointed by the emperor, controlled the church and was in turn supervised by the chief procurator, a layman appointed by and directly responsible to the emperor. In the hands of K. P. Pobiedonostsev this office was for twenty-five years a notorious agency of reaction.

Personal liberty was guaranteed in the reforms of 1905, but special permission was still needed to publish a newspaper, to hold a public meeting or to form an association. Declaration of martial law was frequently used to suspend even these rights. Trade unions were closely supervised; strikes were criminal offenses and the police and the troops were used to suppress them. As the revolutionary movement became stronger in the 1870's, repression by the government became increasingly severe. Under Alexander III political cases were removed from the jurisdiction of the district courts, where juries were required, and tried by the judicial chambers, which co-opted representatives of the nobles, merchants

and peasants to serve as juries. Arbitrary arrest was theoretically prohibited but the corps of gendarmes and the secret police (*okhrana*) were empowered to arrest, prosecute and send into administrative exile all persons "politically unreliable." Under this power great numbers of revolutionaries and other elements of opposition were expelled from the capitals and university towns and sent into exile.

PAUL GRONSKI

*Soviet Russia.* The government of Soviet Russia, the first country to put into practise the ideas of revolutionary socialism, holds a unique place among the governmental systems of the world. Not only does it provide a working illustration of the state as dictatorship of the proletariat but it also represents a synthesis of national cultures and international ideals. It is a government which by its very principles must eventually cease to exist; in form as in idea it is transitional, having as its ultimate aim the realization of Engels' conception of the withering away of the state.

The drastic nature of the revolutionary upheaval made necessary as well as desirable a complete change in the governmental structure and personnel of this state covering somewhat less than one sixth of the surface of the globe and including a population in 1931 of about 161,250,000. No constituent assembly wrought out the constitution of the new state; it took shape in the midst of external war and internal need. The constitution of the Russian Socialist Federative Soviet Republic (R.S.F.S.R.) was adopted by the Fifth All-Russian Congress of Soviets on July 10, 1918; on December 30, 1922, the union with the other constituent republics took place; in the summer of 1923 the draft of the constitution of the Union of Soviet Socialist Republics (U.S.S.R.) was adopted; this constitution was put into force on July 6, 1923.

Two of the most important problems which required immediate solution were the question of the basic form and structure of government and the problem of nationalities. The ideology for the solution of the latter problem—autonomy and federalism—had been prepared long since in the ideas of Marx and Engels and also with special application to Russian conditions in those of M. P. Drahomanov. The border nationalities had taken advantage of the Communist policy of self-determination and the protection of other powers to set up independent governments. The diversity of nationalities still remaining within

the borders of Soviet Russia led to the organization of the new state on a federal basis. The U.S.S.R. thus consists of seven constituent republics—Russia, White Russia, Ukraine, Transcaucasia, Turkmenistan, Uzbekistan and Tadzhikistan—which in turn contain a varying number of so-called autonomous republics and territories. The principle of federation on a national basis is followed throughout, the constituent members having the right to withdraw (article 4 of the constitution). National autonomy is thus guaranteed in theory and largely in practice as well; there is no legal discrimination between the races of the Soviet Union, and recognition of national languages and cultures has provided a great stimulus to their development. A satisfactory solution has thus been found to the difficult question of nationalities, a problem with which Stalin has particularly concerned himself. Nevertheless, the sovereignty of the federation over the constituent republics is uncontested. The same holds true of the dictatorship of the proletariat over the non-proletarian sections of the population as well as of the predominance of the Great Russian element. The latter predominates overwhelmingly in the R.S.F.S.R., which comprises nine tenths of the area and two thirds of the population of the entire Soviet Union.

Control of this gigantic federal state is centralized to the utmost degree through a system of administration which has preserved many of its old features as well as through the army and police (Cheka, later GPU), the dominance of the Communist party, the reorganized system of communications and the unified and centrally planned economic administration, similar in its state building character to the mercantilism of the seventeenth and eighteenth centuries and to the imperialism of the nineteenth and twentieth centuries. Federalism in Russia is not a mere sham; on the other hand, it is unable to assert itself freely and completely against the strong centralizing forces emanating from Moscow.

Regarding the actual machinery of government the Communist platform offered only general ideas. But there was already available the idea of the soviet (*y.v.*), which had been quickly improvised during the abortive revolution of 1905 and which, extended to include workers, soldiers and peasants, played a very crucial part in the series of events which brought the Bolsheviks into power in 1917. The new soviet

The government functions through a hierarchy of soviets, the lowest of which, the village soviet and the city soviet, are elected annually by direct open vote of all citizens of both sexes who have reached the age of eighteen and who "earn their living in productive or communal work." Workers, officials, peasants and soldiers are thus permitted to vote; all others, particularly the remnant of the bourgeoisie and nobility, are excluded from the franchise. The lower soviets elect representatives to the next higher congress of soviets in regular succession. Greater weight is given urban than rural population by the fact that a smaller population per representative is prescribed for city than for rural areas: one representative for every 25,000 voters in the former and for every 125,000 in the latter.

The soviet principle thus results in a parliamentary democracy functioning on the basis of indirect representation, but exclusively for the proletariat. Although the elections are subject to the pressure of Communist dictatorship, this workers' democracy is not entirely a fiction. Moreover, while the power of Joseph Stalin as a controlling and directing force is tremendously far reaching it is not unlimited and is dependent on the party.

The old threefold czarist administrative division (*guberniya*, or province; *uyezd*, or county; *volost*, or district) is being replaced by a new twofold division drawn with a view to the natural economic unity of the different sections. The country is divided into economic districts coordinated with the requirements of the central economic plan and at the same time assuring dominance by the workers over the peasants. This fundamentally new division or "regionizing" is nearly completed. The R.S.F.S.R. now consists of twenty-two large administrative units (*oblast*), such as the Northern region, the Moscow Industrial region, the Central Black Soil region, the Ural region, the Lower Volga region and the Siberian region. Immediately below the *oblast* now comes the *rayon*, of which there are 3221 in the entire union, and the autonomous cities, of which there are 125 in the entire union. Below these are the other cities and the village soviets.

At the top of the hierarchy of soviets is the Congress of Soviets of the U.S.S.R., the supreme legislative power of the union. It convenes only once a year and for a comparatively short

consists of two bodies chosen or confirmed by the Union congress, the Union Council and the Council of Nationalities, consisting of representatives of the constituent and autonomous republics. The TsIK elects a Praesidium consisting of twenty-seven of its members, which is the supreme governmental organ of the U.S.S.R. when neither the TsIK nor the All-Union Congress is in session. The TsIK chooses the Council of People's Commissars (Sovnarkom), the cabinet of the Soviet Union. It consists of a president, three vice presidents and fourteen commissars. The constituent republics also have their people's commissariats; in the case of the R.S.F.S.R. these are in part identical with those of the union. Attached to the Sovnarkom are the "executing committees," the Council for Labor and Defense (STO) and the State Planning Commission (see GOSPLAN).

The Supreme Court of the Soviet Union, which stands at the apex of the judicial system, hears cases of exceptional political importance, explains the constitutionality of judicial decisions and serves as a court of final appeal. There are provincial courts functioning as courts of appeal from the lowest, or people's, courts, which hear ordinary petty civil or criminal cases. The Unified State Political Administration (OGPU or, more commonly, GPU), which uses both uniformed and non-uniformed police, in practice has charge of much of the administration of justice. The GPU, successor to the Cheka, or "extraordinary commission to combat counter-revolution, speculation and sabotage," is attached to the Sovnarkom. The GPU makes arrests, conducts trials, which are for the most part secret, and passes sentence. While there is no appeal for retrial from a decision of the GPU, yet those convicted may call upon the TsIK for clemency.

The Soviet state may be said to be identical with the Communist party of Russia (see COMMUNIST PARTIES), which although it has on the whole not over 2,600,000 members (including the so-called candidates but not the youth organization Komsomol, which has about 3,000,000 members) fills all important government posts and increasingly rules the country by regulations and orders which may take effect directly and independently of the government and even upon the government itself. Every other party is illegal and only Communists or "non-partisans," who figure mainly in the lower soviets, are eligible for election. The press is exclusively Communist and rigidly censored.

While the Soviet administrative system has many features in common with that of czarist Russia, especially its looseness and the relative independence and far reaching autonomy of the village, it should be noted that the governmental structure is complete. It has been planned with a view to economic productive unity, and the shortcomings caused by the looseness of the system are offset by the control exercised from above as well as by the predominance of proletarian interests and their solidarity, which were given strong support even in the villages through collectivization.

The system of administration requires an enormous bureaucratic machine, the number of government officials exceeding two million. The personnel consists partially of officers of the old regime, the so-called specialists, but in the main of a new administrative force developed by the Soviet educational system. The bureaucracy is controlled by the central government and is dependent on the party, but it includes a great many who are not party members. A civil service law and a pension law protect the status of the bureaucracy.

The whole machinery functions unevenly. The old failings of overorganization and irresponsibility are accentuated by the new shortcomings in the training and caliber of the administrative personnel. The press and the congresses are filled with discussions as to whether control is efficient and whether proper financial and business methods are being used. Particular attention is given to the problem of the village soviets, for it is on these that the proper functioning of the administration and much of the success of the Five-Year Plan depend. The village soviets are assigned administrative tasks of great importance in such matters as agricultural production, budgeting, control, road building, education and mass propaganda.

While the satisfactory solution of all these problems still lies far in the future, the system reaches each individual throughout the entire country, particularly with regard to taxation and military service, drawing him into its circle and educating at least the worker, to whom it opens a path of advancement in the administration, for participation in the work of state and self-government. The impact of the socialist ideal and the gigantic economic plan upon the individual is tremendous as far as the development of broad socialmindedness is concerned. Also tremendous, however, is the economic pressure which hampers the satisfactory solution of administrative



tive problems. The freedom of the bureaucracy and the police continues to be far greater than that of the people themselves under this dictatorship which seeks ultimately to insure the safe existence and normal functioning of a proletarian socialist state.

OTTO HOETZSCH

See: GOSPLAN; SOVIET; RUSSIAN REVOLUTION; BOLSHEVISM; COMMUNIST PARTIES.

**BALTIC STATES.** The territory now comprising the republics of Estonia and Latvia was acquired by Russia by the Treaty of Nystad of 1721, under which the duchies of Estonia and Latvia became *gubernii* of the Russian Empire. Most of what is now Lithuania and much of present day Poland were secured by Russia through the triple partitions of the kingdom of Poland and grand duchy of Lithuania in 1772, 1793 and 1795; the territory so acquired was reorganized into ten *gubernii* and the provinces of Congress Poland. To Austria there fell, through the dismemberment of Poland, the whole of Galicia—the sole foyer in which Polish nationalism was later vouchsafed any effective opportunity for political expression—while Prussia obtained the territories, including the now famous corridor, necessary to connect East Prussia with her other domains. Prussia also acquired a small part of Lithuania proper in the hinterland of the city of Memel. Austria found it politically imperative, especially after 1867, to link Polish nationalism in so far as possible to the fortunes of the Hapsburg dynasty. After purchasing the loyalty of Polish representatives in the Austrian parliament through the extension of autonomy to Galicia the Vienna government followed a *laissez faire* policy and attempted no conscious denationalization. Prussia, finding the Poles singularly unassimilable, resorted to divers measures intended to effect linguistic denationalization but relied primarily on economic pressure, such as the expropriation of Polish owned lands for the establishment of German settlers. These measures sufficed neither to check the Polish language nor to break the strength of Polish economic organizations; they served, however, to create lasting resentment and to fuse all Poles into solidarity against their German masters. In Russian Poland after the insurrection of 1863 even the name of Poland disappeared from the map and the western portions of the Russian Empire were officially designated as the Baltic provinces, northwestern provinces and the Vistula region. The czarist government continually

sought to efface in the western borderlands all traces of ethnic consciousness.

But while ruthlessly repressing manifestations of native nationalism Russia dealt leniently with the upper classes of magnates, merchants and noblemen, particularly in Estonia, Livonia and Kurland, which were aptly described as aristocratic German republics in Russian territory governing native non-Russian and non-German peasantry. Within the framework of official imperial administrative machinery in the three *gubernii* diets of the nobility ruled by historic right and imperial permission the private life and activity of the subject populations; in Lithuania and Poland the leaden hand of a Russian bureaucracy weighed heavily upon both bourgeoisie and peasantry. Deliberate retardation of the western borderlands was a cardinal principle of the old autocracy.

With the outbreak of revolution in Russia in 1905 the border provinces were particularly restive and insistent on forcing their demands upon the government at St. Petersburg, but restored liberty through revolution came to the Balticum only fragmentarily. Linguistic and literary repression and denationalization ceased and strong nationalist movements, previously illicit, emerged. For a brief season, while the Duma was on trial as an instrument for the reformation of Russia, the border nationalities had the opportunity to voice their demands for wide cultural autonomy on a quasi-democratic basis within the legal framework of the Russian state. But with the reduction of their representation in the Duma by the electoral manipulations of Stolypin in 1907 hope of effective representation of national movements within the political institutions of the Russian Empire quickly faded.

To the border nationalities the outbreak of the World War meant the opportunity to alter the major relationships of power in eastern Europe so as to permit the acquisition of autonomy—possibly independence. Although the Poles were the first to take action, the other nationalities were not long in seeking ways and means of establishing contacts abroad and working on public opinion. Even before the collapse of czarism volunteer citizens' committees covertly organized national councils. But to no nationality was freedom given before the house of Romanov fell. With the March revolution centrifugal tendencies immediately made themselves manifest in the borderlands. To only one of these, Estonia, did the provisional government

concede home rule—on April 12, 1917. Similar demands by Lettish and Lithuanian nationalist leaders were refused, while Poland was early promised an independence which the provisional government was unable to make effective.

After the Soviet government assumed control the border provinces were not long in drawing the implications of Bolshevik theory. The Declaration of the Rights of the Laboring and Exploited People enunciated the doctrine of the right of peoples to self-determination, even to separation from the state of which they form a part. Finland on December 6, 1917, Lithuania on February 16, 1918, Estonia on February 24, 1918, and Latvia on November 18, 1918, declared their independence of the Russian Empire, while Poland acted on the assumption that the policy outlined by the provisional government had given a priori consent to resumed independence of a Polish state. In the treaties of peace eventually signed by each of these countries with the Russian Socialist Federal Soviet Republic the formula of self-determination is given explicit confirmation.

In attaining full status as independent states the republics passed through four distinguishable stages. The first was a period of striving for autonomy, dating from the March revolution to the declarations of independence. It was characterized by meticulous and incessant quarreling with Petrograd, indicative of the progressive dissolution of legal and constitutional ties. The second embraces the struggle for independence, from official severance of connection with Russia to effective establishment of the authority of the provisional government in each instance. It was in the main a period of foreign war, intervention and blockade followed by peace making. The third was the stage of constitution making, accompanied by far reaching social reforms, a period of political and social stock taking, marking the endeavor to cast apparently plastic peoples into the democratic mold. It closed with the adoption of permanent constitutions, which opened the fourth period, indicative of the beginning of a new era of normalcy in the life of each particular country. The actual framework of government has in each instance resulted from a conscious adjustment of institutional machinery to the requirements of a new social order still in process of change.

*Estonia.* Political authority in Estonia lies, according to the constitution of June 15, 1920, in the hands of the people acting either directly

or through the State Assembly. The Assembly is a unicameral legislative body of one hundred members chosen by universal, equal, direct and secret suffrage of all citizens over twenty years of age under a list system of proportional representation. The term is three years, but the Assembly may be dissolved following the rejection by referendum of the people of a bill enacted by it. In addition to its legislative functions the Assembly elects the head of the state, confirms cabinets and accepts their resignation, controls public finances through a State Control, elects the members of the State Court of Justice, ratifies treaties with foreign powers and makes fundamental decisions respecting mobilization, declaration of war and conclusion of peace. Since the people can impose their will only through initiative and referendum and no other agency may influence the Assembly's decisions, it is evident that the power of the Assembly is very extensive. A referendum has been invoked only once in the history of the republic.

Executive power is vested in a head of the state, or minister-president, chosen by and from the State Assembly and holding office so long as he enjoys the confidence of that body. His position as the chief mandatory of the people fuses in a single person titular and actual executive authority. For all practical purposes, however, the government is collegial and the cabinet, of which the head of the state is chief, is responsible for the administration of the country. The Estonian Constituent Assembly expressly rejected a separate titular presidency and fused two offices into one for reasons both of principle and economy, creating thereby a distinctive situation intermediary between the fully collegial executives of Russia and Switzerland and the less powerful chancellorships of the German and Austrian republics. By a law of March 19, 1929, the head of the state was specifically vested with the prerogatives which international law accords to a chief of state. The actual administration is confided to the State Chancery and the different ministries.

To guard against such oppression as the people had suffered under baronial rule and czarist administration the constitution enumerates an elaborate bill of rights, including special guaranties of cultural autonomy to racial, religious and linguistic minorities. These have been amplified by subsequent legislation, particularly for German and Jewish minorities. The enforcement of the bill of rights is primarily entrusted to the courts.

The Estonian judiciary comprises one State Court of Justice, located at Tartu (Dorpat) and organized into civil, criminal and administrative divisions, a Court of Appeals at Tallinn and four courts of peace, which act as courts of first instance on more serious cases and as courts of appeal from the justices' courts found in every district of the country. Judges of the highest court are elected by the State Assembly; those of subordinate courts are appointed by the highest court, which also exercises disciplinary functions over the judicial personnel.

For purposes of local government Estonia is divided into eleven provinces, each with its elective legislative council and a president chosen by that body. The provinces are further subdivided into large towns, boroughs and rural communes, each with a democratically elected council and an executive selected by it—a mayor in the towns and boroughs, a sheriff in the rural areas. Estonian law does not differentiate between the functions of local and state administration: all local government bodies are regarded as branches of the state government, enjoying extensive ordinance power on matters of general administration, finance, education, sanitation, labor, social welfare and communications. Within this system of extreme decentralization a very appreciable degree of intermunicipal and interprovincial administrative cooperation has been attained.

In general the Estonian governmental system attempts to adopt and carry into effect among a highly literate, democratic people many of the conceptions of political democracy found in America and Switzerland, thus supplanting the tradition of czarist centralization and baronial domination. In more than a decade of actual operation no formal changes have been made in the constitution, although a strong demand for a separate presidency has been voiced.

*Latvia.* Unlike Estonia, whose provisional regime was quickly liquidated, Latvia took a longer period to enact its constitution. Not until February 15, 1922, was its fundamental law sanctioned by the Constituent Assembly. The instrument followed in its main lines the pattern of the Estonian constitution, save that it instituted a presidency. It was thought by the Constituent Assembly that an independent presidency with ample moderative powers for use in emergencies would form the most adequate safeguard against the abuse of power by a potentially tyrannous assembly. In the Latvian constitutional system titular executive power is

exercised by a president of the republic, elected by the majority vote of the members of the Saeima for a term of three years and once re-eligible, while actual executive authority is exercised by the prime minister and his cabinet, who are both individually and collectively responsible to the Saeima and must resign if that body withdraws its confidence. The president is endowed with power to propose legislative measures on his own initiative; to suspend temporarily for reasons given in writing the operation of a law with which he does not agree, subject to overruling or acceptance of his views by the Saeima; to defer the operation of a statute pending a referendum; and to propose the dissolution of the Saeima. In the latter event the people must decide between the president and the legislature: if the president is upheld the Saeima is automatically dissolved; if his proposal is defeated he must forthwith resign. In actual practise the president, being elected by the parliament, has been able to keep sufficiently in harmony with the legislature to avoid an open conflict. In most other respects the presidential office and the prerogatives attached to it harmonize with typical western European constitutions. The cabinet system is likewise similar to that of most democracies. The actual work of administration is entrusted to the nine ministries and to the state comptroller, who is elected by the parliament for a term of three years.

The Latvian Saeima is a unicameral body of one hundred members elected under a list system of proportional representation by equal, direct and secret suffrage of all citizens over twenty years of age in full enjoyment of civic rights. Its term of office is three years unless dissolved earlier by the people at the instance of the president. The Saeima has the usual prerogatives of a parliamentary body, legislative, fiscal, electoral, inquisitorial, together with some control, through twenty permanent commissions, over foreign affairs, the declaration of war and the making of peace and the appointment of judges.

In organizing its judiciary Latvia closely followed Estonian models. It abolished the distinction between local and national judges and instituted an integrated judiciary with justices of the peace as magistrates of first instance for most matters; four collegial district courts for more serious offenses, both civil and criminal, and for the revision of judgments of the justices' courts; a Court of Appeals at Riga to deal with complaints from the district tribunals; and a

judicial Senate, sitting at Riga, as a final court of cassation and supreme administrative court. Despite constitutional provision for the use of juries implementing legislation has not yet been enacted. No separate administrative courts exist, as both justices' and district courts consider ordinary and administrative cases.

For purposes of local government Latvia is divided into four provinces—Kurland, Zemgalia, Livonia and Latgalia—which are further subdivided into nineteen districts, each including a principal city, and 524 communes. There are elective district and town councils.

*Lithuania.* In establishing its permanent constitutional structure under an instrument of August 1, 1922, Lithuania followed closely the examples of its immediate neighbors, Latvia and Germany. Choosing from the former the presidential republic, the unicameral legislature, the system of state control over expenditure, the initiative and referendum and the principles of local self-government and judicial organization, it consciously selected from the Bill of Rights and Duties of the Weimar constitution the principles it found most applicable in relation to the organization of agrarian democracy.

From 1922 to 1926 this constitutional regime functioned under an elective Seimas, responsible ministries, freely elected presidents and an autonomous local government administration. Having guaranteed in the constitution the minority rights to which it subscribed at Geneva, Lithuania gave to its Jewish, White Russian and Polish populations full representation in parliament. After the elections of 1926 a government of the Left parties (Socialist and Populist), supported by the minority groups, replaced the Christian Democratic and Nationalist factions theretofore dominant. After six months of minority government a coup d'état was effected by the army and the extreme Nationalists in December, 1926. The president was deposed, a government commanding a majority in the Diet was evicted, a rump Diet was forced before its dissolution to accept a Nationalist cabinet, and the government of the country was left in the hands of Augustinas Voldemaras, a rabidly anti-Polish Nationalist leader.

In the course of a three-year personal dictatorship without benefit of legislature Voldemaras reshaped certain of the basic institutions of Lithuania, the changes being crystallized in the new constitution of May 15, 1928. Foremost among these were the substitution of popular for parliamentary election of the president, the

lengthening of the term to seven years as in Germany and the endowing of the president with power to issue decree laws during the intervals between sessions of the Seimas. With the resignation of Voldemaras in 1929 the period of personal dictatorship passed, but in contrast to the power given to the Seimas under the original constitution the new instrument heavily favors presidential government. At the present time the president issues laws drafted by an appointive Council of State, approves the budget and ratifies treaties. In the absence of a Seimas he and the ministers, whose acts are technically his, hold the totality of state power. In actual working there has been little incursion of the personal will of the president into the administration of the affairs of state. Independence of any legislative body, but not autocracy, has been the guiding consideration of the Nationalist dictatorship. If Seimas elections are eventually ordered they will take place under universal, equal, direct and secret suffrage with proportional representation—a feature left intact by the coup d'état and the dictatorship; only citizens above twenty-four years of age may vote and only persons over thirty may be candidates for the Seimas, whose term has been lengthened to five years. While provision is made in the 1928 constitution for both initiative and referendum, the absence of a legislative body makes organized political activity rather futile. In Lithuania in default of parliament newspapers play an unusually great role in molding public opinion.

Lithuania is divided into twenty administrative districts, which conduct the local activities of the state administration. The district and communal assemblies, freely elected on the same basis as the Seimas, did not undergo legal change as a result of the coup d'état, and local government functions normally throughout the republic.

The courts have likewise been unchanged by the dictatorship. Following the passage of the constitution of 1922 a Supreme Court, the highest civil, criminal and administrative tribunal and a court of impeachment as well, was created to pass on appeals from both the district and justices' courts. Justices of the peace are provided in every district and town of more than 20,000 inhabitants. Jury trial has not been introduced. Pending the elaboration of new codes by the Council of State the pertinent parts of the old Russian codes apply unless they have been expressly modified by statute or constitutional provisions.

By action of the Conference of Ambassadors on February 16, 1923, in pursuance of the Treaty of Versailles, the territory of Lithuania Minor, formerly a part of East Prussia, with its administrative center at Klaipeda (Memel) was assigned to Lithuania. Under the terms of the so-called Memel Convention of May 8, 1924, and its annexed statute the territory is administered as an integral but autonomous part of the republic subject to safeguards for the pre-vaillingly German population. The administration consists of a governor appointed by the president of the Lithuanian Republic, a Directory of five members and a subordinate staff. There is a democratically elected territorial Diet of twenty-nine members, to which the Directory is responsible.

*Poland.* Following the reunification of Poland a Constituent Assembly passed in February, 1919, the Little Constitution, both short and obscure, regularizing pro tempore the relations between itself, the government and the chief of state, Marshal Pilsudski. On March 17, 1921, it passed a permanent constitution establishing a democratic republican regime with a weak presidency, noteworthy parliamentary ascendancy, rigid control by the Sejm, or Diet, over the cabinet and judicial enforcement of individual guaranties under the Bill of Rights. A septennial presidency based on election by the joint meeting of both chambers acting as a National Assembly, a centralized system of local administration through voivodes (prefects) and starosts (subprefects), an elective Senate and an omnipotent lower house and a complex set of ordinary and administrative tribunals all indicate the borrowing of Poland from the constitutional practise of France. The system of multiple, rapidly disintegrating parties in a Diet of 444 members was an inheritance characteristic of the divided mentality of thrice partitioned Poland. Chronic ministerial crises, budgetary instability, dubious loyalty of minority groups, characterized the operation of the parliamentary system. The first president, elected by a fortuitous coalition of the Left parties and the national minorities, fell victim of a Nationalist assassin's bullet in December, 1922; his successor, a man of more conservative stamp, maintained his position largely by capitulating to the intrigues of parliamentary leaders. By 1926 Poland seemed on the verge of permanent parliamentary instability.

It was under these circumstances that Marshal Pilsudski emerging from political retire-

ment, marched his legions on Warsaw and evicted the constitutional government. In its place a chastened Parliament confirmed in office a hand picked following of Pilsudski and elected to the presidency Professor Ignacy Moscicki, an intimate friend of the marshal. Shortly thereafter the Diet gave constitutional effect to the coup by amending the instrument of 1921 to enhance markedly the powers of the president over the legislative body, granting him rights to dissolve the Diet at discretion and issue decrees laws between its sessions. This stabilized the situation, and Poland continued under Pilsudski to function as a parliamentary republic in appearance, although in fact the Diet was drastically curtailed in its powers and government was a veiled dictatorship by the marshal. In August, 1930, the long smoldering constitutional quarrel between the dictator and the Diet broke out anew and Pilsudski, assuming the premiership, dissolved a Diet with which he could not cooperate and contrived to procure the election in November of a much more submissive body.

In March, 1931, proposals were laid before the new Diet to amend basically the 1921 constitution by providing for direct election of the president, the people being limited to a choice between a candidate named by the Diet and one named by the outgoing president. In addition the president would be endowed with a far reaching ordinance power, with the right to convoke and dissolve Parliament, veto laws passed by it, appoint ministers, judges and one third the members of the Senate and sign and ratify treaties without the consent of Parliament. He would thus become a constitutional autocrat, centralizing executive authority in his person and dominating both legislative and judicial branches. A compromise between a responsible ministerial system and true presidential government stipulated that the cabinet would be responsible to the president, not the Diet, although the Diet would be able by majority vote to force the resignation of the government. Although differing appreciably on paper from the constitutional regime of 1921 the changes proposed appear to do little more than sanction the existing relations between the principal public authorities in Poland.

The proposed amendments in no way touch the local governmental system or the courts. Despite official constitutional provisions local government is still largely based on preexisting local legislation—Austrian in Galicia, Prussian

in Poznań and Pomerania, Russian in Congress Poland and the eastern districts. The country is now divided into sixteen voivodeships, each subdivided into districts, which are again subdivided into urban and rural communes. In former Prussia and Congress Poland communal and district local government is symmetrically developed, democratic elective councils and local magistrates having comprehensive powers over local administration; in former Austrian Poland, with large Ukrainian populations, an antidemocratic four-class system has supplanted the three-class electoral system of Hapsburg days; in the eastern districts no communal assemblies exist and district assemblies are made up of delegates of the communes. Assemblies for the voivodeships have not yet been fully introduced, hence only the central administrative authorities actually function. Municipal administration is more developed and closely approximates western European standards.

Judicial administration, left by the constitution to legislation, is wholly the product of presidential ordinances representing a high development of modern juridical practise. An ordinance of February 6, 1928, establishes elective justices' courts in the countryside and appointive police courts in the municipalities to care for minor cases, district courts as tribunals of first instance for both civil and criminal cases, eight courts of appeal and a Supreme Court at Warsaw, whose members are named by the president of the republic. The latter court has final power of cassation, a wide latitude in judicial discipline and a limited power of constitutional interpretation. Poland thus far is the only one of the Baltic countries to introduce the jury system.

MALBONE W. GRAHAM

*See: PARTIES, POLITICAL; POLISH CORRIDOR.*

**SUCCESSION STATES.** The succession states are those which were created or materially enlarged through the dissolution of the Hapsburg monarchy after the World War. The term generally includes Austria and Hungary, which were entirely within the monarchy; Czechoslovakia, which was almost entirely carved out of the monarchy; and Yugoslavia and Rumania, of whose present areas 61.6 percent and 42 percent respectively were included in the Dual Monarchy. The considerable territory obtained by Poland through the dissolution had belonged to the monarchy for a relatively short period of time, and the territory obtained by Italy was relatively insignificant in area.

The common characteristic of the succession states is not racial or linguistic but historical. The countries and peoples placed between Germany and Constantinople have since the development of the Byzantine Empire been influenced mainly by two quite divergent cultural currents. From the northwest the German-Roman state offered German and western Christian culture; from the southeast Byzantium provided a Grecian and Orthodox Christian culture. The former used the Latin language for its legal and church communication and the Latin alphabet for writing; the latter in its proselytizing work used the old Bulgarian language and the Cyrillic alphabet. Byzantine culture spread as far west as what is now Czechoslovakia, and Hungarian Christianity is full of its traces. The effect of this struggle of cultures is found in the present distribution of the religions of the peoples of the succession states. In the west the Roman Catholic and Protestant religions predominate; in the east the Greek Orthodox and Mohammedan.

The great influence of Byzantine culture lasted until the fall of Constantinople; before that event the culture of the peoples of southeastern Europe was measured by proximity to Constantinople. After the successful advance of the Turks the situation was reversed. The direct influence of Byzantine culture ceased, but its importance remained and it was forced into the background only by the nationalistic ideas set in motion by the French Revolution. The historic mission of the Hapsburg monarchy was the protection and extension of western Christianity. At the head of the Holy Roman Empire, it led the west in its struggle against the east; under its sway papal influence was successfully extended during the eighteenth century to many of the peoples of the eastern territories. When the military power of Turkey had shrunk to such insignificant size that the people of the Balkans could successfully oppose it unassisted, as they did in the first Balkan War of 1912-13, the historic mission of the Hapsburg monarchy was fulfilled.

When there was no longer any danger of the penetration of Turkey into Europe the Hapsburgs undertook the unification of the peoples—ethnographically, culturally and religiously different—whom they had gathered under their sway in the course of their activity as the protectors of western civilization. The dynasty, the army, the aristocracy, the Catholic church and the bureaucracy all contributed to this strong centralizing, unifying movement. But it had

been begun too late. Nationalist feeling had already grown to conscious power, which rendered assimilation and unification impossible. The defeat of the empire in the World War finally loosed its unifying bonds.

The government of pre-war Austria-Hungary was based upon the *Ausgleich*, or Compromise, of 1867. Under it the monarchy was composed of two equal states, Austria and Hungary, each with a separate Parliament and government. The symbol of their union was a common ruler, called emperor in Austria and king in Hungary, who was required to be a Catholic of the Hapsburg-Lorraine family. Such mutual matters as foreign affairs and the army and the finances to cover their common expenses were arranged through delegations elected by each Parliament for one year and meeting alternately in Vienna and Budapest. The delegations deliberated and voted separately, communicating their decisions to each other in writing; in case of continued disagreement after three such interchanges a common session was held to vote but not to discuss. Three joint ministers, not members of either delegation, were appointed by the emperor to administer the joint affairs of the two countries. These ministers were required to be in general harmony with the delegations. The quota which each country was to contribute to the joint budget was to be decided every ten years; at the same time the customs and commercial agreement of 1867, which provided for free trade and a unified currency and excise tax policy throughout the area, was to come up for renewal. The charter of the joint bank of issue was also for the same limited term. Although these various arrangements were almost always regularly renewed until the advent of the World War, the time for renewal was frequently the occasion for considerable disagreement and bargaining for advantageous concessions.

The parliaments of both countries had two chambers. The upper house was composed of certain members of the aristocracy and the clergy and certain members appointed for life by the crown. The lower house was elected: the *Abgeordnetenhaus* in Austria, after 1907, by equal and secret ballot of all men over twenty-four; the *Képeiselőház* in Hungary by open ballot, at which as late as 1912 only 24.9 percent of the men over twenty could vote. Election districts in Hungary proper were often very unevenly arranged. The non-Magyar population, fully half of the whole, was in 1910 represented by only eight members. The peasants and indus-

trial proletariat were not represented at all in the Hungarian Parliament. In both states the lower house had very limited power. The upper house held an absolute veto and the question of the monarch's consent was more than a mere formality. The government had to consult the monarch before proposing any measures. The monarchy was thus essentially absolute.

In the hierarchy of local government units in Austria the most vital and powerful were the seventeen provinces, which had preceded the state historically and which had the power to make and administer their own laws. Their sphere of authority was not clearly differentiated from that of the state and clashes were frequent. These conditions made Austrian public administration very chaotic. Austria had a very well trained and disciplined civil service. In Hungary the most important unit of local government was the *comitatus*, or county, which functioned for centuries as an almost autonomous republic of the lesser nobility or freemen possessing the hereditary franchise. This aristocratic institution has kept the spirit of local self-government alive, so that in the power of its local government Hungary exceeds many countries economically and culturally superior to it.

Social stratification differed in the two countries. The Austrian aristocracy was to be found among many nationalities and in many professions—the army, the diplomatic corps, the civil service and industry. In Hungary the aristocracy remained unified as the large landowning class. The Austrian middle class was richly differentiated and split up nationally; in Hungary it was much smaller and weaker, while a non-Hungarian middle class was merely embryonic. The peasants in Austria had no political independence, but their strength counted politically, which was not the case in Hungary. The industrial proletariat was larger and better organized in Austria, but even in Hungary it was the only social group which did not accept the social valuation established by the nobility. Religion was a much more important factor in Austria than in Hungary, where the proportion of Catholics was much smaller. In Austria all nations were equally accorded educational and linguistic rights; not so in Hungary. From 1867 the rights of nationalities increased in the former and decreased in the latter.

The kingdom of Croatia-Slavonia occupied a separate position in Hungary from the time of its annexation in 1102. The head of the administration in Croatia-Slavonia was the ban, who

was appointed by the king on the nomination of the prime minister of Hungary. Croatia-Slavonia had a separate government consisting of departments of the interior, religion and education and justice. The government was responsible to the Croatian Diet (*Sabor*) which, however, hardly represented public opinion. The Croatian people hated the alliance with Hungary as much as the Hungarians hated that with Austria.

With the break up of the monarchy each of the constituent states faced the problem of political and economic readjustment. All but Hungary proceeded to adopt written democratic constitutions, but only Austria and Czechoslovakia are real functioning democracies. In the latter country, however, as in Yugoslavia and Rumania, the existence of neutral or hostile national minorities who are opposed to the prevailing policy of centralization seriously hampers the functioning of the parliamentary system. Treaties and international agreements to which the states are a party control somewhat the treatment of minorities. Most of the states adopted far reaching measures for agrarian reform; large estates were broken up and the growing importance of the peasants was recognized and stabilized by giving them shares in the land. In the Little Entente states the compensation given the landlords came very close to being confiscatory; in Hungary the rights of the landlords were hardly changed.

Austria is now a federal republic composed of eight provinces and the city of Vienna, which has the status of a separate province. The government rests upon the constitution of 1920, modified and revised in 1925 and 1929. The legislature consists of two houses. The lower house (*Nationalrat*) is elected by vote of all citizens over twenty-one on the basis of proportional representation. The ministers are separately and collectively responsible to it. The upper house (*Bundesrat*) is elected by the provincial diets, the provinces being represented according to population. It has limited power. It can propose new laws only through the government. It cannot veto any measure passed by the lower house but it can suspend its operation for a period of eight weeks, after which if the same measure is re-passed by the lower house it becomes a law. The constitutional revision of 1929 proposed the conversion of the upper house into a body representing functional groups as well as the provinces, but the necessary constitutional amendments to effect this have not yet been passed.

The executive power has been increased through the various constitutions, so that from a purely parliamentary republic Austria has been changed into a semipresidential republic. The election of the president by direct popular vote, provided for in the changes of 1929, was abandoned in 1931 because of the expense involved; he is still elected by a majority vote of the two chambers, sitting together as the Federal Assembly. His term of office is six years but he is subject to popular recall on the basis of a proposal to that effect by a majority of the legislature. If the people defeat the recall proposal the legislature is dissolved, new elections are called and the president is considered to have been reelected for another six years. The president can serve only twice in succession. He summons the legislature and can dissolve it, but only once for the same reason. New elections must then be held within ninety days. He appoints the chancellor and on the latter's advice the other members of the ministry, and he dismisses the government. With the approval of the government he can issue emergency decrees, which become inoperative if not ratified by the legislature within certain definite time limits.

The constitution provides for a compulsory referendum for complete constitutional changes; for modifications only a two-thirds vote is necessary, but a referendum can be demanded by one third of the members of the *Nationalrat* or *Bundesrat*. The referendum can also be invoked on any law passed by the legislature. There is a provision requiring that any measure recommended by 200,000 citizens or one half the voters of any three provinces must be acted upon by the legislature.

Every province has its own diet (*Landtag*), which elects a provincial commission (*Landesausschuss*) corresponding to the ministry of the federal government. The provinces have strongly developed their powers and individuality. As in the United States, all powers not specifically granted to the federal government are retained by the provinces; agriculture, education and charity among others are thus retained. Vienna occupies a peculiar position as the largest province in population (it possesses almost one third the total population of the country) and as the capital city. Its uniqueness is aggravated by the fact that it has a very strongly developed socialist administration, which has entered actively into certain socialist legislation; for example, heavy taxes, the proceeds from which are used for the construction of huge garden housing projects



for the workers, have been levied on rents. The other provinces—conservative rural areas—are trying to restrict the governmental powers of Vienna; this attempt is hampered by the requirement of a two-thirds majority for constitutional changes and by the fact that the socialists are too powerful to be reduced to less than one third of the house. The power of Vienna was somewhat curtailed by the constitutional changes of 1929. The sharp difference of points of view has resulted in the development by both Right and Socialist parties of large armed semi-military forces, pledged respectively to the overthrow and the protection of the republic by force.

The citizens show "an amazing lack of will power to struggle along as an independent state" (Crane, John O., *Little Entente*, p. 133). The desire for *Anschluss* with Germany is very strong, although not equally powerful among all groups. The interest of any particular group in union varies with the dominance of different groups in Germany and the probable effect of *Anschluss*, under the existing dominance, upon the particular Austrian group. Article 88 of the Treaty of St. Germain as well as the terms of the pact with the League of Nations of October 4, 1922, for the financial reconstruction of the country forbids a union between Austria and Germany. In 1931 the World Court, by a five to four vote, ruled that the prohibition applied to the proposed customs union between the two states.

*Hungary* passed through two stages: a democratic republic under Michael Karolyi in 1918; and a Communist dictatorship under the leadership of Bela Kun in 1919, before reaction and counter-revolution brought into power the present forces—the aristocratic landowners and wealthy peasants, the financiers and industrialists, the bureaucrats and the antisemitic petty bourgeoisie. The new government did not evolve a new written constitution but restored the thousand-year old constitution and kingdom. Since it was not possible to restore the king to his throne, the National Assembly in 1920, following a fifteenth century procedure, elected Admiral Nicholas Horthy as regent. Legislation passed upon the insistence of the Little Entente, after the two vain efforts by King Charles to regain his throne in 1921, bars the return of the Hapsburgs as rulers of Hungary.

The Parliament consists of two chambers. The upper chamber, which was restored in 1920, is composed of hereditary and ex officio mem-

bers, delegates elected for varying terms by the former aristocracy, by the counties and cities and by scientific and economic institutions, and life members appointed by the regent. Since 1925 the franchise for the lower house is open to all men over twenty-four and all women over thirty, subject to educational qualifications which are more stringent in the case of women voters.

The free expression of the will of the people in elections is hampered by a number of devices and by government manipulation. Out of a total of 245 electoral districts only forty-six (including Budapest and the other cities) have the secret ballot. The signature of 10 percent of the voters in small districts or of 1000 voters in large districts is necessary for nomination. The wartime restrictions on civil liberty still prevail; the leaders of the radical groups consequently live outside Hungary. As a result of all these the same party and the same prime minister (Count Stephen Bethlen) remained in power from 1922 to 1931; a change of prime ministers in the latter year did not indicate any change in the ruling group. The political power of the large landowners is still stronger in Hungary than anywhere else in the world. The small peasants and agricultural laborers, comprising the majority of the population, are absolutely unorganized. The pressure of the state on the one hand and the lure of Bolshevism on the other weaken the economic and political organization of the industrial proletariat. Antisemitism has made headway among the city bourgeoisie, which with the landholders of all classes supports the government. The bureaucracy—state, county and village—belongs organically to the ruling class, as do the priests.

The pre-war system of local government remains practically unchanged. There are twenty-five counties and eleven municipalities, each with its own legislative body, one half (in the case of the municipalities two fifths) consisting of the highest taxpayers, the remainder of elected members. The vigorous aristocratic local government units are restricted only by the increasing state interference in local affairs. The civil service is perhaps not equal to that of Austria in education, effectiveness and discipline, but is far superior to that of Rumania and of Yugoslavia.

*Czechoslovakia* is a democratic republic whose government is based upon the constitution of February 29, 1920. Unlike Hungary, where the nationalist leaders were mostly noblemen and where nationalism was consequently not an es-

mentally democratic movement, Czech national feeling is based upon a strong democratic feeling. This is due to the fact that in the struggle for national emancipation the aristocratic and wealthy classes always took a hostile or neutral attitude. The Czech middle class, led by the intellectuals, is the strongest advocate of nationalism, but even the Czech social democrats are not opposed to this democratic, freethinking, anticlerical nationalism.

The constitution was very much influenced by that of France. It established a bicameral legislature, consisting of a Chamber of Deputies of 300 members, elected for six years, and a Senate of 150 members elected for eight years. Every citizen over twenty-one may vote for the former and every citizen over twenty-six for the latter; proportional representation applies to both houses. The lower house has far more power than the upper. In normal cases the latter exercises merely a suspensive veto, which can be overruled by an absolute majority; if, however, the Senate overrules the lower house by a three-fourths vote of all its members, the lower house can repass the measure only by a three-fifths vote of all its members. The president's veto may be overruled by an absolute majority in both houses or by a three-fifths vote of all members in the lower house. Either chamber may initiate legislation, except that budget and defense measures must originate in the lower house. A standing committee of twenty-four (sixteen chosen by the lower house and eight by the upper) functions when the chambers are not in session.

The president is elected for a term of seven years by the two chambers meeting together as a National Assembly. A majority of the members must be in attendance and a three-fifths majority of those present is required for election; if no candidate obtains the required majority on the first two ballots, a third ballot is held in which only the two highest candidates are permitted to run. The constitution provides that no one can serve as president more than twice in succession. This does not apply, however, to the first president, Thomas G. Masaryk, whose personality has played an important part in the development of the new republic. He calmed the impatience of the Czech nationalists, persuaded the German minority to join the government and induced the legislature, which grew progressively more conservative, not to decrease the budget for social insurance.

There is not much local self-government in

Czechoslovakia despite the local government reforms of 1928. In Bohemia, Moravia and Silesia the right of local legislation had been taken away by the constitution of 1920; in the former Hungarian counties there is a strongly established tradition of self-government. The centralizing policy of Czechoslovakia, as of Rumania and Jugoslavia, was carried out against the wishes not only of the national minorities but also of a part of the ruling nationality, which was sympathetic toward federalism. Czechoslovakia is consequently faced by the problem of allaying the complaints of a number of minorities. The Slovaks complain of the excessive centralization, which is still strongly supported by the Czech carpetbaggers and the powerful Czech bureaucracy, and of the anti-Catholic spirit of the government, which offends the religious feelings of the pious Slovak peasant class 750,000 Hungarians share the political views and aspirations of their nationals in Hungary. The Ruthenians, a backward peasant people, enjoy autonomy only on paper and complain of overcentralization and Czech bureaucracy. There are more than 3,000,000 Germans in the country; their proximity to Germany and Austria makes them potentially the most dangerous minority group, but their attitude toward the government is becoming less estranged and they have accepted representation in various cabinets.

The administration of public affairs and of justice in the old Austrian sections is equal to that in present day Austria; in the old Hungarian counties the standard is considerably lower and the bureaucracy is far from popular.

The cabinet has to rely upon the support of a coalition or bloc formed of several parties. The composition of the ruling bloc and consequently of the ministry changes very frequently. The weakness and instability of the cabinet constitute one of the important dangers which face Czechoslovakia.

Rumania before the World War was an independent kingdom. The constitution, drawn up in 1866, was modeled after that of Belgium and had little relation to the practical problems of Rumanian political life. Consequently Rumania's western form of government was purely on paper. In actual operation it was a country dominated by the political power of the large landed class, the boyars, who had used this power to retain a feudal hold over the peasants. The peasant was entirely unrepresented in the national legislature. The World War and the influence of the Russian Revolution seriously weak-

ened the power of the landed class; the fear of a Communist revolution forced the ruling class to accept the most radical agrarian reform ever put into effect outside of Soviet Russia. Furthermore, as a result of the war, Rumania secured from the monarchy, from Russia and from Bulgaria additional territory not only larger than its own original area but also in most cases more advanced culturally and economically. Governmental adjustments to take account of these changes were necessary.

A new constitution, embodying the most advanced democratic ideas, was adopted on March 28, 1923. A bicameral legislature is provided for, elections to which are regulated by the electoral law of March 28, 1926. The Senate consists of members by virtue of their office in the church and members elected by the voters, by the communal and provincial councils meeting together in each province, by commercial, industrial, agricultural and labor organizations, and by the universities. The lower house has 387 members, elected according to a list system of voting which gives 60 percent of the seats to the party casting 40 percent of the votes. Only male citizens may vote: those over forty in Senate elections, those over twenty-one in lower house elections.

The king or either chamber may initiate legislation, but measures referring to finances and the army must come first before the lower house. The king may prorogue or dissolve the legislature and has a suspensive veto over legislation. As head of the executive division he nominates all ministers. Control of the machinery of public administration and of elections usually insures the government against defeat in an election. It is doubtful whether the peasants, who are the largest element in the country, will be able, without the necessary experience, to handle the machinery of a parliamentary democracy. Over half of them are illiterate; all are politically untrained.

The administration is marked by overcentralization and bureaucracy; legislation passed in July, 1929, aiming at decentralization and more local self-government, is inoperative. The civil service is on a much lower plane than in the Hapsburg monarchy, but corruption is not an institution as it was in czarist Russia. There exists a certain democratic spirit which finds its most concrete expression in a relatively free press. Centralization, the inefficiency of the Rumanian bureaucracy as compared with that of the old Austro-Hungarian monarchy, and the cultural and economic superiority of the greatest

part of the added territories tend to create dissatisfied minorities which seek union with their own national states. The minorities represent about one fourth of the population, but their importance exceeds their number because of their superior cultural and economic level.

*Jugoslavia* was formed about the kingdom of Serbia as a nucleus. The latter before the World War was a democratic peasant state. It had a unicameral legislature and the king was often emphatically reminded, sometimes by force of arms, that the constitution was more than a mere form. Every male over twenty-one who paid a tax equivalent to about three dollars could vote. Four centuries of Turkish domination had destroyed the aristocracy and the agrarian proletariat was small. Culture and wealth were represented by a handful of academicians and merchants. In its polity, spirit and ethics the society resembled a characteristic frontier society. The kings were not imported from other countries but came from the peasant class. Conditions were similar in Montenegro, which was united with Serbia immediately after the war.

But the territories which were annexed as a result of the war upset the uniform character of the peasant democracy. Slovenia contributed a peasant group which was law abiding, well disciplined, thrifty and well educated by Catholic priests. Croatia was a miniature of the aristocratic Hungarian society; the long political connection with Hungary had taken away its capacity for political independence. The Hungarian and German peoples living in the rich and fertile Voivodina created additional national problems. Dalmatia was economically one of the most neglected states of Austria. In Bosnia and Herzegovina the Mohammedan influence was very strong. In the south Serbian or Macedonian and southwestern Albanian provinces economic conditions were similar to those of the Middle Ages and political problems were still settled by violence.

The question of centralization versus federalism was bitterly fought in the discussions preceding the organization of the new state. The constitution of June 28, 1921, drawn up by a convention controlled by the Serbs, instituted a centralized government. It provided for a parliamentary "constitutional and hereditary" monarchy with a unicameral legislature elected by all male citizens over twenty-one on the basis of proportional representation. Since the institution of the new state every government, driven by the aspirations of the dominant Serb group,

has attempted to construct a state as unitary as France. The centralization movement has met with tremendous opposition. The principal opposition comes from the Croatsians and represents the passive resistance of a society with an aristocratic tradition and a Catholic education to the violent nationalism of a successful democratic society. The struggle of the forces of centralism and federalism deadlocked the government and led King Alexander on January 6, 1929, to establish a dictatorship to achieve by force what parliamentary government had failed to secure. The title of the country was changed from Kingdom of Serbs, Croats and Slovenes to Kingdom of Yugoslavia and the old provinces were wiped out and replaced by nine new administrative areas, or *banats*, administered by governors appointed by the crown. With the task of centralization still unaccomplished, King Alexander on September 3, 1931, formally abolished his dictatorship and presented the country with a new octroyed constitution—at least formally a constitution. It provides for a parliament of two houses. The Senate will be composed half of members elected by the people for a term of six years, half of members nominated by the king for life. It will be secondary to the lower house, the *Skupština*, which will be entirely elective, its term of office being four years. Parliament is granted full rights concerning the budget, debate, interpellation and ministerial control. The *banats* and municipalities are accorded considerable autonomy. Universal secret ballot for citizens of both sexes over twenty-one is provided for. In the *Skupština* elections of November, 1931, however, there was no secret ballot, only party candidates could run, and only such parties could participate as could obtain eighty signatures in every single electoral district. Since all Yugoslavian parties are regional and not national, only the government's newly founded State party could satisfy the requirement. Although in most districts there were two or more candidates, they were all members of the State party. The electors were practically forced to vote in the election. The new system seems to be a desperate attempt to save centralization by a show of constitutionalism.

ROBERT BRAUN

See: LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL; AGRARIAN MOVEMENTS; NEAR EASTERN PROBLEM.

**BALKAN STATES.** The Balkan peninsula has no absolute geographical boundaries; the question of its extent is a matter of political relationships

as well as of geography. Traditional usage would tend to include all of Rumania, Yugoslavia, Bulgaria, Greece, Albania and Turkey in Europe. But since much of the territory of the first two countries belonged to the former Austro-Hungarian monarchy and since their membership in the Little Entente indicates a changed political orientation, their governments are treated in detail in the section on SUCCESSION STATES. Furthermore, since most of Turkey's territory and population lie outside of the peninsula, its government is treated in detail elsewhere (see section on TURKEY).

The peninsula is inhabited by the most intricate intermixture of races to be found anywhere in Europe. The result is an extremely complex minorities situation, the danger of which is intensified by the aggressive nationalism which in each country urges the denationalization of all minorities within its own boundaries at the same time that it protests against similar treatment of its own nationals in other countries. The minorities question, which finds overt expression in the activities of such quasi-military organizations as the *Comitadjis*, contributes more than any other single factor to the extreme instability of Balkan political relations and to the intense and severe rivalry and hostility between the neighboring peoples.

Yet despite their differing languages and conflicting aspirations the people singularly and strikingly resemble one another even to the clothes they wear, the songs they sing and the food they eat. All have been subjected to the operation of three powerful forces: Byzantine culture, Turkish despotism and a peasant economy. One of the parents of Byzantinism was Greece in her decline; the other was Constantinople or the Orient. The Byzantine method of thought and conduct and its outlook on life found their best expression in the Eastern Orthodox church and their worst in Phanariotism. These two institutions worked hand in hand and were manifestations of the same force, essentially oriental, mystical, emotional and decadent. They rested on oligarchy, thrived on corruption and privilege and maintained themselves by means of duplicity, venality and oppression of the masses. Their symbols were ostentation, luxury and splendor for the few and vast wretchedness, squalor and ignorance for the many. When the Turks invaded the Balkan peninsula in 1356, occupied all southeast Europe and held much of it for five centuries they did not put an end to Byzantinism but rather reenforced its worst ele-

ments by an infusion of Turanian brutality and lethargy.

The Balkan peoples are very largely peasants, characteristically timid, ignorant, backward and poorly organized. Consequently in every Balkan land the town and city intelligentsia, the merchants, small industrialists and bankers run the state, usually for their own benefit. Weak and spasmodic social control enables the parties in power to become arrogant and corrupt. The state is a machine for giving the dominant politicians as many favors as the peasants will stand without actually revolting. Elections are a device whereby the governments fortify their position as the dispensers of privilege; rarely are governments voted out of office.

Practically all the Balkan states are alike in the genesis and structure of their governing machines. All of them came into being in consequence of a long series of revolts against the Turks brought to successful conclusions by rebel heroes aided by interested foreign powers, primarily Russia. Violent opposition and revolt have consequently long been accepted forces in Balkan political life. The most popular leaders are insurgents, and revolutionary methods and direct action are held in high esteem. Unsettled international relations have elevated patriotism to the chief national virtue, and the constant atmosphere of latent war has made the warrior the principal hero and has prevented frank criticism and democratic control. To reveal and denounce the corrupt and illegal acts of the governments in such a situation become acts of treachery. Under such circumstances the military element exerts a dominant influence; it is the powerful irresponsible factor behind Balkan governments, directing parliaments and governments and utterly frustrating the free expression of public opinion.

In almost every case the rebel heroes, having achieved national liberation, have written very democratic constitutions which strictly divide the functions of the state into the three classical branches and attempt to insure administrative efficiency, legislative independence and judicial impartiality. Actually, however, they have generally established semidictatorial forms of government. Sometimes they have themselves become the heads of governments, as in Serbia and Turkey; at other times, as in Rumania, Bulgaria and Greece, they have worked through imported kings. In Albania both methods have been tried. When the rebel hero becomes king or president, absolutism is complete; when he hides behind a

parliamentary king, royalty usually has a hard time of it. Balkan kings are always in vehement conflict with the leading politicians; in most cases they are beaten in the struggle. Albania during the short period of her existence has experienced several violent changes of government, and the present king guards his throne by force. Greece has constantly hectoring her kings and killed or expelled them all, except one who died tranquilly of a monkey bite. Bulgaria forced her first two sovereigns in modern times to abdicate. The Serbs killed or drove out most of theirs. In Rumania docile kings have lent pomp to the absolutism of gifted politicians.

Generally speaking, Balkan governments are personal, representing the semi-absolute control of a few strong men. Government has been synonymous with the Bratianus in Rumania, Pashitch in Serbia, Stambuloff and Stambolisky in Bulgaria, Kemal in Turkey, Venizelos in Greece, Zog I in Albania. These rulers have been or are patriarchal bosses, democratic executives in the sense that they did or do represent some dominant group, usually the awakening townspeople, the advancing industrial classes, the clerical and professional groups.

As the village masses become more enlightened, vigorous peasant parties are formed and precipitate a new sort of socio-political-economic struggle, which is coming to dominate the Balkans more and more. The intelligentsia and city élite, those who own the newspapers, control the schools and universities, write most of the books, manage the banks, direct the newly formed industry and command the army, are forced into a defensive position; they must fight with ever growing fury and brutality to maintain their ascendancy. The hero bosses from the peasant ranks have not as yet been able to gain or keep the upper hand. They are killed off, like Stefan Raditch in Croatia and Stambolisky in Bulgaria. But peasant hordes continue to storm the bourgeois citadel; the vehemence of their onslaughts is accentuated by an agrarian crisis. Although still easily defeated their swarms cannot be kept back forever.

Fundamental political differences between political parties do not usually exist in the Balkans. Loyalty to chieftains and appetite for spoils are the dominant forces. There is, however, a general line of cleavage which separates one group of parties from the other. In Bulgaria the battle line finds the peasants, reenforced by the communists, on one side and all the white collar people on the other. In Greece it is roughly re-

publicans against monarchists; the more vigorous, energetic and progressive new refugees settled in newly created villages in the recently annexed northern parts of the country against those who have inhabited the peninsula for two millennia. In Albania the government of King Zog represents the domination of the new bourgeois and intellectuals over the old landowning beys; high handed treatment of opposition chiefs, however, makes the expression of articulate partisan activity dangerous. Despite theoretic restraints and constitutional safeguards personal liberty is not secure in any Balkan land. Recent years have, however, brought some improvement in this matter. Although patriarchal dictatorships persist, unquestioned advance toward effective democracy is being made.

In every Balkan country the achievement of independence was followed by the liberation of the local Orthodox church from the control of the Byzantine patriarch at Constantinople and the founding of new self-governing national churches. In each case the church has been controlled by the government and employed to further national interests and to oppose such social and political movements as agrarianism, socialism and communism. In Albania, the only European state with a predominantly Moslem population, little antagonism exists between the religious faiths; Orthodox and Catholic Christianity cooperate with Mohammedanism in the service of king and state.

*Bulgaria* is a state about the size of Ohio, with a population of approximately 5,500,000. It obtained autonomy under Turkey as a result of the Treaty of St. Stefano in 1878 and successfully asserted its independence after the Young Turk revolution in 1908. It is a constitutional monarchy with a hereditary king and is governed by a council of ten ministers, who derive their power from and answer to a single legislative body (*Sobranje*) of 273 members, elected every four years by all the adult males. Voting is secret with many safeguards; nevertheless, there is considerable management of elections by the government. The press is usually free for most people except communists. The courts are just and fairly expeditious; judges cannot be dismissed or transferred by politicians.

The country is divided into sixteen departments, or prefectures, and eighty-two subprefectures, which are administered by officials appointed by the central authority. The prefectures also have local elective parliaments or councils managed by permanent executive committees.

Local autonomy, inaugurated by village and town leaders in 1878 as a safeguard against the continued Turkish control, continues to function rather effectively. Practically all officials in the villages, towns and cities are elective, as are the church and school trustees. The clerk of the commune is appointed by representatives of the central government; he must meet an educational requirement and is usually a permanent functionary. Most of the social institutions in the country are locally created, but a strong centralizing movement is in process. The school system, youths' organizations and sports are strictly controlled by the central authorities. Bureaucracy is a paralyzing national vice. Expensive infant industries are the pet of the state, but a good deal is also being done for the peasants. There is much communal land and all subsoil wealth as well as most of the forests belongs to the state.

*Greece* won its independence from Turkey as early as 1829. The decisive defeat of 1922 at the hands of the Kemalist Turks has led it to abandon, at least temporarily, its long attempt to create a Greece coextensive with the boundaries of ancient Hellas. The country now has an area of about 49,000 square miles, approximately the size of Louisiana, and about 6,400,000 inhabitants. It is not as well suited to agriculture as Bulgaria; it carries on a much more extensive trade, always showing a large yearly deficit; it is more influenced by western European culture, which ancient Greece helped create; it has cleverer statesmen with more prestige in Europe and is more dominated by men of wealth and western ways. In many respects it is the least oriental of Balkan lands.

It has been a republic since 1924, when by a decisive popular vote it dismissed its last king. Its latest constitution, drafted in 1925, is advanced in every way. It provides for a Chamber of Deputies and a Senate. The former is entirely elected by direct, universal, secret manhood suffrage, for a term of three years; the latter is largely elective. The president of the republic is elected by the Chamber and Senate in joint session; he serves for five years. He has no veto and in general not much more authority than the president of France. Real power resides in the cabinet of ministers, the fourteen members of which are individually and collectively responsible to Parliament. There is much freedom of speech and of the press, and the people are occasionally able to impose their will. Elections are often quite free and governments are now and then turned out by the electorate, although

oftener by revolutionists. Bureaucracy exists in an advanced stage and the state machine works slowly.

The country is divided into administrative districts, controlled by prefects appointed by the central government just as in most European countries. Authority is centralized. Police control is not so rigid as in the rest of the Balkans, but the ignorant village masses are more neglected than in Bulgaria and there is more illiteracy. The chasm between the intellectuals and wealthy on the one hand and the people on the other is deeper. Great political, economic and social chaos prevailed in Greece from the beginning of the World War until Eleutherios Venizelos returned to power in 1928; but since then there has been steady and striking improvement.

*Albania*, which attained independence in 1912 as a result of the First Balkan War, is about 16,000 square miles in extent and has about 1,100,000 inhabitants. It has been since the World War successively republic, dictatorship and monarchy. All real power rests in the hands of King Zog. The fairly liberal constitution provides for a Parliament of one chamber, elections and a responsible cabinet; these are all managed by the king. There is a judicial department with some independence; there are district governors appointed by the central government, three independent religious communities largely under state control, a national bank, regular and drastic tax collection and a school system of promise. Albania has not been able to satisfy its pressing financial needs from its own resources. It has obtained substantial financial aid on liberal terms from Italy, as a result of which the two countries have concluded pacts of friendship which assure Italy an important influence over Albania's foreign affairs.

R. H. MARKHAM

See: PARTIES, POLITICAL; NEAR EASTERN PROBLEM; COMITADJI.

**TURKEY.** The Turkish state at its best period, in the sixteenth century, was a semiautocratic monarchy composed of two nearly separate institutions corresponding generally to the state and the church in western Europe. The sultan was owner, commander and chief executive of the Ruling Institution, which was recruited on a slave basis mainly from the subject Christian nationalities and trained to the work of government and war. The sultan—not yet regularly called caliph (see CALIPHATE)—was also head of

the Moslem Institution, which, recruited from Moslem stock, not only maintained religious worship and charity and provided education based on the Koran but also produced judges and interpreted the theoretically changeless Sacred Law. Subject peoples, notably Greeks and Armenians, were organized in *millet*s paralleling the Moslem Institution. Relations with foreigners were regulated by Capitulations (*q.v.*), unilateral charters granted by the sultan allowing exterritorial privileges and low fixed tariffs. The Ruling Institution was destroyed by Mahmūd II in the early nineteenth century as corrupt and useless; over a period of fifty years and against heavy passive resistance it was gradually replaced by a westernized monarchical system whose promised reforms ran far ahead of practice. A group of Young Turks furthered modernization on a benevolently imperialist rather than a nationalist plan.

In an effort to halt the disintegration of the Turkish Empire a new movement of Young Turks, centered in Paris and Salonika, forced 'Abdul-Hamīd II on July 24, 1908, to promulgate afresh the short lived constitution he had granted in 1876; it was amended in certain details in 1909. The sultan's power was greatly restricted; administration was entrusted to a responsible grand vizier and cabinet. The Chamber of Deputies, elected indirectly for four years by wide male suffrage, was checked by an appointed Senate. After 1908 Turkey tried first fraternization and then pressure in an effort to unify all the nationalities and religions within its boundaries; both failed because of the strong nationalism of the non-Turkish groups. Defeat in the World War finally compelled Turkish opinion to visualize clearly a national state composed of Turks alone; the exchange of nationals with Greece in 1922 was in direct line with this new conception.

After the outbreak of the World War and before their own participation the Turks declared the Capitulations abrogated, a change which was not fully accepted by other nations for ten years. War conditions allowed the concentration of authority in the triumvirate, Enver, Talaat and Cemal, who fled after the armistice of Mudros. Weak Mohammed VI and his ministers, dominated by foreign and especially British influences, were led to sign the destructive Treaty of Sèvres in 1920. Mustafa Kemal Pasha, already a leading army officer, thereupon led a nationalist opposition which, stimulated by western aggressive intentions and the Greek invasion,

ultimately defeated all domestic and foreign enemies and obtained a liberal revision of the peace arrangements in the Treaty of Lausanne of 1923. Step by step great constitutional changes were effected: the sultanate was abolished in November, 1922, and the caliphate in March, 1924; the *millet* system was done away with, the more easily because of the extermination and expulsion of the Armenians and Greeks of Anatolia; the Mohammedan church organization was brought low by confiscation of endowments, suppression of orders and exclusion from education; and a radically new constitution was prepared and promulgated in 1924.

By the constitution all power belongs to the people. All males above eighteen (since 1931, above twenty-one), with the usual exceptions, create by indirect election for a term of four years a unicameral Grand National Assembly, which possesses complete legislative power. It elects from its membership a president of the republic to serve during its own term. The president selects the prime minister, or president of the Council of Ministers, who chooses the other ministers; prime minister and cabinet are taken from the Assembly and are collectively and individually responsible to it. A Council of State decides administrative controversies and advises the government on contracts, concessions, legislation and administrative regulations. As head of the state the president presides over the Assembly on ceremonial occasions, but he may not deliberate or vote. He must either promulgate or veto any law within ten days of its enactment; the Assembly can adopt the law over the veto by a simple majority vote. He is responsible to the Assembly only for high treason.

Personal liberty is guaranteed by article 68 of the constitution but may be limited by law in the interest of the rights and liberties of others. In emergencies the cabinet may decree martial law for not more than one month. Since 1928 there has been no state religion; religious freedom is guaranteed by the constitution. Primary education is obligatory and free. Public expenditures for each year are budgeted and subject to review by a special Court of Accounts. Amendments to the constitution may be proposed by at least one third of the total number of deputies and adopted by two thirds; article 1, "The Turkish State is a Republic," cannot be amended. Local government is partly elective, but each of the sixty-three vilayets is supervised by a vali, or governor, appointed by the central government and possessed of extensive powers.

The system embodied in the Turkish constitution is thus simple, democratic, liberal and individualistic. If set up in a new community "of wise, forceful men of invincible good will" it would secure ideal conditions. In Turkey it is being applied to a people who are impoverished and weakened by generations of bad government and years of war, who are strongly conservative, bound by the traditions of Mohammedanism and lacking in political experience, appropriate education and administrative training. The problem of democratic government was made more difficult by adverse economic conditions which were partly an aftermath of the war, partly a result of the death or expulsion of many individuals who before 1914 had been outstanding in various economic activities. It was therefore both natural and in continuity with Turkey's monarchical tradition that a small group consisting of a well known leader and his followers should be relied upon to guide affairs.

Without any change in the constitution the whole control of affairs was gradually transferred to Kemal. The government has become in actuality a live and effective monarchy, a benevolent despotism expressing the will of a capable and experienced man, aided by a group who have learned to work with him by close association through twelve or more years. Ismet Pasha has been prime minister since 1925; the remainder of the cabinet has been somewhat changed. When the time arrived in 1927 for electing the third Assembly, the deputies representing the People's party elected a committee to nominate candidates; this committee transferred all its powers to the president. Thus the Assembly became in reality an appointed body. A similar procedure was followed in 1931, except that thirty places were left open for independents, of whom only twenty were elected. Attempts in 1925 and 1930 to organize opposition parties came to nought. Revolts of the Kurdish minority in the same years were suppressed by military action and deportations. Several plots against the government have been discovered and the leading plotters executed. The press is effectively censored.

The government has exercised almost unparalleled power in remaking the institutions of the country. It removed the seat of government from Istanbul (formerly Constantinople) to Ankara (formerly Angora). It accomplished a complete separation of church and state. Men were ordered to wear clothing after the western fashion. The Latin alphabet was substituted for the



Arabic. In March, 1930, women were made eligible to vote for and sit in municipal councils throughout Turkey. Civil, commercial and criminal law have been greatly changed by the adoption of codes taken from Switzerland, Germany and Italy respectively. The government has built a considerable mileage of railways out of revenue and negotiated a method of payment of the Ottoman pre-war debts. For the year 1931-32 it ordered a reduction of about 20 per cent in the budget. Its political and economic measures frequently reveal a jealous nationalism.

ALBERT H. LYBYER

See: CALIPHATE; CAPITULATIONS; NEAR EASTERN PROBLEM; COMITADJI; EMPIRE; PAN-TURANISM; PAN-ISLAMISM.

SPAIN AND PORTUGAL. *Spain*. Since the bloodless revolution of April 13, 1931, which overthrew the Bourbon monarchy, Spain has been ruled by a provisional republican government. The revolution came two days after municipal elections in which the republican candidates secured an overwhelming majority, especially in the larger cities. A revolutionary council consisting of representatives of all the republican parties took over the government; King Alfonso XIII, unable to stem the mounting republican tide, left the country on the advice of the majority of his ministers. He did not formally abdicate but stated that he was allowing his people to decide between republic and monarchy; the elections of June 28 to the Constitutional Convention (Cortes Constituyentes), however, indicated no recession in the strength of republican sentiment.

The explanation of the divorce between the people and the king which culminated in the revolution is to be found primarily in the policy of absolutism pursued by the monarch. According to the last Spanish constitution, that of 1876, Spain was to be a constitutional and parliamentary monarchy. The constitution did not state specifically just where the sovereignty resided, but the nature of its provisions indicated that it was embodied in the king jointly with the Cortes, the Spanish parliament. The power to enact laws resided with the Cortes and the king. The Cortes consisted of two chambers of equal power and competence, the Congress of Deputies elected directly by the people for a five-year term and the Senate made up of three classes of senators: senators in their own right—sons of the king and of the prince of Asturias, members of the nobility who possessed the privilege of being *grandees* of

Spain, the captains general of the army and the admiral of the navy, the patriarch of the Indies and the archbishops, the president of the Council of State, of the Supreme Court of Justice, of the Royal Court of Accounts and of the Supreme Council of War and the Navy; senators appointed for life by the crown; and senators elected by certain state organizations and by the principal taxpayers of each province not directly but through electors (*compromisarios*). All enactments of the king's government had to be signed by one of the ministers, who thereby assumed all responsibility, the person of the king being sacred and inviolate. The king himself named the ministers. Justice was administered in the name of the king by courts composed of trained officials. The king proposed but the Cortes finally determined each year the size of the military forces. The national territory was divided for purposes of administration into broad artificially determined divisions (*provincias*), which were further divided in both rural and urban areas into communes (*municipios*). At the head of each province was a representative of the central government—the civil governor—and a popular assembly (*Diputación provincial*) having a very limited administrative authority. The *diputación* elected a *comisión provincial* to function when the former was not in session. Each *municipio* was headed by a popular assembly (*ayuntamiento*) presided over by a mayor (*alcalde*) elected by the assembly in the small towns and appointed by the central government, generally from the members of the assembly, in all cities with more than a certain population.

This constitutional regime, instituted in 1876 upon the restoration of the Bourbon monarchy, very soon developed into a political fiction. The two large dynastic parties, the Conservative and the Liberal, supported by political power supplanted the national will, which was poorly informed because of the political inexperience of the people, and instituted from the heights of the government downward a vicious *de facto* state, known as *caciquismo*, which gave the keynote to Spanish public life in general, especially in the rural districts. The *cacique*, a rural property owner or the manager of some large estate, coerced the political expression of his settlers or laborers, arbitrarily disposing of their votes and securing in this manner a political power which he placed at the disposal of the candidate for deputy; in return for this the *cacique* obtained from the government certain privileges, such as the appointment of sympathetic local officials

often his own friends, thereby fortifying even more his authority in the locality. He practically dictated the appointment of the local judges. His influence reached into the very highest political spheres, whence he in turn obtained means enabling him further to consolidate and extend his abusive authority. Citizenship became a mere fiction. All the vices of Spanish society were typified in the political circles until there finally came about a radical divorce between the state and the nation. The monarchy instead of correcting these abusive practises promoted them.

In 1898 after the unfortunate war with the United States a vigorous critical reaction was initiated looking toward a national regeneration in spite of the state. During the reign of Alfonso XIII this separation between the people and its governing classes became more emphatic. The king intervened actively and personally in political life, risking the prestige of the crown, already very slight. The coup d'état of September 13, 1923, which foisted upon Spain a dictatorial regime, was the culmination of these conditions, which had inevitably lead to revolution.

The provisional republican government has radically reformed the military organization, greatly decreasing the excessive number of army officers; it has also authorized the creation of 27,000 new schools as the first step in a program of far reaching educational changes, whose actual realization will necessarily depend upon the available finances. The new constitution as drafted by the Cortes Constituyentes, dominated by the socialists, represents an extremely radical departure from Spanish governmental, religious and social traditions. It declares that "Spain is a republic of the workers of all classes" and sets up property laws which make possible the nationalization of property and of essential industries. It provides for religious liberty and the disestablishment of the Catholic church. The equality of both sexes is recognized; divorce by mutual consent and the equality of legitimate and illegitimate children are provided for. Principal governmental control is entrusted to the unicameral legislature, which is elected by equal suffrage of all men and women over twenty-three; but the president, elected by a combination of the French and American methods, is granted considerable authority. To satisfy the autonomous aspirations of certain regions, especially Catalonia and the Basque provinces, the constitution provides liberal autonomy for such regions as desire it. Considerable interest at-

taches to the constitutional provision prohibiting the declaration of war, even for defense, without previous submission of the dispute to the League of Nations.

*Portugal* is governed by a political dictatorship maintained by military force. The republican constitution of 1911 has not been repealed, but for all practical purposes it can be considered as abolished. Its application was suspended subsequent to the revolution under Commander Mendes Cabeçadas on May 28, 1926. Since then Portugal has been without a fundamental law defining and regulating the rights of its citizens, pending the promulgation of a new constitution expressing the political philosophy of the present dictatorship or the triumph of the strong revolutionary movement aimed at a restoration of the democratic republic.

The explanation of Portugal's political history since the early nineteenth century can be found only in its peculiar social and economic structure. Brazil's achievement of independence in 1822 left Portugal with the pressing necessity of reorganizing along new lines its own economic system, hitherto based entirely upon the riches arriving from the distant colony and leaving the productive energies of the mother country unused. It thus became necessary to substitute the system of "state communitarianism," as the Portuguese historians call it, for the economic liberalism which at that time dominated the entire civilized world. It was necessary to reduce the enormously excessive bureaucracy which weighed down the national economy, forcing it to sustain a socially unproductive class which had become accustomed to live from the favor of the state. Agriculture needed encouragement through reduction of the heavy taxes. An industrialization of the country had to be attempted. Portugal never succeeded in completing these far reaching reforms, proclaimed by some of its most prominent statesmen. It continued to live on an artificial economy which neglected truly productive national activities, surmounting difficulties which presented themselves at every step, having recourse to foreign loans that made the nation economically a tributary to the capitalism of other European countries, especially England.

The failure of all the attempts at reform, due primarily to the resistance of the old traditional interests enjoying the protection of the monarchy, accentuated the national misery and created a powerful republican current. Exasperated by the dictatorial rule of João Franco, im-

posed by King Carlos I in 1907, the republican element effected a change of government after the assassination of Carlos in 1908 and the brief reign of his son Manoel. A republic was created in 1910. The constitution of 1911 provided that it was to be headed by a president elected for four years by a bicameral Cortes, the lower house of which was to be elected by direct vote of the people, the upper house by the local popular assemblies.

But the republic did not succeed in solving the old problems, which became increasingly pressing, and the democratic aspirations of the country were smothered by a military dictatorship. Congress was dissolved on July 9, 1926, and has not been reelected. A decree of February 25, 1928, declared that the president of the republic would henceforth be elected not by congress, but directly by citizens above the age of forty-five. Since 1928 the government of the dictatorship has constantly reiterated its intention of promulgating a national statute to replace the constitution of 1911, but as yet this has not materialized.

In 1930 a political party, the *Unión nacional*, was organized under the auspices of the government. According to the statements made by the president of the Council of State it was formed to "cooperate in the work of the dictatorship and to prepare the way for the future constitutional regime," which is to be inspired by a "rational historic nationalism of a reforming and progressive type, which theoretically and in practice is different from systematic socialism and liberalism." According to the minister of finance, Oliveira Salazar, the real task is to combat individualism, socialism and parliamentarism and to assure material and moral order. The executive power would be strengthened and exercised by the chief of state and by the ministers appointed by him, who would be in no way dependent on parliament. The nation would be organized on the basis of moral and economic corporations which would replace the old political parties. The state would be social and corporative, no longer concerned with that abstract type of citizen—"a creation of the liberalism of the nineteenth century"—divorced from his family, his profession and his intellectual and economic atmosphere; rather, it was to be guided by the principle that "the people needs less to be sovereign than to be governed." The possible realization of this political program depends on the outcome of new revolutionary attempts which are being fomented by democratic republicans

now living in foreign countries, and which find support in the national discontent.

JOSÉ OTS Y CAPDEQUI

See: LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL; REVOLUTION; COLONIAL ADMINISTRATION; COUNCIL OF THE INDIES; CASA DE CONTRATACIÓN; AUDIENCIA; ASIENTO.

LATIN AMERICA includes twenty countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay and Venezuela. The total area of these countries is about 8,000,000 square miles, their total population something more than 100,000,000.

The use of the generic term for the entire group of countries rests upon important similarities and common characteristics. Except for Brazil, which was originally colonized by Portugal, all of the countries were originally Spanish colonies. In all of them a Latin tongue is the official language—Spanish in all except Brazil and Haiti, which employ Portuguese and French respectively. In all the Roman Catholic religion is the historic and dominant faith and the cultural background is rooted in southern Europe. Except for Cuba, Haiti, the Dominican Republic and Panama they all secured their independence through a series of related revolutions in the first quarter of the nineteenth century. All are republics with constitutions setting forth the principles of individual liberty and of democratic representative government. In this respect, as in many others political and economic, they have all been considerably affected by the United States of America, although to varying degrees.

Yet the points of difference between them are so fundamental and so numerous that there is great difficulty if not danger in considering them in common terms. There are striking geographic and ethnic differences. In area they vary from Salvador with 13,000 square miles, about the size of Maryland, to Brazil with about 3,300,000 square miles, roughly equal to the whole of continental United States with Texas doubled. In population they range from about half a million in Costa Rica and Panama to some forty millions in Brazil, which with 40 percent of the total area and population of Latin America and with its Portuguese background is clearly distinguishable from the so-called Spanish American republics. Even among the latter there are enormous and

fundamental variations. Uruguay is a purely agricultural country lying wholly in the temperate zone at sea level and with a population which is almost completely white. Bolivia is an enormous inland country lying wholly in the tropics, but with a vast plateau at an average elevation of more than 12,000 feet; it is principally a mining region and has a population made up in large part of pure Indian blood, most of the remainder being of mixed Indian and Spanish descent. The Dominican Republic is located on a tropical island and contains a population with a considerable admixture of Negro blood, while its neighbor on the island is French speaking Haiti with an almost pure black population.

There are also important variations in tradition and history, particularly as regards external political relations. Cuba remained a Spanish colony until 1898, when it became a ward of the United States. The history of Mexico and Central America could not be written without including important sections of the history of the United States, and the history of Panama during the last three decades is practically a phase of that of the United States. Chile, on the other hand, most remote of Latin American countries until the Panama Canal was opened, has experienced but little direct influence from the North American colossus; but its own influence has been potentially felt by Peru and Bolivia. Argentina also has largely worked out its own salvation, although at times it has been threatened by or has threatened Chile, Paraguay, Brazil or Uruguay. The situation of Paraguay can be understood only in relation to the suicidal war waged by its insane Francisco Lopez from 1865 to 1870 against the combined forces of Brazil, Argentina and Uruguay.

From such far reaching variations have inevitably flowed important differences in education, social and economic conditions and government. Even grouping of Latin American governments for analysis is therefore quite difficult. In important respects Costa Rica resembles distant Uruguay more closely than Nicaragua, its neighbor. Chile is more like Mexico than like Paraguay. Structurally Argentina, Brazil, Mexico and Venezuela are all classified as federal states, yet their constitutional arrangements show astonishing divergencies. Chile and Colombia are both unitary governments, but the federal tradition in the latter country is even now very strong. Cuba with its Platt Amendment, Haiti and the Dominican Republic with their financial and customs disabilities, Nicaragua with its

United States marines and Panama with the limitations imposed by the Panama Canal situation are not completely sovereign states at all, while Uruguay is as completely independent as any European country.

The most important single factor lending common characteristics to contemporary Latin American governments is the common background of three centuries of unfortunate experience as remote, exploited but otherwise undeveloped colonies. The natives were killed off in warfare or by slavery or disease, as on the east coast, where African slaves supplanted them in the tropical regions; or forced into peonage, as in the mine regions of the west coast; or at best left in a state of savagery. The heroic efforts of the Jesuits and other orders to alleviate the condition of the natives bore some fruit, but on the whole the Indians constituted human machines to be exploited. The same treatment was accorded the large mestizo population which soon constituted an important element in many regions. Education, economic opportunity and political power were the right only of the favored Peninsulars. Even the pure blooded Spaniards and Portuguese born in the Americas, the so-called Creoles, were excluded from positions of importance in the government and the church, which assumed in the colonies a position relatively as important as in the mother countries.

The common attitude of the colonial governors was that the colonies were theirs for exploitation and for personal gain. In many cases the royal grants were distinctly on those terms: the crown wanted its share, but apart from this the grantees were in complete control. To despoil the natives and the colonists for personal gain was quite orthodox; to rob the crown of some of its percentage was regarded as dangerous perhaps but not reprehensible. The concept of a government post as an opportunity for personal gain rather than as an obligation of public service inevitably became accepted by the elements that formed the governing class in the days of independence. The widespread existence of political corruption in Latin America, which is very generally admitted and regretted by Latin American writers, is in large part a heritage of this colonial administration. But in its maintenance the agents of foreign banks, of foreign public utilities and other concession seeking corporations have played a very important part. The very life of existing governments has in some cases been made dependent upon subservience to foreign exploiting interests.

The movement for independence was largely influenced by the successful North American revolution against Great Britain and by the stirring events of the French Revolution. Nevertheless, of considerable importance in connection with it were the large body of antimonarchical egalitarian Spanish writings and the liberal movement in Spain which resulted in the adoption of the advanced Spanish constitution of 1812. Indeed the movement which culminated in independence was a protest at first largely against the Bonapartist usurpation of the Spanish throne in 1808 rather than against the already serious abuses of the Spanish rule itself. Not until the restored Ferdinand had shown his absolute devotion to reactionism did complete independence become the rallying cry throughout the movement, although it had already taken on a separatist character in certain regions. The long struggle for independence lasting from 1810 to 1824 was carried on under much more difficult conditions than in the North American revolution, and its successful termination left the liberated regions in a much more critical situation. The enormous distances, the sparseness of the population, the impenetrable forests, the impassable mountains, the character of the population, the bitterness of the contestants, all imparted a character of fierceness, cruelty and vindictiveness. It was a war of extermination marked by wholesale executions, confiscations, reprisals, betrayals, burnings and sackings by both sides. Organized action, deliberation and cooperation, even as feeble as the measures of the North American Continental Congress and the Congress of the Confederation, were impossible. Ruthless unrestricted military leaders and their lieutenants alone could have accomplished what was accomplished in the Spanish colonies. With each man a law unto himself jealousies, internal struggles and internecine wars permitted only the most ruthless and daring to survive. Only in Brazil, where the presence of the prince regent of Portugal facilitated the establishment of an independent empire, was bitter civil war avoided.

The regions set up as independent states after the revolutions corresponded roughly to the Spanish colonial divisions—viceroalties, presidencies, captaincies general and provinces—but undetermined boundaries in some cases caused difficulties which have only recently been settled or in a few cases still remain unsettled. The countries received constitutions modeled on that of the United States of America. As an ex-

pression of faith in the principles of popular government, as an expression of an ultimate ideal, this action was significant. As an actual achievement of democracy it was of course wholly illusory.

Within the new countries conditions were in many respects not far from barbarism. There was practically no economic life, no money, little agriculture, less industry. Vast landholdings were in the hands of a few families and the church; the great mass of the population was illiterate, penniless and little better than serfs. The only hope for progress lay along the same path that had achieved independence: the domination of all powerful individuals or groups. When these individuals were self-seeking and unscrupulous, the countries went from bad to worse until the rulers were overthrown. When they were patriotic and able, the countries prospered, although the control was no less absolute.

In the seventy-five years of the nineteenth century after independence was achieved progress was phenomenal. It varied enormously in the different states according to economic, social and international conditions; but some progress occurred everywhere. Economic and social progress was more rapid than political progress, but the latter was also apparent. Gradually power gravitated from military to civil leaders, although these latter were inevitably of the great landholding classes. The greatest material as well as social advances were made under the most complete dictators of the more enlightened stamp. Noticeable advances in political democracy were frequently made at the expense of material progress, and the reaction sometimes appeared to swallow up all the previous gains.

Gradually there arose in most of the countries, which heretofore had contained but two economic classes—on the one hand the great landholders, including the church, and on the other the peons and laborers—a middle class of mechanics, shopkeepers, clerks and small landholders, who acquired along with the rudiments of education a consciousness of political power. The oscillations of political power between liberals and conservatives, which for many years had represented merely alternations between hostile groups of the landed classes, began to have more real significance. The mass of the population, still largely poor and illiterate, might yet be either indifferent to changes in power or fiercely loyal to a popular hero, but the growing middle class could no longer be ignored. Immigration while adding to the economic

growth of the countries also introduced elements less docile and more ready for united action.

The year 1929 witnessed a widespread recrudescence of revolution and violence. These revolutions were apparently a reversion to the long period of government by revolutionary dictators which in most of Latin America appeared to have definitely passed. But these upheavals must be interpreted in the light of the world wide disturbed and unsettled conditions of the period, which forced so many of the countries of the Old World to resort to government by dictatorship. Some of these disturbances furthermore have been the result not of a turning back from the road of democracy but of a further step forward. The increasing strength of the middle class and its more effective insistence upon enlarged democracy have been important factors. The inevitable resentment against those in power when depression came (and in Latin America, at least, some of the most serious aspects of the present critical situation can with justice be attributed to those in power) has been aided by a strong feeling that the mass of the people must have more voice in governmental affairs.

From the very first, while the constitutional forms were modeled after those of the United States, the actual administration was molded along continental, particularly French, lines. The civil law, partly the inheritance of the Spanish royal ordinances, partly revamped along the lines of the *Code Napoléon*, has determined the legal system. The continental scheme of public administration, particularly the predominance of the executive officers under the Spanish colonial system and under the Bourbon and Napoleonic regimes of France, has from the first stamped the relations of the government to the individual. But in many respects even this situation is gradually changing. The supremacy of the judiciary, for instance, a characteristic North American constitutional innovation quite foreign to the concept of public law in France, has actually become operative in several Latin American states, especially the federal states. The organization of public education, which so long followed the European example, is moving distinctly toward an approximation of the North American system.

The influence of the United States has naturally been very potent. The open sympathy for the aspirations for independence of the Latin American colonies, dramatically evidenced in the famous message of President Monroe to

Congress in 1823, aroused a corresponding enthusiasm among the leaders of those countries. Gradually that enthusiasm and appreciation gave place to fear and suspicion in many quarters, stimulated at first by relations between the United States and Mexico, fanned into greater intensity by the developments in Central America and the Caribbean following the Spanish American War and the acquisition of the Panama Canal Zone and by no means diminished by the occurrences during the administration of President Wilson. While many factors have been working in the other direction, notably the inter-American conferences of various kinds, better communications and trade relations and increasing interchange of individuals and ideas, the Latin American countries have among themselves been approaching a better understanding and a greater community of feeling. Means of communication have improved enormously and the potent factors of a community of racial background, language and religion have led to some tangible evidence of the ability to act jointly, as in the case of the so-called A.B.C. combination. Thus far, however, attempts to reestablish the former Central American Union (see CENTRAL AMERICAN FEDERATION) have proved abortive.

Among the outstanding features of governmental organization in Latin America are the universality of presidential as contrasted with parliamentary government and the adoption of the federal system by the three principal countries, Argentina, Brazil and Mexico, as well as by others. By the first quarter of the nineteenth century parliamentary government had developed only in Great Britain, where it was coupled with the hereditary monarchy; its actual workings were but little understood elsewhere. The presidential form as exemplified in the United States was not only best suited to actual conditions in Latin America but was really the only model available. Where the parliamentary form was tried in one or two instances, notably in Chile, it proved unworkable. It is true that Balmaceda was overthrown in 1891 partly because he challenged the supremacy of the Chilean Congress; but the events of subsequent years proved the unsuitability of this system to conditions in Chile, and in the constitution of 1925 it was expressly abandoned in theory as it had already been in practise.

The application of the federal principle in Latin American governments is of interest not merely because in this respect the example of the United States has been very powerful but also

because many of the most serious disturbances have centered about this question. Upon the overthrow of the empire in 1889 Brazil without much discussion adopted the federal form, closely modeled on that of the United States. But in Argentina the question of federalism caused bitter struggles for many years and in Mexico it was an ever active source of disagreement. In Venezuela there were several oscillations between the unitary and the federal form before the latter finally triumphed. In Colombia the struggle was even more bitter and prolonged before the unitary form ultimately triumphed. In Argentina, Brazil and Mexico the problem of the position and rights of the states is a source of considerable conflict. In these controversies the theory and practise of the federal scheme of the United States of America have played a dominant role, and as a consequence some of the ablest scholars in American constitutional law have been found among Latin American statesmen. In general it may be said that the tendency of the states to desire federal aid without federal interference and the tendency of the federal government to extend its sphere of action have both been more pronounced in Latin American federations than in the United States.

*Argentina* with an area 1,153,000 square miles and a population of 11,000,000 is a federal republic composed of fourteen provinces, or states, one federal district and ten territories. In general the form of the federal constitution follows very closely that of the United States of America, although there are important variations. But Argentine constitutional history has been colored first by the struggle between the unitary and the federal principle, finally settled in the constitution of 1853; then by the controversy as to the position of the capital city in the structure of government, fixed in the revision of 1860; and since then by the problem of the actual relations between the federal government and the provinces. The president, who must be a Roman Catholic, is elected for six years by an electoral college and is not eligible for reelection until after an intervening term. The legislature comprises a Senate of thirty members (two from each province and two from the federal district) chosen by the legislatures for a term of nine years, one third being elected every three years, and a Chamber of Deputies of 158 members chosen by adult manhood suffrage for a term of four years, one half being renewed every two years. The system of federal courts is structurally very similar to that in the United States.

The provinces have executives, legislatures and courts determined by their own constitutions, subject to the requirement that they guarantee a republican form of government. The president in theory and even more in practise exercises a power appreciably greater than that of the president of the United States, a fact which colors the whole operation of the government. Equally significant is the fact that although the distribution of powers between the federal government and the provinces as set forth in the constitution gives the national government only slightly more jurisdiction than in the United States of America, in actual practise the power of federal intervention has made the provincial governments the creatures of the national administration. Articles 5 and 6 of the Argentine constitution, although not strikingly different in wording from article v, section 4 of the Constitution of the United States, have in practise virtually destroyed the essence of federalism in Argentina.

*Brazil* with an area of 3,276,000 square miles and a population of about 40,000,000 is a federal republic governed by the constitution adopted in 1891 modified in 1926 and 1931. Brazil was in many respects more fortunate than the other Latin American countries. The achievement of independence in 1822 had been accomplished without violence, and for sixty-seven years under the empire a considerable element in the population had acquired experience in government under a constitutional monarchy. Various difficulties, including the enormous size of the country, the lack of communications, the large Negro population and the impossibility of widespread education, militated against the rapid achievement of economic, social and political democracy. But the abolition of slavery in 1888 and the overthrow of the empire in 1889 with the adoption of the federal republican form of government found Brazil in every way in a much more favorable position for the development of democracy than most of the other Latin American countries at that time.

Resentment against complete centralization under the empire and subordination of the provinces was one of the grievances against the monarchical regime and led naturally to the adoption of the federal form in close conformity to that existing in the United States of America and in Argentina. The struggle between federal and unitary ideas was not so prolonged, uncertain and bitter as in Argentina; but as might be expected from the vast and heterogeneous character of the country and its inhabitants separa-

ism assumed a more important role, and there has been real and continuing danger of secession both in the extreme south and in the extreme north.

The president is elected by direct popular vote for four years and is ineligible for immediate reelection. His power while theoretically not markedly greater than that of the president of the United States is in actual practise considerably greater although perhaps not so much so as in Argentina. The National Congress comprises a Senate and a Chamber of Deputies. The Senate is made up of sixty-three members, three from each of the states and three from the federal district, chosen by direct popular vote for nine years, one third being renewed every three years. The Chamber of Deputies comprises 212 members chosen by direct suffrage for three years. The federal franchise in all cases is based on a literacy requirement. The system of federal courts is filled by presidential appointment.

The twenty states enjoy theoretically the same powers of local self-government as do those of the United States. Actually, through the power of federal intervention and the dominance of the executive, they have been greatly subordinated in importance although much less so than in Argentina. Political power in the national government has been divided up by a working arrangement between the dominant forces in the two major states, São Paulo and Minas Geraes, the presidents having been alternately chosen from the political leaders in those two powerful states. This has caused resentment in the other states, particularly in Rio Grande do Sul and in the other states of the extreme south and extreme north, and has led to revolutionary outbreaks. As long as the two major states, comprising much of the wealth and two fifths of the total population, worked hand in hand the other regions were powerless. The disruption of this working arrangement in 1930 was one of the major factors in the success of the revolutionary movement of that year headed by the chiefs of the state of Rio Grande do Sul.

Mexico with an area of 767,000 square miles and a population of about 16,000,000 is by the provisions of the constitution of 1917 a federal republic whose constitutional organization is modeled largely on that of the United States with some theoretical and many actual divergencies.

The constitutional history of Mexico since the first abortive movement toward independence of 1810 has been marked by almost continual dis-

turbances. Conflict between the advocates of unitary as against federal organization; conflict with the church; conflict over financial and land policies; conflict over foreign concessions; war with the United States; uprisings against the empire of Maximilian, imposed by France; and similar events have made normal governmental and institutional development almost impossible. It is significant that the period of greatest material development occurred during the thirty-five years of the Diaz regime, which was an absolute dictatorship without regard to constitutional forms and left a serious heritage of bitterness and lawlessness when his strong rule was finally overthrown.

While the principle of federalism finally triumphed in the constitution of 1857, not until the constitution of 1917 was promulgated and gradually put into actual operation in the years following the inauguration of Obregón in 1920 was there some approximation in actual government to the constitutional principles laid down. The disturbed condition of the country, due perhaps chiefly to the controversy with the church, makes extraordinary measures still the rule rather than the exception.

The constitution of 1917 provides (article 27) among other things for the breaking up of the large landed estates, the national ownership of natural resources and the disestablishment of the Roman Catholic church together with the nationalization of its property. The application of the clause regarding natural resources led to a lengthy controversy with the United States of America. Article 123 of the constitution contains detailed provisions for the protection of labor, including the eight-hour day, the minimum wage, workmen's compensation, freedom of association and the prohibition of fees for securing employment.

As amended in 1928 the constitution provides for the election of the president for a six-year term by direct popular vote. The federal Congress consists of a Chamber of Senators and a Chamber of Deputies. The senate consists of fifty-eight members, two from each of the twenty-eight states and two from the federal district, elected by direct popular vote for four years; the 150 deputies are elected for two years, the two federal territories being entitled to at least one deputy each. The federal judges are appointed by the president, although the Supreme Court judges were formerly chosen by the Congress.

The individual states have the right to adopt



their own constitutions; but the federal constitution prescribes in considerable detail the forms to be adopted, and the power of federal intervention gives the national government an actual control over the states not very different from that experienced in Argentina and Brazil under similar provisions.

*Uruguay* with an area of 72,000 square miles and a population of about 2,000,000 is the smallest in area of the South American republics. Erected as a buffer state in 1828 through the influence of Great Britain after Argentina and Brazil had been at war over the region, Uruguay possessed advantages of location, fertility, compactness and relative homogeneity of population, which, however, did not prevent its being in almost continual political turmoil for half a century following its establishment as an independent state.

The government is a unitary one with a president elected by direct vote for four years and a Congress of two chambers, the National Chamber of Representatives and the Senate. The representatives, 124 in number, are elected for three years by direct vote on the basis of proportional representation. The nineteen senators are chosen by electoral colleges in the departments for a term of six years; one third of the Senate retires every two years. The legislative branch has more theoretical and actual power than that of any other Latin American country, thus reducing the customary dominant role of the executive. Even more novel and effective in Latin America is the role of the National Council of Administration, which shares the executive power with the president. This council consists of nine members elected by direct popular vote for six years with overlapping terms. The minority party is not a member of the council. The jurisdiction of the council extends to matters of administration not expressly reserved to the president: budget and finances, elections, public instruction, public works, labor, industries, agriculture, charities and sanitation. Conflicts of jurisdiction between the president and the council are settled by the Congress.

The constitution of 1919 accorded a considerable degree of self-government to the departments, including a representative assembly and an administrative board, both elected by the people. The chiefs of police, however, are still centrally appointed and controlled.

Since 1919 the political and material progress of the country has been marked. Advanced social

legislation has been passed including the eight hour day, old age pensions and workmen's compensation.

*Chile*, with an area of 290,000 square miles and a population of about 4,000,000, after the achievement of independence in 1818 and a subsequent fifteen-year period of violent disorders enjoyed a relative freedom from serious disturbances following the promulgation of the constitution of 1833. This constitution contrasted quite favorably with those of most of the other Latin American republics; it remained in force, at least nominally, until 1925. The reason for this relative stability lay partly in its geographic isolation from disturbing conditions in neighboring countries, partly in the compactness of population in the long narrow fertile Vale of Chile and partly in the closed aristocracy of birth and wealth which made it for generations one of the most conservative of Latin American states.

Until the most recent period the most serious political upheaval was the overthrow of Balmaceda in 1891. But during the century since 1833 liberal ideas had been gradually gaining strength and had even been championed from time to time by successful candidates for Congress. This liberalizing movement achieved at least an outward triumph in 1920 in the election of Arturo Alessandri, Chile's first middle class president.

A new constitution was adopted in 1925 which enunciated many liberal principles, definitely superseded the parliament by the presidential system, disestablished the Roman Catholic church and seemed to end the long control by the ultraconservative and ultramontane forces. While the almost continuous political upheavals

and the realization of the benefits of this new political orientation, it is not likely that the new liberal ideas will be permanently surrendered.

The president is elected for six years by popular vote. The Chamber of Senators with forty-five members and the Chamber of Deputies of 132 members are elected by direct popular vote from the departments and provinces into which Chile is divided. Although the unitary form of government still prevails, the latest constitution represents a step toward political decentralization. The provinces are accorded popularly elected assemblies presided over by the centrally appointed intendant, who possesses the veto power but who cannot veto measures which

have been passed by a two-thirds vote of the provincial assembly.

HERMAN G. JAMES

See: PARTIES, POLITICAL; MONROE DOCTRINE; PAN-AMERICANISM; CENTRAL AMERICAN FEDERATION; COLONIES; COLONIAL ADMINISTRATION; COUNCIL OF THE INDIES; CASA DE CONTRATACIÓN; ASIENITO.

JAPAN. The present Japanese government dates from the restoration of 1867. The new regime in its inception was the ancient brought back to life in new garb. Japan in antiquity was a patriarchal nation, whose ruler was in direct touch with his subjects. As time passed this simple form of government became impracticable and in the middle of the seventh century the emperor inaugurated the Council of State (*Daijo-Kwan*), presided over by the chancellor (*daijo-daijin*) assisted by the minister of the right (*u-daijin*) and the minister of the left (*sa-daijin*). There were also organized eight administrative departments, each under a minister who participated in the deliberations of the council. At the same time a division was made between civil and military officials: the former lived an effeminate life of refinement and luxury at what is now Kyoto, at that time the seat of the imperial court; the latter, who were sent to remote provinces to preserve peace, waxed powerful beyond the control of the central government. By the end of the twelfth century Minamoto-Yoritomo, the greatest of these military chieftains, had established at Kamakura far removed from Kyoto a government of his own called *Bakufu*, known to the west as the shogunate from the official title, *shēi-tai-shogun* (barbarian-subjugating generalissimo), conferred upon him by the emperor. The shogunate in order to perpetuate its power appointed from among its own loyal soldiers a hierarchy of military officials, who actually although not formally superseded the civil functionaries appointed by the Imperial Court. For years the shogunate exercised the powers thus usurped from the Imperial Court.

The restoration meant not only the return of the shogun's powers to the emperor but also the reappearance of the governmental form instituted in the seventh century. The Council of State was restored in 1867 and the eight governmental departments in 1871. In 1868 the emperor, then only fourteen years of age, proclaimed the Oath of Five Articles, the first of which declared that "public councils shall be organized and all governmental affairs decided

in accordance with public opinion." The same year the capital was moved from Kyoto to Tokyo (then Yedo), for three hundred years the seat of the shogunate government. The following year all the feudal lords, three hundred in number, voluntarily relinquished their fiefs in return for bonds issued by the government. In 1871 the entire country was divided into prefectures, each with a governor appointed by the central government, thus inaugurating a highly centralized government in place of the highly decentralized feudal system. Simultaneously the samurai, the soldier retainers of the former feudal lords, also gave up their hereditary pensions in exchange for government bonds. The leaders in politics and officialdom under the new regime have largely come from this class with its long tradition of chivalry and culture.

The first memorial for the inauguration of popular assemblies was presented to the throne in 1874. In the same year *Aikoku-Koto* (Patriotic party), the prototype of the present *Seiyukai* party, was launched by Taisuke Itagaki, often called the father of liberty. In 1875 the government instituted the *Genro-In* (Council of Elders) and the *Chihokutan Kwaigi* (Local Governors' Conference). The first consisted mostly of former feudal barons, the second of prefectural governors. Neither had any popular element. In 1879 prefectural assemblies elected by qualified voters were inaugurated.

Meanwhile the constitutional movement gathered momentum. The agitation, often accompanied by bloodshed, had become so ominous that in 1881 the government was obliged to issue an imperial rescript promising to convoke a parliament in ten years. In 1882 Hirobumi Ito, destined to become one of Japan's foremost statesmen, was sent abroad to study European constitutions. Upon his return Ito set about fitting the government to his constitutional scheme based on the German model. First, he created in 1884 a new nobility of five orders (prince, marquis, count, viscount and baron) whose members were to constitute a majority in the upper House. Next, the Council of State was abolished in 1885 and replaced by the cabinet, presided over by the prime minister and composed of the ministers of state. The *Genro-In* was also abolished. The Privy Council, evidently conceived as another check on the lower House, was organized in 1888. In addition a bureaucracy, trained to carry on the government's policies quite independently of the vicissitudes of politics, was established.

With the stage thus set the constitution, together with the Imperial House Law, the Imperial Ordinance concerning the House of Peers, the Law of the Diet and the Election Law for the House of Representatives, was promulgated in 1889 as a gift of the emperor. The liberals saw in the constitution a design to perpetuate the power monopolized since 1867 by Satcho men, the politicians of the former feudal provinces of Satsuma and Choshu, which had worked together for the abolition of the shogunate. The liberals, who came from the provinces which had not been influential in the restoration movement and which were neglected in the distribution of offices under the new government, said that the restoration had simply meant the substitution of Satcho for the shogunate and demanded real parliamentary government.

With the convocation of the Diet in 1890 this old animosity manifested itself, often in violent form. The cabinet to put through its bills resorted to bribery, intimidation and dissolution of the lower House. For almost fifteen years Japan's constitutional history was largely a record of this struggle. In that period the successive cabinets with few exceptions were solidly Satcho, professing to transcend the political parties and refusing to recognize cabinet responsibility to the House of Representatives. The opposition factions, in their struggle to break up the Satcho monopoly, insisted that the cabinet be founded upon party principles and be responsible to the House of Representatives.

The Satcho position was not easy to maintain. Its supporters in the lower House were usually in the minority, and in 1898 Itagaki's *Jiyuto* (Liberals) and Okuma's *Shimpoto* (Progressives) combined under the new name of *Kenseito* (Constitutional party) to force the resignation of a Satcho cabinet under Ito's premiership. The Okuma-Itagaki coalition cabinet which followed was Japan's first party cabinet. But the coalition soon collapsed, and the Satcho clique returned to power. Nevertheless, from about 1906 the Satcho domination gradually weakened and practically ended when Kei Hara with no Satcho affiliations organized a cabinet of the *Seiyukai* (formerly *Jiyuto*) party in 1918. The decline of the Satcho clique and the increasing dependence of the cabinet upon the political parties have in effect established the fact that whatever the letter of the constitution, in practise the cabinet is responsible to the House of Representatives.

The Japanese constitution is an attempt to harmonize the ancient native conception of the

sovereign with the new occidental idea of parliamentary government. Naturally, the emperor is made to appear supreme; in practise, however, he is more like the king of England than like the former German emperor. He has never vetoed a bill passed by the Diet. He has seldom if ever openly interfered with the acts of the cabinet but has always acted upon the advice of his ministers. There is danger, however, in the possibility of abuse of the emperor's prerogatives by irresponsible cabinets; in the early days this practise was sometimes resorted to as a last means of breaking the deadlock created by the opposition of the lower House. In such cases the House's retort was a memorial to the emperor impeaching the cabinet for "hiding behind the throne." Fortunately, the cabinet has long since ceased to invoke the emperor's name to bring the House to its knees.

A peculiar feature of the cabinet is that the minister of the army must be a general or lieutenant general and the minister of the navy an admiral or vice admiral and that they may submit their views to the throne directly and not through the prime minister. This is a legacy from the period when Japan's foremost concern was the maintenance of her position among the powers, some of which were obviously hostile. In the early days the two ministers often remained in office even in a cabinet crisis, but this practise gradually changed. More recently, especially since the World War, the army and the navy ministers in deference to public sentiment have increasingly been inclined to forego their privilege of direct approach to the throne. Sentiment in favor of the appointment of civilians to the two posts has often been voiced by the press. This tendency met with a setback in the Sino-Japanese clash in Manchuria in 1931 when the press and public almost unanimously supported the military measures taken by the army.

The emperor's supreme adviser is the Privy Council, composed of twenty-six councilors, appointed by the throne with the advice of the prime minister. Cabinet ministers, thirteen at present, are also ex officio members of the council. Constitutionally the council's decision has no binding force upon the cabinet; that is, the emperor cannot and does not force upon the cabinet any recommendation of the council which is unacceptable to it, because the cabinet is in fact if not in theory responsible to the House of Representatives and so cannot afford to accept any recommendation likely to arouse popular opposition. The Privy Council itself has

of late become more sensitive to public opinion, as was seen in its deliberations on the Paris Peace Pact and the London Naval Treaty.

The *Genro* (elder statesmen), not to be confused with the *Genro-In*, form another advisory body to the emperor. Although not provided for by the constitution or by any law, the institution developed out of the custom of the emperor, well established some thirty years ago, of calling men like Ito, Yamagata, Matsukata and Inouye, who had long enjoyed his confidence, into private consultation on matters of extraordinary importance. Formerly the *Genro* seem to have been consulted on many matters, but of late their advice has seldom been sought except in a cabinet crisis requiring selection of a new premier. Their number too has gradually dwindled until there is today only one *Genro*, Prince Saionji. Whether the institution will disappear with Saionji's death is a matter for conjecture. Should it disappear, the emperor may turn to the lord privy seal (*nai-dai-jin*) for advice. It is now, however, a practically established custom to appoint to the premiership the leader of the party which controls the majority in the House of Representatives.

The Diet consists of the House of Peers and the House of Representatives. The House of Representatives is the more important because of its control over the cabinet. It consists of 466 members, returned by 122 electoral districts at a ratio of one representative to every 120,000 of the population within each district. The ballot is secret. Under the original election law of 1890 property qualifications limited the number of electors to some 500,000. In 1900 and 1920 it was increased to 1,500,000 and 2,860,000 respectively by lowering tax qualifications. In 1925 all property qualifications were abolished and manhood suffrage was adopted, increasing the number of voters to 13,000,000. As a result in 1928 eight proletarian members were elected to the House of Representatives. In 1931 a bill to enfranchise women in local elections passed the House of Representatives but was defeated in the House of Peers.

The House of Peers at present consists of 411 members distributed as follows: the 20 members of the imperial family who have reached majority; the 46 princes and marquises over thirty years of age; 150 counts, viscounts and barons elected by their respective orders for a seven-year term; 125 members appointed by the emperor for life in recognition of meritorious service or erudition; 4 members of the Imperial

Academy elected by that body for a seven-year term; and 66 high taxpayers elected by similar taxpayers.

The two houses are coordinate except that the budget must first be submitted to the House of Representatives. The House of Peers, however, may reduce or reject the budget on the same footing as the lower House. The Diet has no power to initiate the budget or to increase the one submitted to it by the cabinet. In the event of the Diet's rejection of the budget that of the preceding year remains in force. Furthermore, the Diet's power to reduce or to reject the budget does not extend to the "civil list," to expenditures based upon the emperor's constitutional powers and already fixed at the previous session of the Diet, such as salaries and pensions of officials, army and navy expenditures and the like, to expenditures caused by the effect of laws passed by the Diet or to expenditures caused by the legal obligations of the government. The only way to reduce such expenditures is for the Diet and public opinion to bring pressure to bear upon the cabinet. Debate on the budget affords the Diet an opportunity to scrutinize all phases of the government's policy. As to general legislation other than the budget, both the government and the Diet may initiate bills, but government bills have precedence in the deliberations of either House. This means practically that few bills originating in the Diet are passed.

Reports of corruption in Japanese politics are frequent, although the cabinet has long since abandoned the corrupt practises of early constitutional days. Members of the Diet receive only 3000 yen (formerly 2000 yen) a year, and as many of them have no other source of income the temptation for corruption is always present. Funds obtained through corruption sometimes find their way into the ever needy party coffers, although such transfers have seldom been proved.

The judiciary consists of a Supreme Court, seven courts of appeal, fifteen district courts and 281 local courts in addition to a Court of Administrative Litigation to handle cases relating to "rights alleged to have been infringed by the illegal measures of the administrative authorities" and military courts, composed of civilian judges and military officers, which have jurisdiction over criminal cases against persons in military service. Judges are appointed for life and cannot be removed "unless by way of criminal sentence or disciplinary punishment." Trials are public, except where publicity is felt to be "prejudicial to peace and order, or to the main-

tenance of public morality." Pursuant to a law of 1923 the jury system was instituted in 1929 in criminal cases in the district courts. The opinion is growing among jurists that the experiment has been a failure and that the jury system does not harmonize with Japanese traditions.

For the purpose of local administration, Japan (exclusive of Formosa, Korea and Sakhalin) is divided into forty-six prefectures. Within the prefectures are 101 cities, 1485 towns, 10,494 villages. In addition there is the territory of Hokkaido, which administratively is not very different from a prefecture. The whole system is characterized by strong centralization. Each prefecture has a governor, who is appointed and controlled by the central government and who often resigns with the cabinet. Its legislature consists of an assembly and a council. The former consists of at least thirty members elected by male citizens over twenty-five years of age. It has no initiative but deliberates upon the budget and other matters submitted to it by the governor. The council consists of the governor, two high officials of the prefecture and seven to ten members elected by and from the members of the assembly. The council deliberates upon matters delegated from the assembly and advises the governor on various other matters.

The chief executive or mayor of each city is appointed by the central government from among three candidates nominated by the city assembly. His administration is subject to the supervision of the prefectural governor and indirectly to that of the minister of home affairs. The city legislature consists of an assembly elected by male citizens over twenty-five years of age and a council composed of the mayor, high officials of the city and from six to twelve councilors elected by and from the members of the city assembly. Town and village governments are organized in almost the same way as city governments.

KIYOSHI K. KAWAKAMI

See: LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL; FEUDALISM; FAR EASTERN PROBLEM; MANCHURIAN PROBLEM.

**CHINA.** The government of the Chinese Republic is a dictatorship compounded of elements which have survived from the ancient empire and others borrowed from the democratic republics of the West and the Soviet system of Russia. Of the surviving imperial elements in the present Chinese government three are of outstanding importance. The first is the system

of local government. Under this system a large measure of power is reserved for the chosen leaders of the people in the villages and cities. The authority of the local leaders depends in turn upon that of the heads of families, who under the Chinese patriarchal system were the ultimate depositories of power. This system of local self-government has not yet been destroyed by the revolution, although the revolutionary leaders are trying to replace it by a modern system of local self-government borrowed from the West. The second element derived from the ancient empire is the system of recruiting the officers of the provincial and central governments. Although the time honored competitive examinations for entrance into the government service were abolished a quarter of a century ago, the popular preference for educated men in public office continues and under the present revolutionary government operates strongly in favor of men who have received a modern education either in China or abroad. It was this class of men who finally gained control of the central government through the triumph of the Nationalist armies in 1928 and organized the new government at Nanking. The third of the ancient elements in the present political system is the profound respect for a personal symbol of political unity. Since there is now no emperor to command the allegiance of the people, Chinese revolutionists pay homage to the spirit of their late leader, Dr. Sun Yat-sen, and the people at large are learning to do the same. Thus the political ideals which Dr. Sun taught give the new Chinese nationalism the moral force by which it has become the dominant power in the land, and his program of political reconstruction tends to become the essence of the new republican constitution.

Dr. Sun's political ideals are summarized in the famous "three principles of the people," nationalism, democracy and what for lack of a better word is often translated as livelihood. What Dr. Sun seems to have meant was a social and industrial as well as political democracy. He did not expect to put all these principles into effect immediately. He believed that it would take time to train the people for the performance of the duties of citizenship in a democratic republic and also to educate their leaders in the duties of democratic statesmanship. Meanwhile the revolutionists should seize power by force if necessary and utilize the authority thus won to carry on the educational functions of the revolution. Hence the revolutionary process

would fall into three periods: military operations, political tutelage and constitutional government. The first period theoretically came to an end with the capture of Peking in 1928. Dissensions among the revolutionary generals have in fact prolonged the civil war. The adoption of the organic law of October 4, 1928, may perhaps be regarded as the first harbinger of the period of tutelage. Another step toward the substitution of a pacific for a military dictatorship was the adoption of a provisional constitution by the National Convention of the People of China, convened by the revolutionary government at Nanking in May, 1931. The institutions which Dr. Sun forecast for the period of constitutional government have not yet been set up, but the promise of their establishment is doubtless a source of strength to the present rulers of the country. Since 1928 the central government of China has been the government established in the name of the Nationalist party, or Kuomintang, by the revolutionary leaders at Nanking, and any adequate description of that government must begin with a description of the government of the party in whose name the dictatorship is operated.

The Nationalist party was created to serve as the instrument of the revolutionists at the beginning of the revolution twenty years ago, but its present constitution dates from the period of Russian influence at Canton beginning in 1923. At that time the party was reorganized upon the Communist model and every effort was exerted to make the party system strong enough to sustain the burden of the dictatorship, as in Soviet Russia. The highest organ of the party is the National Convention of Delegates, or Party Congress, which is designed to represent the members of the party in all parts of the world and to meet once in two years. It has actually met only three times, twice in Canton, in 1924 and 1926, and once in Nanking in 1929. At the last meeting there were three hundred and sixty-six delegates, of whom eighty odd were representatives of military units and nearly as many others were representatives of overseas units. The Party Congress chooses a Central Executive Committee and a Central Supervisory Committee, or Control Committee, which have powers similar to those of the corresponding committees in the Russian Communist party. The party constitution provides that the Central Executive Committee shall meet at least once every six months. In the years from 1926 to 1930 it held nine plenary sessions. This com-

mittee chooses a standing committee of from five to nine members with power to act for it during the intervals between its sessions. The Standing Committee meets once or twice a week and is the most powerful body in the national government. It seems to have been designed to occupy a position similar to that of the Political Bureau of the Central Executive Committee of the Communist party at Moscow. But the local organizations of the Nationalist party have not struck root among the industrial masses, as the Communist locals have in Russia, and the dominant influences in the local organizations are exerted by the intelligentsia and the middle classes rather than the proletariat.

The formal structure of the national government at Nanking rests upon that of the party. The most important organ of government is the Central Political Council, consisting of the members of the Central Executive and Supervisory committees, together with other prominent party leaders whom it may add to its membership. This council has the power to interpret or amend the organic act and in general to direct the policy of the central government and to choose the principal executive officers. The principal agencies of government are the State Council, consisting of twelve to sixteen members, and the five yuan. The Executive Yuan contains the administrative departments of the central government. All the principal ministers attend its meetings. The Legislative Yuan consists of a president and vice president together with from forty-nine to ninety-nine members appointed for a two-year term by the Political Council and has power to enact such measures, subject to approval by the State Council, as are not enacted by the Political Council and the Party Congress. The Judicial Yuan is the highest judicial organ of the national government. The Control Yuan was designed to audit public accounts and when necessary to impeach public officers, and the Examination Yuan was designed to test the qualifications of candidates for public office. The presidents and vice presidents of the Yuan are ex officio members of the State Council. The president of the State Council is the chief executive of the republic. He and the other members are ex officio members also of the Central Political Council. The most influential of them are likewise as a rule members of the Standing Committee of the Central Executive Committee of the party. Thus the Chinese central government, although complex, is under the control of a small group of men. It is

a political system which might be consistent with either a military or a party dictatorship.

The National Convention of the People, held in May, 1931, represented an attempt to strengthen the dictatorship by increasing the force of opinion behind the party. It was composed of 520 delegates, of whom 450 represented the provinces of China proper and the rest the principal cities within the provinces, Mongolia, Tibet and the Chinese abroad. The delegates were chosen by the peasants' unions, labor unions, the chambers of commerce, the guilds and other industrial and professional organizations, the educational institutions and the party itself. The delegates of the party were in a minority. The task of the convention was primarily to frame a provisional constitution which would define the relations between the party and the people during the period of tutelage in accordance with Dr. Sun's program of reconstruction. There were evidently great difficulties in the way. The unification of the country was only a recent and precarious achievement. The relations between the central government and the provincial governments had not been clearly defined. The authority of the central government in the provinces remained uncertain. Dissensions within the Nationalist party threatened the stability of the government at Nanking. The international settlement at Shanghai and the concessions of several powers in the leading treaty ports as well as the special privileges of the Russians and Japanese in Manchuria abridged the freedom of action of the Chinese government and impaired the administrative integrity of the country. But the Nationalist leaders maintained their confidence in the potential political capacity of the Chinese people.

The provisional constitution of 1931 confirmed the political arrangements which had already been adopted by the Nationalist party. It strengthened somewhat, at least on paper, the position of the president of the State Council, Chiang Kai-shek, who was also commander in chief of the Nationalist army, but for the most part left the existing institutions unaltered. It defined the powers of the central government, determined the relations between the government and the party and added a bill of rights for the people, but made no effective provision for securing popular rights against executive encroachment. Nor did it bring about any immediate alteration in the relations between the central government and those of the provinces and out-

lying dependencies. Most of the provinces continued under the control of military leaders whose allegiance to Nanking remained uncertain. Some were openly defiant. The authority of the central government over the Manchurian provinces and the outlying territories of Mongolia, Chinese Turkestan and Tibet was still more dubious. In Outer Mongolia a Soviet republic, established in 1921 under Russian influence, held sway and in Chinese Turkestan also Russian influences seemed paramount. In short, the unity of the republic was a legal fiction, better recognized by the powers than by many of those nominally subject to its jurisdiction. Such was the political state of China twenty years after the beginning of the revolution. Nevertheless, the revolutionary leaders professed not to be discouraged. They pointed out that similar periods of confusion had accompanied changes of dynasty in the past, and asserted that no less was to be expected in pursuance of so great a change as is involved in the transition from the ancient empire to the modern state.

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**GOVERNMENT EMPLOYMENT.** See PUBLIC EMPLOYMENT.

**GOVERNMENT OWNED CORPORATIONS** are an adaptation of the corporate form of organization to the problems involved in the control and administration of economic enterprises owned wholly or in part by governmental entities. The corporate device has been borrowed and applied to a wide range of economic functions to which national and local governments have wished to apply the advantages of business management while at the same time subordinating the profit motive to public purposes.

Ownership and control of government owned corporations have taken three principal forms. In the United States and in Great Britain outright government ownership of all outstanding capital stock, or at least of all securities giving participation in control, and responsibility by the directors and managers of the corporation only to the government have predominated. The state trusts set up by the Union of Soviet Socialist Republics for the conduct of major industrial and commercial undertakings are similarly under complete governmental control. Secondly, in a limited number of cases governments own all or large blocks of the capital of enterprises which are leased to private operators. A third form,

especially common in Germany and France, is the so-called mixed corporation. Stock ownership and control of the mixed corporation is divided between one or more governmental entities and a private group or individual.

Governmental instrumentalities and procedures designed primarily to secure the preservation of internal peace and defense against external aggression remained for long largely unchanged, although as a result of the drastic economic reorganization of the past century governments have gradually acquired new and complex economic functions. Thus the postal service of the United States was organized along departmental lines and modeled after the departments of State, War and Navy; while in the cities of Europe government activity in the supplying of hospitals, playgrounds or municipal trading enterprises was assimilated to already existing forms of governmental organization. The disadvantages of this method of handling an ever multiplying number of economic activities soon became evident. Governmental administrative mechanisms, including those relating to methods of doing business, contracts, accounting and the selection of personnel, were intended primarily to assure the orderly conduct of routine affairs and to prevent laxity in the use of public funds. They did not lend themselves well to enterprises where flexibility and continuity were of prime importance. In many cases funds for such enterprises were subject to the vicissitudes of annual appropriation bills. Especially in the United States the economic services, like the routine departments, were subject to sudden upsets upon every change of administration, thus giving little opportunity for the development of permanent policies and of effective interrelations with non-governmental economic enterprises. The government owned corporation is one of the most recent devices for solving these difficulties. In the countries of central Europe, where municipalization of essential economic services was well under way before 1914, the difficulties had been largely overcome by such devices as the creation of autonomous departments to administer each enterprise as well as by the strengthening of the tradition of a permanent civil service. Consequently the government owned corporation has played a somewhat different part in Germany than in France or in England, where the extension of government ownership had been hindered by fears of governmental inefficiency.

A distinction must be made between the mod-

ern use of the government owned corporation and the governmental participation in corporate enterprises which occurred in most countries during the first stages of industrialization. In the United States the national government was a stockholder in the short lived first and second banks of the United States, while popular pressure for inland transportation facilities induced state governments to organize or to buy stock in canal and railroad companies and in some cases to undertake their operation. Most of the railroad systems of the world were built with the aid of large government subsidies, often in the form of stock ownership. But such ownership was not used for purposes of control; where, as in France, charters of concession contained definite stipulations as to methods of operation, it was general policy and not the fact of government participation which dictated such regulations. As private funds for capitalistic development became available, such use of public funds was abandoned. Extensive application of corporate forms to government economic services did not take place until after the development of electrical utilities and the beginnings of governmental intervention to stabilize national supplies of credit.

The establishment of central banking systems by the leading countries was attended almost without exception by some degree of governmental participation in capital ownership and in the management of organizations, which in many cases were created along corporate lines. It must be realized, however, that actual government ownership of banking corporations is rare and in the case of central banks in a sense fortuitous. Since the eighteenth century banking has been recognized as a public function and governments have not hesitated to regulate and to exercise considerable control, to the extent of appointing the board of directors, over institutions which remain privately owned. Such cases of government participation in the stock ownership of banks as have occurred were due largely to fear of inadequate sources of private capital. It was fear of such a contingency which led in the United States to the provision in the Federal Reserve Act of 1913 that the federal government could subscribe as much capital as necessary should there be a dearth of private subscriptions. The necessity did not arise; but as a result of a similar provision in the 1917 act creating the Federal Land Bank system the government took and held for about two years, until it could be disposed of to private organizations, almost

\$10,000,000 worth of stock. With a somewhat different purpose the federal government subscribed and continues to own the entire capital stock of the twelve Federal Intermediate Credit Banks established in 1923 to extend credit to agricultural cooperatives. The Commonwealth Bank of Australia was organized without share capital and is entirely controlled by the government. There are a few examples of government owned corporations in the banking field in Europe. The German states operate state banks; the only one of importance is that of Prussia, the *Seehandlung*. The municipal savings banks in Germany are operated under the corporate form; in Austria, on the other hand, savings banks may not be organized as joint stock or limited liability companies and must be set up as special institutes. The emergency situation in Germany in 1931 resulted in the government's taking over of shares of the distressed *Darmstädter und Nationalbank* and of the *Dresdner Bank*. In February, 1932, the two banks were merged into a new corporation called the *Dresdner Bank*, with capital stock of 220,000,000 marks, of which the Reich owns 150,000,000 and the *Reichsbank* 48,000,000. The Reich also owns more than half of the capital stock of the new *Kommerz- und Privatbank*. It is too soon to estimate the effect of this experiment on German banking practice, but it will probably have definite long run results.

The mixed corporation first developed in Germany in the period between 1900 and 1910 as a defensive weapon of the municipalities against the encroachments of the rapidly growing private utility companies. The most notable early case was that of the *Rheinisch-Westphalische Elektrizitätswerk A.-G. (R.W.E.)*, which, organized in 1898 and backed by *Stinnes* and *Thyssen*, was gradually establishing a network of production units and distribution lines throughout the entire Rhine-Westphalia basin. In face of this danger the municipalities of the region during the years 1906 to 1908 began to join together, sometimes with private competitors of the R.W.E., in the formation of corporations which could set up a rival distribution network. The ensuing conflict was terminated in 1908 with the intervention of the federal government and the signing of a contract whereby the various municipalities and provincial governments bought shares in the R.W.E. When in 1910 the capital of the corporation was expanded from thirty to thirty-eight million marks, the municipal and provincial governments largely covered

the new subscription. In 1912 these public bodies together held about one third of the capital of the corporation but elected fourteen out of the twenty-four members of the board of directors. Since the World War government agencies have come to own more than one half of the stock and definitely to control the policy of the company. A similar development occurred in the case of the company supplying water to the Westphalian district, in the cases of the electricity company of Hamburg and other public utility companies. In 1914 seventy-five German cities reported their interest in ninety-one mixed companies, chiefly in the fields of water distribution, gas, electricity and tramways. Since the war the Reich has begun to participate in mixed companies, particularly for the creation of large electricity networks. By 1930 about one third of the electricity supply in Germany was produced by mixed companies. Although there is wide diversity as to the amount of stock held and the degree of control exercised by public bodies in such corporations, the tendency is toward an ever increasing degree of government ownership. Indeed the mixed corporation is looked upon in many quarters as an important means of securing the representation of public interests in industries started by private capitalists—a method of socialization supplementary to direct government ownership.

Outside Germany the use of the mixed corporation although entirely a post-war development has grown to important proportions in a number of countries. In Austria the law of 1919 regulating public utilities gave the government the right to demand participation in stock ownership up to one half of the total before issuing charters or granting permission for additions to the capital of existing companies. By 1928 the city of Vienna owned stock in sixty-six mixed enterprises, chiefly in the fields of electricity and construction. Some examples of mixed companies are to be found in Hungary, Czechoslovakia and Holland. In Italy too there are numerous mixed companies, but as yet there is no general law covering their creation and special permissive legislation must be secured in each case. In France there was widespread discussion of the merits of the mixed company immediately after the war. In spite of the existence of a strong socialist movement government ownership had never become important in France, largely because of fear of administrative inefficiency. When it became evident that private enterprise alone would be inadequate to meet reconstruc-

tion needs, the mixed company was seized upon as a safe method of government participation. In 1919 and 1921 several large mixed companies were formed for the exploitation of water power resources and in 1926 a law was passed which laid down general rules for the participation of communes in private companies. As supplemented by a decree of February 17, 1930, the law provides that a commune can hold no more than 40 percent of the capital of a private company, although even if it owns only bonds it has a right to a representative on the board of directors. This provision is partly intended to prevent the communes from circumventing the rigid laws limiting their functions; it indicates also the continuance of a fear of complete government ownership.

In England there are a few special examples of mixed corporations; the most important is the Anglo-Persian Oil Company, in which the state now holds the majority of the voting stock, a control acquired by reason of special circumstances rather than because of plan. In the Central Electricity Board, to which is entrusted the unification of the distribution of electric power, England has developed a rather special kind of government corporation. Created by an act of 1926, the board is in the eyes of the law not a government administrative body but a statutory electricity undertaker. Its eight members are appointed by the minister of Transport but are legally responsible to the courts rather than to the ministry; the board has raised money by issuing stock to the public under the guaranty of the national Treasury. The British Broadcasting Company likewise is a specially constituted non-profit making corporation; it has no capital in the ordinary sense; it derives its revenue from licenses and its direction is under the supervision of the postmaster general. A better known case of government owned corporation is the Canadian National Railways. As early as 1913 the Canadian government had had to come to the aid of the Canadian Northern railroad system, in return for which it received \$40,000,000 of the \$100,000,000 of common stock and the right to appoint one director. Continued defaults and failures finally led to the creation in 1923 of the Canadian National Railways company to operate the various roads acquired by the government.

On the continent the corporation in which all stock is held by the government has developed to a position of some importance. In Germany its use originated during the war, when some

of the municipalities found it desirable to participate with private capital in the organization of the food supply or other services not already in their hands. After the war the municipalities gradually took over all the stock in such companies and continued to operate the services under the corporate form. The corporate form has also been found useful as a means of grouping several municipalities or local governmental units into a common enterprise. A similar development is taking place on a more limited scale in Hungary and Holland. In Belgium the housing shortage after the war led to the setting up of a central credit bureau, the Société Nationale des Habitations à Bon Marché, a public corporation with all its shares owned by the state. In general, however, the public housing activities carried on in Europe since the war have been administered either directly by municipal or provincial departments or by limited dividend and cooperative corporations under strict government supervision. Indeed the use of the government owned corporation in Europe is likely to be limited by the existence of other well established methods of socialization.

The experience of Soviet Russia with the "trust" throws light on the possible importance of the government owned corporation in a socialized economy. With the introduction of the NEP in 1921 one industry after another was freed from strict central control and organized into trusts, consisting of a number of factories grouped together and administered by a board appointed by the All-Union Supreme Economic Council (Vsesenka) in consultation with the trade union concerned. Such trusts were created by charter and given legal status as trustees of the state. They have no share capital, their annual program of production is definitely determined by the central planning groups, and under certain conditions maximum prices may be fixed for their products; but in the matter of contracts of sale and purchase, wage agreements and similar matters they act freely as commercial enterprises. Indeed their function in the early years was to permit greater freedom of operation in a more or less free market by autonomous entities operating on a profit and loss basis. Of more temporary significance is the use of mixed companies largely as a device to secure the aid of the credit facilities of foreign firms. The general practise in 1931 was that a trading concession would be granted to a mixed company the shares of which were held half by the People's Commissariat of Trade, who ap-

pointed the chairman of the board of directors of the company, and half by a foreign firm, which appointed the managing director. Profits were equally divided between the two parties. Licenses to trade were granted to such companies on the basis of general plans for the development of foreign trade.

In the United States the development of government corporations was a result of wartime necessities and has never become a definite policy. Beginning in 1914 efforts to stimulate the development of the United States merchant marine had included projects for governmental subscription to the capital stock of a corporation "to purchase, construct, equip, maintain, and operate merchant vessels." The formation of such a corporation was viewed as a temporary device to remain in existence until private enterprise had taken over its field of activity. The Shipping Act of 1916 authorized the United States Shipping Board to form one or more corporations for this purpose and to subscribe not less than a majority of their capital stock. Immediately after the declaration of war against Germany the board proceeded to establish the United States Shipping Board Emergency Fleet Corporation, whose entire capital except for qualifying shares for the trustees was retained by the Shipping Board. This, the first of the wartime government owned corporations, was rapidly followed by a series of others created under specific congressional authorization or under emergency powers vested in the executive. To assure the effective administration and financing of urgent credit, distributive and industrial enterprises the federal government established the United States Grain Corporation to buy and sell wheat and other commodities; the War Finance Corporation to provide additional credit for industrial and agricultural operations; the Sugar Equalization Board to stabilize the price of sugar; the United States Housing Corporation to construct dwellings in war activity centers; the Spruce Production Corporation to produce aircraft materials; and the Russian Bureau, Inc., to give economic assistance to anti-Bolshevik operations in Russia. The entire capital stock and exclusive control of each of these corporations were retained by the federal government, even though the War Finance Corporation was financed largely by the sale of bonds and the Spruce Production Corporation in part through the sale of debentures to foreign governments.

The wartime corporations, which were re-



garded as temporary in character, were for the most part gradually liquidated after the Armistice. The Shipping Board was continued in existence. Under the Merchant Marine Act of 1920 the name of the Emergency Fleet Corporation was changed to the Merchant Fleet Corporation and it was given the function of operating those ships which the Shipping Board could not immediately sell to private groups and of establishing new shipping routes. On December 30, 1930, the Merchant Fleet Corporation still owned and operated 433 ships; but the intention of the government is to transfer the entire merchant marine to private interests as quickly as possible. The federal government also continued to retain the corporate form of the Panama Railroad Company, which had been purchased in 1905 in connection with the construction of the Panama Canal. Two new corporate enterprises were established in the post-war decade: the Federal Intermediate Credit Banks already mentioned and in 1924 the Inland Waterways Corporation, a reorganization of the federal inland waterways services, with full government ownership of its stock. A temporary and emergency revival of the use of the corporate form occurred in 1932 with the creation of the completely government owned Reconstruction Finance Corporation. In contrast with the short lived character of the federal government owned corporations the city of Boston acquired the privately owned rapid transit lines in its metropolitan area and modified the former private corporation into a government corporation directed by a board of trustees.

Ideally the adoption of the corporate form for the operation of government owned economic services implies almost complete divorce from the ordinary administrative organization of the government and the delegation of virtual autonomy to the directors or trustees of the corporation. This goal has been largely attained in the Central Electricity Supply Board of Great Britain, the British Broadcasting Company, the Canadian National Railways, the Boston Elevated Railway Company and the German mixed corporations. In France governmental control over the mixed corporations is intensive, even though municipalities own only minority interests. The administration of the federal government owned corporations in the United States, except for those created to extend financial credit for emergency periods, has remained closely linked to other governmental departments and their directors have been allowed little or no

independent discretion. Even in the United States, however, the federal corporations have been allowed some latitude in the handling of their accounts, in entering into contracts and in borrowing funds as well as in the selection of personnel without regard to the civil service laws applicable to other governmental agencies. Government owned corporations also have in one respect a legal status similar to that of private corporations in that generally speaking suits can be brought against them in the same manner as against private corporations. This is of more importance in the United States than in the European countries with their well developed systems of administrative law. On the other hand, thus far the United States has repeatedly refused to permit the assessment of state or local taxes against property held by the government owned corporations. A slight modification of this policy became evident in the bills to establish a corporation to operate the government electrical plants at Muscle Shoals passed by Congress in 1931, which proposed the payment of a specified annual sum to the two states, Alabama and Tennessee, directly interested in the property, in lieu of taxation by the states. In other countries there has been wide variation in tax policies. In England, Germany and Austria not only government owned corporations but enterprises run by autonomous departments of the municipal governments are subject to certain although not all of the federal taxes. Mixed corporations are subject to taxation generally. A use of the government owned corporation by municipalities or local governments might change the situation.

Despite the apparently successful functioning of corporations owned wholly or in part by governments there has been surprisingly little serious experimentation with the device in the United States. There are many services—such as the postal establishment, the Government Printing Office, various public works organizations, the Forest Service and the Boulder Dam project—which would apparently lend themselves to corporate management. The corporate form as a permanent method of administering important economic functions has been twice approved by the Congress of the United States in bills passed in 1928 and in 1931 for the operation of the Muscle Shoals project. These bills were, however, defeated by presidential vetoes. But there is gradually developing among widely diverse groups an appreciation of the advantages of government owned corporations; it is also coming to be realized that the adoption of the

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corporate device is of small advantage unless the establishment of government owned corporations is attended by the formulation of and adherence to definitely conceived long range economic policies.

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See: CORPORATION; GOVERNMENT OWNERSHIP; GOVERNMENT REGULATION OF INDUSTRY; SOCIALIZATION; NATIONAL ECONOMIC PLANNING; GOSPLAN; WAR ECONOMICS; PUBLIC UTILITIES.

Consult: Passow, Richard, *Die gemischt-privaten und öffentlichen Unternehmungen auf dem Gebiete der Elektrizitäts- und Gasversorgung und des Strassenbahnwesens*, Beiträge zur Lehre von den Industriellen, Handels- und Verkehrsunternehmungen, vol. viii (2nd ed. Jena 1923); Wiedenfeld, Kurt, "Wesen und Bedeutung der gemischt-wirtschaftlichen Unternehmung" in *Schmollers Jahrbuch*, vol. lv (1931) 439-56; Verein für Sozialpolitik, *Moderne Organisationsformen der öffentlichen Unternehmungen*, ed. by Julius Landmann, pt. 2, Schriften, vol. clxxvi (Munich 1931); Prenzel, Richard, *Die gemischt-wirtschaftlichen Unternehmungen und das Handelsrecht* (Berlin 1916); Gerber, Walter, *Die öffentliche Unternehmung in privatrechtlicher Form*, Züricher volkswirtschaftliche Forschungen, vol. xiii (Zürich 1928); Sigloch, Gerhard, *Die Unternehmungen der öffentlichen Hand, Organisationsrecht und Steuerrecht*, Wirtschaftsrechtliche Abhandlungen, vol. v (Mannheim 1920); Chéron, Albert, *De l'actionnariat des collectivités publiques* (Paris 1928); Félix, Maurice, "Les entreprises ou services municipaux et intermunicipaux de nature mixte en France," and Delius, Walter, "Les entreprises communales de nature mixte" in *Administration locale*, vol. liii (1930) 938-65, and vol. liv (1930) 1011-31; Allata, Alberto, *La compartecipazione statale nelle imprese private* (Rome 1923); Burns, Emile, *Russia's Productive System* (London 1930); Van Dorn, H. A., *Government Owned Corporations* (New York 1926).

GOVERNMENT OWNERSHIP of instruments of economic activity has characterized in some degree most of the economic systems of the world. Government enterprise was responsible for much of the building of antiquity; the manufacture of luxury articles as well as the provision of public works was frequently undertaken by early governments. Until the nineteenth century government ownership of certain instruments of production was as little questioned as was the necessity for government regulation of the forms of economic activity. The temporary dominance of the laissez faire philosophy both obscured the extent of government ownership and established a belief in its exceptional character in a capitalist system. Beginning with the last quarter of the nineteenth century, however, a new trend toward increased governmental activity set in. Only in Soviet Russia do government ownership and operation of the

means of production and distribution constitute the basis of the entire economic system, but even within the framework of the capitalist economy government ownership has come to occupy an increasingly important position. This position is in many cases so taken for granted that in general argument as to the merits of government ownership now arises only when its extension into fields formerly reserved for private enterprise is proposed.

While the claim that the entire enterprise of government itself should be considered as an example of public ownership is based on too broad a conception of the latter term, it is true that many of the services performed by national governments and their subdivisions would necessarily be performed by private agencies upon a commercial basis if they were not offered as public services. Even the work done by armies, navies and police has economic aspects, while that of fire departments and post offices and even more that involved in the building and maintenance of roads, bridges, parks, river and harbor improvements or public schools, colleges and libraries are economic in character. An increasing number of the special services of modern governments while they cover a wider field than could well be organized by private enterprise are essentially economic in character. Such is true of a great proportion of the work performed in the United States; for example, by the Weather Bureau, the Coast and Geodetic Survey, the Lighthouse Service, the Coast Guard, the Geological Survey, the Reclamation Service, the Bureau of Foreign and Domestic Commerce, the Department of Agriculture, the Bureau of Standards, the Forest Service and the Government Printing Office.

There are indeed few lines of economic activity which have not been undertaken by some branch of government in some part of the world. A list of enterprises in which central or local governments have engaged within recent years would perforce include abattoirs, alcoholic beverages (production and sale), arsenals, art wares (including tapestries, china, porcelain and prints), automobile filling stations, bakeries, banks, baths, bill posting services, brickyards, cables, camphor production, canals, cemeteries and crematories, cold storage plants, clothing factories, drug stores, electric light and power plants, farms, ferries, fuel yards, funeral management services, gas plants, gambling houses, grain elevators and mills, gunpowder production, harness factories, heating plants, hotels, hospitals, hous-

ing projects, ice plants, insurance projects of many kinds, ironworks, land, laundries, lotteries, markets, match industry, medical and dental clinics, milk supply, mines and quarries (coal, iron, gold, salt, chalk, stone and emerald), museums, oil wells, omnibus service, opium production, pawnshops, picture galleries, radio stations and broadcasting, railroads, recreational facilities (from golf courses to bull rings), research laboratories, restaurants, rubber plantations, spas, sewers, steamships, street railways, street paving and repairing plants, terminals, theaters and moving picture houses, tourist bureaus, telegraph and telephone systems, tobacco manufacture and sales, vineyards, waterworks and woolen mills.

In spite of the formidable diversity of this list government ownership is concentrated in certain fields. Some of the activities mentioned are represented by unique cases or by a few rare examples, such as the rubber plantations of Java, the camphor monopoly of Japan, the state vineyards of Prussia and Austria and the municipal vineyard and rathskeller of Frankfort on the Main. But for many of the categories government enterprise is the rule throughout most of the world. Thus more than one third of the railroad mileage of the world is publicly owned. In the United States, which accounts for approximately one third of the world's mileage, public ownership and operation of railroads are a negligible factor represented by one federally owned Alaskan line of something over five hundred miles, a few city belt lines and two very short roads operated by the Reclamation Service; in addition a number of the states and the city of Cincinnati own short lines which are leased to private operators. With the United States excluded, considerably over one half of the remaining railroad mileage of the world is under public ownership. In the case of telegraph systems almost every country of major importance in the world with the exception of the United States, China, Venezuela and Ecuador is committed to government ownership and operation, and government monopoly in the field of telephone service is only slightly less universal. The ownership and operation of sewage disposal systems are so much an accepted function of local government that certain private sewage systems in Texas, Argentina and Chile are commonly cited as economic curiosities. The publications of central and local government printing offices bulk large everywhere; and the Government Printing Office in Washington, D. C., is

probably the largest printing and publishing establishment in the world. City ownership of such municipal utilities as water supply systems, street railways and electric light and power plants is very common in all lands and either rivals or surpasses in magnitude private ownership in these fields. The ownership of banking and insurance facilities has been an important governmental function in European countries; and of recent years government housing projects have multiplied rapidly, particularly in England, Germany and Austria.

Even this brief review of the scope of public ownership must indicate the impossibility of formulating any neat generalization to explain adequately such a diversity of departures from free private enterprise. To a large extent one must consider each case as a particular instance. There are, however, certain general explanations for the existence of different types of government enterprise which are frequently cited and which do undoubtedly have some validity. Thus it is often urged that there is a logical case for governments to own and operate projects which turn out products that they themselves consume; such would be the arsenals operated by federal governments or the street repairing plants operated by many municipalities.

Another general contention is that governments without hostility to the principle of private enterprise may enter into the ownership of projects which furnish goods or services to the citizen consumer under a variety of extraordinary circumstances. The following are illustrative.

Governments have been moved to direct ownership where a project is of great importance to community welfare but private capital is not readily available for its undertaking. Such a condition might occur because of the scarcity of capital, the magnitude of the project or because the enterprise was not one which promised a sufficient or a sufficiently immediate return to make it attractive in the current market. Thus scarcity of capital might be offered as an explanation of many of the public enterprises in regions like India and Australasia; in such cases, however, government ownership may be little more than a method of guaranteeing security to foreign capital. Even in countries more developed industrially there are numerous enterprises, such as river and harbor improvement, ocean mapping, flood control, weather forecasting and many others, which are so difficult to adapt to profit making that they are attempted

either under government auspices or not at all. In many cases governments have taken over transit systems or other enterprises started by private capital which have proved unprofitable but which have seemed too valuable for the community to forego. Such government ownership by default while it results in adverse balances in the budget may lead to a considerable extension of government activity.

Governments may engage directly in enterprises where the exhaustion of resources which are impossible or difficult to reproduce threatens the welfare of future generations. Such a motivation is generally accepted as that which has led most of the nations of the world into a greater or less degree of preoccupation with forestry projects and with the founding and maintenance of public parks. Such projects involve also an element of long time investment needs which only governments will undertake to satisfy. The agitation which has arisen in recent years for the nationalization of the production of such wasting commodities as coal and oil has also been based in some measure upon the contention of a special need for conservation which private enterprise is not able to provide.

Government ownership may be assumed for purposes of military or political strategy. Such a consideration was at least one of the important motivations behind the building of the Panama Canal. Many railroads have been built by governments interested in their own safety, in unification or in imperialistic expansion.

The not uncommon government monopolies of tobacco and matches are to be explained largely as fiscal measures—attempts to find sources of public revenue other than taxation.

Government enterprise in certain fields has been justified on the ground that there was need of discouraging rather than promoting the use of the commodities involved. This is the chief explanation offered for the provincial control of the liquor industry practised in Canada. Other governments also have instituted public monopolies for alcoholic beverages and narcotics with the avowed purpose of encouraging restraint as well as gaining revenue.

Government ownership is urged as desirable or essential in certain fields where it is felt that profit making motives might lead to practices harmful to the public. A favorite example is community water supply, where the assurance of purity from contamination is of vital importance. But there are also industries in which competition works to the disadvantage of the

entrepreneur as well as of the consumer. In the United States since the World War it has been urged that in both the bituminous coal and oil industries there is a genuine necessity for government enterprise because of the waste and widespread bankruptcy resulting from competition.

It has long been appreciated that there are certain enterprises which are peculiarly ill adapted to organization through the workings of vigorous competition. Such industries as they are recognized come to be regarded as public utilities or are declared to be affected with a public interest. Since the ordinary safeguards are ineffective in these cases it becomes necessary to provide for them special machinery of control. Such machinery may take the form of regulation by government departments or by specially appointed commissions; or it may consist of direct assumption by a governmental agency of the ownership and operation of the enterprise either upon a monopoly basis or in competition with the private agencies remaining in the field. In the latter case it is assumed that the government enterprise will determine a plane of competition which must be met by the private enterprises if they hope to remain in business.

While the bulk of public ownership projects are explained and justified on one or more of these theoretical grounds, it is very difficult to be certain that the explanations are in any specific case actually the efficient causes of the collective action and not merely sufficient reasons for it. It is easy, for example, to explain that the public ownership of railroads which is so generally accepted in Germany, Austria, Hungary, Italy, Mexico, Japan, the British East Indies and Australasia was adopted there because of the peculiar importance of land transportation to all other economic enterprises, because the railroad industry is of necessity more or less monopolistic and because of the huge sums of capital which it requires. But immediately one is confronted with the fact that in Great Britain, Spain and the United States there is an all but complete reliance upon private ownership, while France, Canada and Argentina serve as representative examples of countries in which but a small fraction of the railroad mileage is publicly owned. In certain parts of the United States privately hired and privately paid police perform many of the functions which elsewhere are regarded as untransferable prerogatives of state agencies. Examples of private toll collecting highways, bridges and particularly ferries are far from rare.

In short, it is not safe to assume that reasons which are accepted as decisive in determining the public operation of an enterprise in one jurisdiction will be accepted as such in another. Rather it would seem that the question of whether or not an enterprise should be organized by public or private agencies is settled generally through the play of bargaining strengths of entrepreneurs, workers and consumers and by the turn of rival political fortunes within a given community. When historical chance has entrenched either public or private enterprise in a given field, then the theoretical justification for the action is developed and added as an academic accolade. Once established and justified in the public mind, either private or public ownership is generally accepted as right or even inevitable and any suggestion for change must run the gauntlet of a storm of popular protest.

Nevertheless, in a general way it is possible to trace certain almost world wide trends; a trend toward uncontrolled free private enterprise from the breakdown of mercantilism until the last quarter of the nineteenth century; and from the latter date until the outbreak of the World War an increasingly emphatic movement toward the limitation of free private enterprise in many fields, one manifestation of which was a growing amount of direct government participation in industrial pursuits. The animus of such government activity has varied from country to country and period to period. At the beginning of the twentieth century it was in many cases advocated and opposed as a step toward complete state ownership of all the means of production. In the period before the World War, however, the important manifestations of government ownership were almost entirely in the field of municipal ownership, or municipal trading as it was called in Great Britain, and the movement toward municipalization proceeded quite independently of the spread of theories of state socialism.

The reaction toward government ownership came first in the cities of Germany. Mediaeval traditions of communal landownership had never entirely disappeared in Germany and were quickly revived; by the middle of the nineteenth century many cities and towns had embarked upon successful programs of land utilization. The supplying of gas and water was often taken over by a town in connection with the lighting of the streets or the maintenance of a fire department. The movement toward government ownership was fostered by Bismarck; it obtained

the support of certain leaders of the growing Social Democratic party, the condemnation of others, who feared its association with the policies of the monarchy. But it was not so much theoretical support as evidence of profitable achievement which led to an ever wider extension of government activities. By the end of the nineteenth century city waterworks had become common; thereafter municipalization successively came to include slaughterhouses, gas works, electric power stations, street railways and in the post-war period the distribution of milk and other staples. At the present time the great majority of the public utilities of the country are owned and operated by the municipalities in which they function. Municipal ownership in Germany has gone far beyond what are ordinarily regarded as utilities—transit and the supply of gas and electricity; it involves vast housing projects, markets, production of raw materials or food products, municipal banks and insurance funds. The efficient operation of such projects has been aided by the fact that there are few restrictions placed upon municipalities by state or federal governments. Although the cities have been the most active of governmental units in engaging in such enterprises, the present German constitution authorizes direct participation in economic affairs by the Reich and the states as well as by the communes. Directly after the World War there was widespread discussion of the possibilities of socialization of all economic activity or at least of the nationalization of certain industries and the participation of workers and consumers in their operation. Short of the realization of such schemes there has been a pushing forward of government ownership. Railroads and telephone and telegraph systems are the more important of the enterprises conducted by the larger units of government. The municipalities remain the most important numerically of the government agencies in the field of electricity. Altogether about 70 percent of the electrical output of public supply undertakings in Germany is either wholly or partially owned by units of governments. The Reich directly owns and operates a small number of electric projects and is authorized to proceed much farther in the field; more important in recent years has been its participation in "mixed" companies controlling large transmission networks. These are corporations financed partly by private capital but in which various governmental units own a part, usually a majority, of the stock.

In Great Britain also municipal ownership

had become important before 1914 and at the present time many of the utilities of the country are owned and operated by public authorities, including boroughs, counties and ad hoc authorities for officially created districts and joint districts. The taking over of such enterprises was for long prevented and is still limited by restrictions on the powers of local governmental units. Not until 1875 were general powers given for the erection of water and gas works by municipalities, and there is still no power for compulsory purchase of existing plants. But in spite of such difficulties the abuses of private water companies forced government ownership. At the present time water supply systems are publicly owned in practically all regular boroughs, in about two thirds of the county boroughs and in about one half of the urban districts. Public ownership is important but less dominant in the field of gas supply, where the private companies had become more firmly entrenched before the movement for municipalization gained real momentum. A majority of the tramway systems in Great Britain are publicly owned and in the electrical field approximately 60 percent of the production is accounted for by public rather than private undertakers. There was extensive building of houses by municipalities, notably London and Manchester, before the World War but it was the pressure of the post-war housing shortage which led to extensive municipal housing projects. Government ownership in Great Britain has been in general restricted to such recognized public utilities and has not as in Germany spread to other forms of economic activity. The most important experiment of the central government has been in the electricity field, where a national scheme of coordination is administered by the Central Electricity Board, a non-profit making corporation, whose executive is appointed by the ministry of transport.

Even greater commitment to public enterprise is to be found in certain of the British colonies and dominions. The Ontario hydroelectric development in Canada has attracted wide attention. In New Zealand and Australia practically all public utilities are publicly owned. In the latter country the commonwealth government owns and operates railroads, the post, telephone and telegraph systems, radio, oil refineries and the Commonwealth Bank. The several Australian states all operate banks, railways and numerous developmental projects; and a far from complete list of government projects which have been started by one or more states would in-

clude coal mines, retail shops, agricultural colleges, stockyards, meat works, housing schemes, brickworks, pipe and reinforced concrete works, tourist bureaus, irrigation projects, canneries and butter manufactories. The public projects of Victoria have been particularly successful.

The trend toward government ownership has been strong in the Scandinavian countries. In Sweden the state generation, transmission and distribution of electricity rival private enterprise in magnitude and are increasing their relative position. In Norway government enterprise in the same field is much more dominant than in Sweden. In both these countries as well as in Denmark and Finland it is the central government rather than the municipalities which is concerned with electric power. In Finland state forestry is of importance. In Switzerland, while the federal government plays a comparatively minor role in the ownership, operation and regulation of public utilities, the cantonal and communal governments are extremely active in the field. In Basel, which is sufficiently typical in this respect, gas, electricity and water supply are city owned and operated. The street railways are also city owned and motor buses are operated privately under concessions granted by the city authorities. Throughout Switzerland the electrical industry is conducted by enterprises either wholly or partially owned by cities or cantons. Only about 10 percent of the electric production of the country derives from plants of exclusively private ownership. Austria and to a less extent Hungary are almost as completely committed to programs of government ownership as is Germany. Vienna has gone far in the municipalization of public services.

In Italy municipal ownership did not get well under way until after 1903, when new legislation gave the cities greater autonomy and opportunity for experimentation. There as in other countries, although the early movement was associated with the Socialist party program, municipalization was soon advocated by other groups. It rapidly extended to gas works, electric power and water works, tramways, slaughterhouses, street cleaning, laundries and bakeries; later ventures were made in shipping and housing. The Fascist government although in theory favoring municipal ownership has actually through its centralized bureaucratic methods and its tax program discouraged further development. Existing municipal gas and electric enterprises are, however, resisting the encroachment of private companies; and there has even

been some extension of services, notably municipal control of the milk supply. The national government has in a few cases participated through stock ownership in mixed enterprises.

In France the central government has never been completely dissociated from the conduct of industrial enterprises. Since the French Revolution, however, the relation has generally taken the form of close regulation and participation by the government in the profits of private companies rather than direct government ownership and operation. Even in the case of municipal undertakings the leasing of government owned plants, such as the gas works of Paris, to private concessionaire companies has been more common than direct operation by government departments or agencies. Since the war government ownership of a share of the stocks of private corporations has spread rapidly.

In the United States government ownership has played a less significant part. Municipal ownership of waterworks and of certain dock and harbor facilities has come to be taken for granted; municipal ownership and operation of gas and electric plants are less common. Since the war the rapid growth in size and power of the large public utility companies has even further decreased the relative importance of municipal projects in this field. On the other hand, the failures and inadequacies of regulation have led to demands for state and federal exploitation of hydroelectric resources. In the postal savings system and the parcel post the federal government operates two economic projects. The state of North Dakota is notable for its attempt to achieve a dominant place in the ownership of grain elevators, banks and public utilities in general. Since 1919 it has run a state bonding fund and state insurance funds with great success. Wisconsin has had a state life insurance fund since 1911.

Up to the present in the United States, however, the two methods most relied upon for the protection of the consumer have been the attempted enforcement of the antitrust laws and government regulation chiefly by commissions. Faith in the former is rapidly waning, while the obstacles to the latter become increasingly evident. Lack of control over capitalization and court struggles over the basis of valuation for rate making have fettered the regulatory bodies. The use of government enterprise as a substitute for commission regulation is advocated in many quarters. Members of the Massachusetts Department of Public Utilities have placed them-

selves on record as being ready to recommend a program for the general municipalization of electrical utilities in their state, if they were forced to adopt a method of valuation which seemed to be required, implicitly at least, in decisions handed down in other jurisdictions by the Supreme Court of the United States. Commissioner Joseph B. Eastman of the Interstate Commerce Commission has urged that "the substantial advantages of public ownership . . . are low cost of capital; opportunity gradually to reduce or eliminate the capital charge without hardship upon the public in the process; and above everything else . . . freedom from the evaluation nightmare." Not only has there been a growing discontent with the results obtained through commission control of utilities other than railroads, but the evidence of competent investigators would seem to show that in California, Kansas and Massachusetts the competition of municipal electric utilities has been more effective in reducing the rates charged the domestic consumer by private companies than have the public service commissions with all their regulative machinery. It is singular that the federal courts, which in the fields of anti-trust and public interest regulation have been extremely zealous in protecting the property rights of private business, have been most liberal in allowing all forms of government competition. The United States Supreme Court has upheld such activity on the part of city and state governments in the three important cases on the subject which have reached it in recent years [*Jones v. City of Portland*, 245 U. S. 217 (1917); *Green v. Frazier*, 253 U. S. 233 (1920); *Standard Oil Co. and Claude E. Shamp v. City of Lincoln*, 275 U. S. 504 (1927)]. And no better evidence of the court's tolerance in the matter could be offered than to quote a gratuitous dictum of Chief Justice Taft, who in writing the majority opinion in a case where the issue of government ownership was not directly involved [262 U. S. 537 (1923)] declared that the state may engage in "almost any private business if the legislature thinks the State's engagement in it will help the general public and is willing to pay the cost of the plant and incur the expense of operation."

But although government ownership in the United States has not thus far been checked by legal obstacles it continues to be the object of attack more virulent than that to which it has been subjected in most other countries. The typical arguments against it may be found well

## Government Ownership

summarized in an address delivered in Washington in September, 1924, by Herbert Hoover, then secretary of commerce, attacking a proposal of Senator La Follette for the general adoption of public ownership of railroads and other public utilities (Hoover, Herbert C., *Government Ownership*, address delivered in Washington, D. C., September 29, 1924). The argument runs that under a system of free private enterprise the United States has developed into the most prosperous country in the world and that government enterprise could not hope to match private business in efficiency; that government enterprise is bureaucratic and inflexible; that it fails to provide the necessary incentives for efficient management, inventiveness and experimentation; that neither the national nor the state governments are planned or equipped for the task of government operation of utilities; that the nation is too large to make government enterprise possible upon a national scale, even if there were no constitutional difficulties; that logrolling, jobbery and sectional favoritism are inherent in American politics; that public enterprises constitute a loss to government treasuries since they pay no taxes; that the best experiments in government ownership and operation elsewhere show a record of much less efficiency than similar enterprises under private operation in the United States; and, finally, that the whole socialistic idea of public ownership and operation is of foreign extraction and essentially unsuited to the American genius of rugged individualism. Similar series of objections to government enterprise were offered in the early decades of the twentieth century in other countries, but nowhere else has the emphasis on government corruption been so insistent or so pertinent as in the United States.

The defenders of public ownership commonly maintain that private enterprise is quite as corrupt and under the modern regime of corporate combinations quite as bureaucratic as public enterprise is asserted to be; that it is wasteful when competitive and autocratic when monopolistic; that it has an uncontrolled tendency to inflate its capitalization figures, which makes necessary the extraction of unduly large tariffs from consumers. Moreover a number of positive general advantages are urged for government ownership. Chief among these is the ability of governments to borrow at better terms than can private enterprise and hence their ability to work upon a lower rate base. Of similar advantage is the not uncommon governmental practise of

amortizing capital indebtedness over a number of years, after which rates may be set at a figure which will yield merely the desired revenue over current operating expenses.

None of these general arguments take into account the possible variety of forms of governmental ownership or the importance of specific political set ups. For instance, the achievements of the German municipalities have been facilitated by their extensive powers of self-government, while cities in the United States find themselves hampered by restrictions on their authority to float securities. Moreover it is not necessary that existing governmental departments be utilized in the operation of government projects. In those countries which have had long experience in government enterprise there is a tendency to set up autonomous departments for the operation of projects of a clearly commercial nature, such as electric utilities, while such social services as hospitals, parks or educational activities are managed directly by the city governing body. In the case of autonomous departments only the net results of operation are included in the city budget, thus giving to the head of the enterprise considerable administrative latitude. Somewhat different in purpose is the practise common in France and to a lesser extent in the United States whereby the government retains ownership of an enterprise but farms out its operation to a private company under more or less rigid contracts designed to insure the protection of the public interest to a degree that is not possible under ordinary regulation. A device of increasing importance in both the United States and other countries is the government owned corporation (*q.v.*). The officials of such a corporation are hired just as are those of any private business and are required to show a favorable balance sheet at the end of regular accounting periods. Thus the enterprise is divorced from the direct political control of legislators preoccupied with other matters, although the government exercises an ultimate control through its stock ownership. It is not even essential that more than a controlling interest in the voting stock of the corporation should be in government hands.

No matter what their form of organization, government enterprises are faced with certain choices of objectives; they may be run at a profit as great as that of similar private enterprises, and the funds thus accumulated used to meet the general cost of government and thus reduce taxes; or the rates of the government enterprise



may be kept so low that they barely meet or fail to meet costs. A somewhat similar choice between different values is involved in the fixing of the level of wages. Where municipalities are subject to definite budgetary and fiscal limitations, profits from municipal enterprises may offer a method of expanding the budget. Apparently this is one reason for the general commitment to operation at a profit of the cities of France, Belgium, Holland, Switzerland and Italy. At the same time a distinction seems to be made rather generally between undertakings such as the provision of hospitals, public baths, parks and since the war housing, which are of such general social utility that they must be provided at low cost even if a budgetary deficit results, and enterprises such as gas and electricity supply and tramways, which should be run at a profit to pay for the deficits on the other type of enterprise. Before the war in Germany the profits from municipal undertakings covered on the average about 12 percent of the municipal budget. A further step has been taken in Vienna since about 1923 with the inauguration of a policy of adjusting prices even of such services as electricity and gas to the income of consumers and relying upon taxation to take the place of lowered profits.

Government ownership has raised many problems as to the position of the workers. Probably in most cases hours and conditions of labor are better and wages higher in government owned enterprises than in similar private undertakings. Moreover government projects offer a high degree of security of tenure; and it has in most countries been possible for the workers to secure more effective representation and a larger share in management than in the case of private enterprises. In pre-war Germany government employees were under the formal disadvantage that the imperial industrial code did not apply to them; the municipalities, however, ordinarily set up working rules and regulations of corresponding value. A more serious disadvantage was the uncertainty as to whether or not government employees should be deprived of the right to strike. Just before the war a series of strikes by railroad workers, notably in France and Belgium, raised the problem in acute form. In a number of countries legislation was passed denying this right to workers in public utilities and setting up in its place regular arbitration procedures. At the same time the right of such workers to organize has seldom been denied. It is moreover coming to be recognized that some distinc-

tion must be made between the workers on essential public services and those in government enterprises engaged in the production or distribution of less essential goods. The magnitude of the problem is apparent when one considers that in 1930 about one eighth of the entire population of Germany was employed in government enterprises.

It would be fortunate indeed if the conflicting estimates of public and private enterprise could be resolved by the presentation of a neat statistical table, in which relative efficiencies should be set forth in items as unambiguous as British thermal units. Unfortunately no such demonstration is practicable. It is easy to marshal a long parade of inefficient public enterprises, but it is equally easy to match deficiency with deficiency from the ranks of private business. It is equally practicable to assemble enterprises of impressive efficiency from both camps. The difficulty lies in finding public and private enterprises which operate under conditions so similar that the results obtained by one may be matched fairly with those obtained by the other.

But while one cannot demonstrate whether or not government ownership advances upon its merit, it is nevertheless slowly advancing. Its outstanding successes are not confined to any one type of government. It may be significant that government ownership makes most rapid progress in times of emergency. Much of the recent interest in government ownership is an outgrowth of the widespread control of economic activity exercised by all the belligerent nations during the World War. By the end of the war not only were there in each country powerful government controls over the whole productive and distributive system, but the scope of government activity had extended beyond national boundaries in the form of inter-Allied commissions for the purchase of materials and the pooling of credit.

While the end of the war saw a return to a system of unrestricted private enterprise, the experiment of collective control has stimulated interest in the possibilities of government ownership. In Europe, where municipal ownership is an accepted fact in most countries, attention has centered on schemes for nationalization or for ownership by intermediate governmental units of privately operated industries. A conspicuous demand for nationalization was that formulated by the British coal miners and endorsed by Mr. Justice Sankey, referee to a royal commission on the subject, in a report which

recommended the state purchase of coal mines and coal royalties and the organization of a controlling body representative of workers, consumers and technical experts under the general supervision of a ministry of mines. In the United States a comparable program for the nationalization and democratic control of the railroad industry was urged by railroad workers in the so-called Plumb Plan. There has been an equally unsuccessful movement in the United States for the nationalization of the thoroughly disorganized bituminous coal industry.

At the same time there has occurred somewhat of a shift in emphasis from insistence on the importance of government ownership to recognition of the necessity for the socialization of industry as a whole through the creation of agencies in which consumers and laborers would share with producers in the running of each industry. In the immediate post-war period there were many who hoped that reconstruction might be made to strengthen rather than weaken collective controls and that collective objectives might attain a new importance. Although these hopes were frustrated, the very excesses of individual enterprise brought about a realization of the necessity of national planning and control.

The future of government ownership would seem to depend most immediately upon the future of the economic fortunes of the world. Currently from the throes of business depression has arisen an insistent demand for the undertaking of exceptional programs of public works by all governmental agencies as a relief for unemployment. In the United States there are numerous programs for state and federal organization of economic relief agencies, such as the Federal Farm Board and the Reconstruction Finance Corporation for the support of various business and financial interests. While depression persists it is certain that governments will be actively concerned with projects for aiding industry, agriculture and finance. If in any country the structure of free private enterprise collapses under the strain, it is probable that government ownership and operation in some form will play an important part in that country's economic reorganization. Short of this, government ownership perhaps under a variety of forms seems likely to extend into the industrial system of all countries with increasing rapidity.

STACY MAY

See: ORGANIZATION, ECONOMIC; ECONOMIC POLICY; NATIONALIZATION; SOCIALIZATION; SOCIALISM; GUILD SOCIALISM; GOSPLAN; GOVERNMENT OWNED CORPORA-

TIONS; COOPERATIVE PUBLIC BOARDS; CONCESSIONS; SUBSIDIES; GOVERNMENT REGULATION OF INDUSTRY; PUBLIC WELFARE; PUBLIC HEALTH; WAR ECONOMICS; PUBLIC EMPLOYMENT; PUBLIC DEBT; PUBLIC DOMAIN; MONOPOLIES, PUBLIC; POSTAL SERVICE; PUBLIC UTILITIES; MUNICIPAL TRANSIT; ELECTRIC POWER; RAILROADS; HOUSING; MARKETS, MUNICIPAL; GRAIN ELEVATORS; SOCIAL INSURANCE; SAVINGS BANKS.

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**GOVERNMENT PUBLICATIONS.** The best definition of a government publication would include all documents issued by authority or with the concurrence of a government, including those of all national or international associations and conferences that receive government subsidies. Such publications are not only absolutely indispensable to democratic government but they also constitute important raw material for research in all the social sciences and present the findings of the many governmental bureaus engaged in research of all kinds. Their value, however, has been seriously limited by their lack of accessibility and the difficulty of handling them. Of the countries of the world the United States, Great Britain and Italy almost alone have united all the essential elements: centralization of printing by a government printing office, centralized distribution for sale or international exchange and the publication of complete bibliographies kept up to date by frequent supplements. Germany and Russia are making rapid and apparently efficient efforts to improve conditions. Among the greater countries France is notably backward.

Centralized printing not only effects important economies but also eliminates the confusing lack of continuity which is the principal difficulty in handling documents. Not only the titles of the publications but the very names of the issuing offices are varied with governmental changes. The words bureau, department and board may be used to cover one body or three. The author's name may be given one form on the title page and another on the binding. Sometimes the name of the individual in charge of the office wrongly appears as the name of the author; the real author is the office, not the person momentarily filling it. The opposition to centralized printing comes principally from politicians who will not easily relinquish a prerogative which is often a not inconsiderable source of patronage.

Centralized distribution, which has gone hand in hand with centralized printing, has increased the accessibility of government publications. Since 1895 all United States government publications which are for sale have been distributed through the office of the superintendent of documents in the Government Printing Office at Washington. In Great Britain printing and distribution are largely centralized through His Majesty's Stationery Office in London and its branches in Edinburgh, Manchester and Cardiff. The central distributing agency in Italy is the Libreria dello Stato in Rome, a branch of

the *Proveditorato Generale dello Stato* created in 1923.

Accessibility has been further increased in the United States by the system of depository libraries, over four hundred of which now exist all over the country. Begun as early as 1813 and given a definite status by legislation of 1858 and 1859, the system has been built up essentially on the basis of allowing each member of Congress to designate one depository library. In 1913 the right of congressmen to change the depository library in their districts was largely eliminated. Since 1922 the libraries have been sent only such publications as they specifically request. As a result of a convention signed in 1886 the United States exchanges publications with over sixty governments. The exchanges are directed by the Division of Documents of the Library of Congress but the actual exchange is managed by the Smithsonian Institution, whose annual *Report on International Exchange Service* (1889-) describes the current status of the exchange system.

The great mass of British publications and since 1895 of American federal documents is carefully edited, numbered, classified and indexed. British publications are divided in general into parliamentary and non-parliamentary (until 1923, Stationery Office) papers. Of the former the Command Papers, presented to Parliament "by command" of the king, are probably the most important. Various indexes and catalogues of parliamentary papers have been prepared from time to time by the two houses, and P. S. King and Son has prepared a *Catalogue of Parliamentary Papers 1801-1900* (London 1904) with supplements covering 1901-1910 (London 1912) and 1911-1920 (London 1922). The *Catalogue of Works (Other Than Parliamentary Papers and Acts of Parliament)* published by the Stationery Office (London 1921) carries the non-parliamentary publications to the date indicated. From 1898 to 1922 new parliamentary and non-parliamentary publications were listed in separate *Quarterly Lists* issued by His Majesty's Stationery Office. Since that year a *Consolidated List of Government Publications* has been issued monthly, the last issue being cumulative for the year. Although the parliamentary debates have been covered for the period from 1666 to 1803 in Cobbett's *Parliamentary History* and for the period since 1803 in the *Parliamentary Debates*, the House of Commons itself did not take over the reporting until 1909; at that time too the printing of the *Debates* was turned over to the

Stationery Office. Unlike the United States, where the system of official reporting of law cases began as early as 1803 and where every jurisdiction with few exceptions has a series of official law reports, English law reports (with the exception of those on tax cases) are not published by the government.

The publications of the United States are classified in practise as congressional, or legislative, and non-congressional. Of these the former are by far the more important; they consist of five main groups: *Journals*, the *Record*, *Documents*, *Reports*, *Bills and Laws*. The *Journals*, *Documents* and *Reports* comprise the so-called congressional set, formerly termed the sheep set because of the material used during many years for their binding. As both the Senate and the House of Representatives have their own publications, the set is made up of six distinct series. The series of *Documents* is heterogeneous and embraces many publications which are not truly congressional but emanate from the executive; until 1895 the series was subdivided into separate series of *Executive Documents* and *Miscellaneous Documents*. Each of the two *Journals* consists of one volume for each session. As the others run into a great number of separate publications they are numbered both singly and by volume; in addition a so-called serial number (beginning with the Fifteenth Congress) is given to every volume. In order to describe a congressional paper with sufficient precision it is necessary to give no fewer than five distinct particulars: the number of the Congress, the number of the session, the name of the house, the title of the series (whether *Document*, *Report* or other title) and the number within its series. Since the Sixtieth Congress, second session, the number of the session may be omitted, as the numbering of *Documents* and *Reports* was, beginning at that time, made continuous throughout an entire Congress.

The *Congressional Record* gives what professes to be a verbatim stenographic account of the proceedings in each house day by day, but the legislators have the privilege of revising or extending their remarks before publication. The *Record* was begun in 1873; its predecessors, the *Annals of Congress* (1789-1824), the *Register of Debates* (1825-37) and the *Congressional Globe* (1834-73), were only semi-official. The *Record* is issued daily during sessions of Congress, with semimonthly indexes, and is later reissued in bound volumes with a new pagination. The proceedings of one session are considered one vol-

ume, with continuous pagination, but are bound into many separate parts. The index of the *Record* is of considerable value in tracing the history of a bill or resolution, but the *Document Index* (*Index to the Reports and Documents of . . . Congress*) issued since 1897 after the close of each regular session is often much more helpful. Bills and resolutions are printed but are distributed only on specific request. The only complete collections of the vast number of bills introduced but never passed are in Washington. Bills which have been passed are printed as "slip laws" in leaflet form and are collected and printed by the State Department at the end of each Congress as *Statutes at Large*. The *Reports* series includes the reports of all congressional committees except that reports on private bills are collected in volumes which are lettered, not numbered, and which are not sent to depository libraries. As all *Reports* since the Forty-seventh Congress are numbered consecutively without regard to their contents, great gaps are thus created in library sets of congressional documents.

In spite of the immense output of congressional publications the executive departments produce three or four times as much. The variety of their output is so immense that it cannot be described here or even adumbrated. It falls roughly into four classes: annual reports, series of bulletins, circulars and general publications or monographs. The first three classes are serial, the fourth non-serial. For publications prior to 1909 the *Check-list of United States Public Documents* (3rd ed. 1911) is most useful, although the following catalogues covering specific periods are still of value: Greeley, A. W., *Public Documents of the First Fourteen Congresses 1789-1817* (United States, 56th Cong., 1st sess., Senate Document, no. 428, 1900, and *Supplement*, 1904); Poore, B. P., *Descriptive Catalogue of the Government Publications of the United States, Sept. 5, 1774-March 4, 1881* (United States, 48th Cong., 2nd sess., Senate Misc. Document, no. 67, 1885); and Ames, J. G., *Comprehensive Index to the Publications of the United States, 1781-1893* (United States, 58th Cong., 2nd sess., House Document, no. 754, 2 vols., 1905). Later publications are covered by the series of document catalogues (*Catalogue of the Public Documents of . . . Congress . . . and of Other Departments*) (1896- ) and the monthly catalogue, *United States Public Documents* (since 1895). In addition various departments publish lists of their own from time to time.

The forty-eight states publish their own docu-

ments, which can generally be obtained by writing to the issuing office, but the quality and the quantity vary greatly. In general the eastern states excel considerably in both respects. Miss A. R. Hassé's "Materials for a Bibliography of the Public Archives of the Thirteen Original States" (in American Historical Association, *Annual Report*, vol. ii, 1906, p. 239-561) covers the period until 1789; Miss Hassé has also prepared an *Index of Economic Material in Documents of the States of the United States* (13 vols., Washington 1907-22) covering thirteen states. R. R. Bowker's *State Publications* (4 vols., New York 1899-1908) contains brief descriptive notes. Seventeen states have no bibliography. An excellent bibliography of current documents, the *Monthly Check-list of State Publications* (1910), is issued by the Library of Congress, with an accumulative index at the end of the calendar year. In city publications the east again leads; but some of the western cities, such as Los Angeles, devote much attention to their compilation and distribution. There is unfortunately no bibliography of municipal documents, but the Library of Congress is considering the issue of such a bibliography.

The most ambitious attempt to provide within the compass of one sole publication a *vade mecum* through the intricate field of the documents of all foreign countries is the *List of the Serial Publications of Foreign Governments, 1815-1931*, which is being edited by Winifred Gregory under the auspices of the American Council of Learned Societies, the American Library Association and the National Research Council. It is to be published in 1932. It will include national governments, governmental divisions and states which are at least to some extent self-governing, such as the states of Argentina and Brazil and the cantons of Switzerland. The Reference Service on International Affairs of the American Library in Paris has prepared a useful catalogue of the *Official Publications of European Governments* (mimeographed, Paris 1926; rev. ed. vol. i- , Paris 1929- ), which, however, makes no claim to being complete. The more important catalogues for particular foreign governments are: For Italy: Italy, *Provveditorato Generale dello Stato, Pubblicazioni edite dello stato e col suo concorso (1861-1923) catalogo generale* (Rome 1924, and supplement, 1931); Libreria dello Stato, Rome, *Catalogo delle pubblicazioni* (Rome 1931). For Germany: *Monatliches Verzeichnis der reichsdeutschen amtlichen Druckschriften*, published in Berlin since 1928; Berlin, Staatsbibli-

othek, *Deutsche amtliche Druckschriften*, published in Berlin since 1928; Germany, Reichstag, *General Register zu den stenographischen Berichten über die Verhandlungen und den amtlichen Drucksachen . . . 1867-95* (Berlin 1896), and *Register zu den Verhandlungen des Reichstags und zu den Anlagen*, from 1897 to date. For Belgium: Belgium, Commission Belge des Échanges Internationaux, *Liste des documents officiels de la Belgique* (Brussels 1912); Bacha, Eugène, *Périodiques belges* (Brussels 1928), and *Supplément* (1929); Belgium, Corps Législatif, Chambre des Représentants, *Table alphabétique décennale 1831-1911* (8 vols., Brussels 1849-1912); Belgium, Corps Législatif, Sénat, *Table vicennale alphabétique 1831-1872* (2 vols., Brussels 1854-1872). For France: Paris, Bibliothèque Nationale, Département des Imprimés, *Catalogue de l'histoire de France* (11 vols., Paris 1855-79); France, Imprimerie Nationale, *Catalogue des publications mises en vente* (Paris 1931). For the League of Nations: League of Nations, Publications Department, *Publications Issued by the League of Nations* (Geneva 1929); World Peace Foundation, *Key to League of Nations Documents Placed on Public Sale 1920-1929* (Boston 1930); League of Nations, Library, *Brief Guide to League of Nations Publications* (rev. ed. Geneva 1930).

HENRY FURST

See: GOVERNMENT REPORTING; STATE PRESS; BUSINESS, GOVERNMENT SERVICES FOR; AGRICULTURE, GOVERNMENT SERVICES FOR; LABOR, GOVERNMENT SERVICES FOR; STATISTICS; ARCHIVES; RECORDS, HISTORICAL; LIBRARIES.

Consult: Childs, J. B., *An Account of Government Document Bibliography in the United States and Elsewhere* (rev. ed. Washington 1930); Boyd, A. M., *United States Government Publications as Sources of Information for Libraries* (New York 1931); Schmeckebier, L. F., *Government Printing Office* (Washington 1925); Horrocks, S., "Government Publications" in *Library Association, Record*, n.s., vol. viii (1930) 93-104, which covers British publications; Fletcher, Angus, "His Majesty's Stationery Office" in *Library Journal*, vol. lii (1927) 461-64; Lees-Smith, H. B., *Guide to Parliamentary and Official Papers* (London 1924); Brown, E. S., "Some Bibliographical Aids to the Use of British Government Publications" in *American Political Science Review*, vol. xxv (1931) 401-05; Schwidetzky, Georg, *Deutsche Amtsdrucksachenkunde*, Zentralblatt für Bibliothekswesen, Beiheft lix (Leipzig 1927).

GOVERNMENT REGULATION OF INDUSTRY. Some form of regulation of the economic activities of individuals or groups by the community appears to be virtually coextensive

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with the history of organized society. Although the doctrine of non-interference enjoyed a brief supremacy—mainly in England around the middle of the nineteenth century—it has never completely governed the practise of any modern nation. There have, however, been significant changes in the kind and degree of control, in the philosophy motivating it, in the interests and ideals dominating it, in the practises dealt with, in the forms of authority exercised and in the instrumentalities employed.

In the Middle Ages prevailing theory and practise were marked by distrust of unregulated private acquisition and by a varied assortment of institutions of control in various fields. Authority derived from the church, the guilds, the town governments and the "custom of the manor." The church aside from supporting the obligation of charity prohibited usury and lent its force to the doctrine of the just price. The latter seems to have taken different forms with respect to different classes of commodities. In the case of handicraft products sold within the community of which the maker was a member it represented a protection of the customary standard of living of the maker of the goods. In the case of goods coming from a distance the community naturally assumed no responsibility for protecting the standard of living of the producers. For such goods the just price frequently meant the judgment of a body of men experienced in the trade, taking account of conditions of supply and demand. The craft guilds regulated admission to the crafts, protected standards of workmanship and limited competition between the guildsmen both in buying materials and in selling goods. The town markets, to which outsiders came to sell their goods, were regulated with a view to preventing speculation and corners and preserving direct selling. These regulations included the rules against forestalling, engrossing and regrating—an early counterpart of the laws against monopoly prominent in a much later period, particularly in the United States. Foreign traders were subjected to regulations of a generally protectionist character strongly suggesting the spirit of the later mercantilist systems. The custom of the manor defined the character and to a large extent the amount of the feudal dues and was the chief protection of the villain against arbitrary exactions on the part of the feudal lords.

When the national state took the place of the mediaeval units it continued the general attitude of distrust of free exchange and the policy of control in what it considered to be the interest of

the community. Sovereignty was now lodged in a dynastic-militaristic state with standing armies requiring large sums of money for their support, and the fiscal interests of the state naturally played a large part in the resulting system. This was colored also by the great inflow of specie from the Americas—by the wealth which Spain acquired from this source and by the attempt of other nations to divert to themselves a share of this wealth. The interest in specie led at first to direct and crude restrictions on its export, but later the restrictions were relaxed and the policy of balance of trade was substituted; this harmonized the interests of the dynastic-militaristic state, including the desire for concentration of population and wealth within its borders, with the interest of the growing mercantile class in greater freedom for their trading operations. Mercantilism involved the development of manufactures and of an excess of exports secured by importing crude products and exporting the more valuable manufactured articles. The means included direct stimulation of manufactures and attempts to foster and maintain standards of workmanship as well as systems of protective duties and restrictions on trade. Colonial empires were exploited as sources of raw materials and markets for finished goods with appropriate restrictions on colonial manufacturing. England paid special attention to the development of her navy and merchant marine, using the navigation acts to strike a heavy blow at the carrying trade of her rival, Holland, and fostering fisheries as a nursery school for seamen. In the Germanic states different economic and fiscal conditions led to less emphasis on the mercantile phases of the policy and more on the direct development of efficient methods of production; this policy and the administrative system associated with it were known as cameralism.

The general character of the early economic nationalism was undemocratic and exploitative. The masses of the population and their productive activities were regarded primarily as means for the achievement of national power and greatness; foreign trade was essentially a device to augment national power at the expense of rival states. Such considerations as the mutuality of interests involved in international trade or the greater abundance of goods for popular consumption incident to an increase of production were alien to the dominating thought of the period; they were recognized as unforeseen consequences of economic developments before being set up as conscious goals of economic policy.

The reasons for the development of a new attitude were many and complex, having their roots in the rise to power of new economic interests, in political upheavals and in changing social and political outlooks. The American and French revolutions played a large part; also the entrance into agriculture of more commercially minded landowners and the strengthening of mercantile interests in general; but undoubtedly the decisive force was the industrial revolution. Industry outgrew almost overnight many of the older forms of control, including survivals of local and guild regulations which had persisted through the early nationalist period.

The new attitude was expressed in theories of the beneficence of free private enterprise and of the perniciousness of governmental interference—it is difficult to say which aspect deserves more emphasis. *Laissez faire* theories prior to Bentham were in the main theories of natural rights, in which the correspondence between private interests and the general good was decreed by nature. In Bentham's utilitarian philosophy it was precisely the task of government to bring about this correspondence by attaching the necessary rewards and penalties to individual actions. His was a theory of public control directed to the democratic and humanitarian goal of the good of the greatest number. It is true that in Bentham's view the only control needed to this end was the maintenance of order, the protection of property and the enforcement of contracts; and he thus came to the same results as the believers in natural rights. But he had set up standards of judgment which were destined later to lead to a different answer. What had really been accomplished was the setting up of a presumption in favor of liberty in place of a presumption in favor of control and the profound modification of the standards of judgment in terms of which any proposal of control would be required to justify itself. It was perhaps most typically justified on the ground of the absence of one or more of the conditions necessary to the securing of the proper results from free enterprise. Thus the general theory of individualism was preserved, but as the point of departure for ever expanding policies of control.

In the Germanic countries the doctrines of individualism never took deep root and the cameralistic tradition persisted. The state looked with tacit approval upon and sometimes directly participated in the systematic organization of German industry into cartels; under Bismarck Germany led the world in creating a system of social

insurance. These developments were conditioned by different conceptions of the economic system and of the character of the state. British utilitarianism viewed the economic system as a more or less mechanical articulation of particular interests best cared for by the bargaining efforts of those most directly concerned. And the early British liberals with their democratic and humanitarian ideals did not find in the national government of the Napoleonic era a representative, efficient or safe custodian of economic interests. The Germanic peoples regarded the economic system more as an organic whole and had more confidence in the state as a representative of the organized community.

In the United States during the same period individualistic theory was combined with a regime of high protective tariffs. The regulation of foreign trade by a system of import duties was in fact a major form of government control of industry in many countries. It was adopted by the Germanic states even before political union had been achieved. In France it provided one of the most important issues in the field of economic policy during the nineteenth century, when the liberals regarded the protectionists and the socialists as equally dangerous adherents of state intervention. In England the repeal of mercantilistic corn laws was regarded as ushering in the period of *laissez faire*.

And yet even in England there was at no time complete adherence to the principles of *laissez faire*: the first factory acts—the earliest examples of newer forms of control—were enacted long before the middle of the century. These acts were passed in the interests of labor and were concerned with hours of work, safety and sanitary conditions; the policy which they expressed has been maintained and extended ever since. Other matters in the field of labor soon called for government regulation; of these one of the oldest, most important and most difficult was the problem of labor disputes and labor organization for the purpose of securing better terms of employment. The government could not avoid taking some position on the problem of tactics used in organized bargaining and trade disputes, if only in the course of keeping the peace. The system of regulating wages and the provision of social insurance were of equally great importance, imposing upon industry and ultimately upon the consumer the duty of maintaining minimum standards of living for the laboring masses.

The organization of employers, which in certain of its aspects is part and parcel of the ques-

tion of labor disputes, confronted the state also with a problem in another direction, that of preserving for the consumer the benefits of competition. The approach to this problem varied in time and place. While the Germanic countries encouraged combination, relying upon a variety of measures—from direct governmental participation to regulation of output and price—as safeguards against exorbitant prices, the United States attempted at first to enforce and later to regulate competition. Even before the question of economic monopoly came up, the governments in some countries were forced to deal with the problem of private operation of partial natural monopolies, such as railroads and local public utilities. The tendency of direct control over industry to expand continuously once it has been begun is well illustrated by the development of railroad regulation in the United States. Originally undertaken to prevent extortion and discrimination in rates, it was considerably extended in the course of time; so that at present the Interstate Commerce Commission engages in actual rate fixing, passes upon the issue of securities and the abandonment of old and the construction of new lines, enforces definite standards of service and is supposed to plan and supervise the consolidation of railroad systems. Developments in this field reflect also the shift of emphasis typical of government regulation as it becomes more thorough and comprehensive. In the early stages the dangers of excessive leniency and of allowing too much profit loom foremost in the public mind; later attention is centered more on the potential dangers of cutting off the capital supply of the industry, weakening the incentives to efficiency on the part of management and hindering the prompt adaptation of the industry to changing conditions.

A large number of other forms of regulation were developed during the nineteenth and the twentieth century. Many of these represent an adaptation of controls carried over from the mercantilist era to the new conditions of industrialism. The control of currency, for example, had been the prerogative of the state ever since the beginning of the modern era; after the industrial revolution this control was in most European countries focused in central banking institutions and out of their experience developed such ultra-modern doctrines as that of credit control. Similarly the regulation of corporations had from their inception been vested in the state. The strictness of these regulations varied greatly at different times and in different jurisdictions; it

seems, however, that in this field history is about to complete a circle—even in the United States, where this regulation has for a long time been very lax, the tendency appears to be toward greater strictness in many essential particulars. In the conservation of limited natural resources most of the mercantilistic forms of control still persist; recently they have been supplemented by experiments—none too successful—in the valorization of strategic products. Control of trading in foodstuffs, in some ways resembling mediaeval town regulations, covers the grading and inspection of produce and the regulation of markets. Control of consumption extends to drugs and alcoholic liquors as well as to adulteration and misbranding and the safety of foodstuffs, especially milk. Building is regulated in the interest of safety and sanitary conditions and, in some places, of architectural harmony and appropriateness. Allied to this last is the development of zoning of cities to prevent legitimate but incongruous uses of property from interfering with each other and to promote the rational development of urban areas. Even in individualistic America all these varieties of control are found to some extent and in other countries they have been carried to greater lengths.

In all of this there is scarcely anything new in principle, however bewildering the new forms which control takes on. The new interests in whose service it is invoked. To the persisting mercantilistic principles of control have been added others which trace their spiritual kinship to that sense of responsibility for the standard of living of the members of the community which was one of the animating forces of the mediaeval system. The embodiment of this spirit has, however, been given new forms by the rise of new conflicts of interests and new abuses springing from new techniques of production and of commercial and industrial organization; by the substitution of democratic and progressive standards of welfare for the static, customary standards of the Middle Ages; by the contribution of science to the knowledge of human needs and the causes of human ills; and by the development of the modern representative form of government. The whole is set in the framework of a clearer recognition of the benefits of free exchange and the dangers of inept tampering with its operations, while the system of free exchange itself has become vastly more intricate and more delicately interdependent. The task of control has become far more complex and difficult than that of previous ages, and the standard-



that guide it more difficult to formulate and to agree upon.

The modern system of control can be analyzed and classified in a number of different ways: according to the interests which it seeks to protect; according to the nature of the threat to these interests or the reasons for the failure of free enterprise to work the beneficent results conceived by *laissez faire* theory; according to the means employed; and according to the character of the governmental body entrusted with the employment of these means.

It is in the nature of control to be called upon where interests conflict, and the proper adjustment is often far from obvious. Generally the community will try to protect what it regards as the more vital interests, leaving the self-assertion of the less vital interests to the unobstructed interaction of economic pressures and resistances. The United States is perhaps unique in possessing in its constitutional law fairly definite criteria for distinguishing between the more and the less vital; in general it regards the interests bound up with safety, health and morals as paramount over any others which may oppose them, although not to the extent of crippling private enterprise. Thus the consumer's interest in good quality is within the sphere of state protection in so far as quality bears on safety, health or morals; while the less essential matters, such as effectiveness, durability and style, are left to his own judgment. His interest in reasonable prices is also left to competition except in the case of "public service industries," where this safeguard is obviously wanting or ineffective. One interest, however, which is essential in giving the consumer the benefits of such competition as may exist is the interest in knowledge of what the market offers. In these days of synthetic products the education of the consumer needs to go farther than ever before if he is to be able to protect his interests in the purchase of goods.

The interests of men as laborers are more varied than their interests as consumers. Here again the most vital are the interests bound up with health and safety with special regard to the needs of women and children. Less clear is the worker's interest in high wages where there is an obvious conflict with the employer's interest in cheap labor and a scarcely less obvious conflict between the interests of different groups of workers, some of whom may be anxious to get jobs at less pay than others are receiving. Here the growing practise is to set minimum standards on the theory that the public at large has an

interest in such minima and to leave any excess above these levels to the forces of supply and demand. Closely allied to the interest in wages is the interest in security both of income and employment with provision for the special needs of illness and accident. Stability of employment, however, is an interest which governments have not as yet found it practicable to protect. Nevertheless, it is clear that the interests of labor are emphasized by the modern state to an extent which never occurred to its mercantilist predecessor, while the mediaeval economic system contained nothing corresponding to the modern wage earning class. The increasing political and economic importance of this class and the growing spirit of humanitarianism have combined to bring about this result.

An analysis on the basis of the reasons for the failure of free enterprise to work beneficially must begin with the conditions necessary to such beneficial operation. These include: individuals able to determine their own interests both as producers and consumers, to organize their resources and adequately to care for them and to protect and promote them in bargaining; a system of personal and property rights which makes it impossible for any to gain by injuring others, so that every exchange must be to some extent at least a mutual benefit; and constructive competition made possible by the conditions described. Where any one of these conditions is not present the grounds of free enterprise are imperfect and corrective measures are justified, even on the basis of the utilitarian logic of the nineteenth century.

There are obviously many cases in which individuals are not able to judge or to care for their own interest. Minors not adequately cared for by their parents are wards of the state. Women are also objects of special care, not so much by reason of any special incapacity to look after their own interests as because disaster to them is injurious also to the next generation. Further there are many relations in modern economic life in which the normal individual is not in a position to look after his own interests effectively, either because he lacks necessary knowledge which is available to the community or because he is subjected to inequalities of bargaining power which amount to coercion. Moreover it is coming to be recognized that extreme poverty, whatever its cause, creates a condition in which the individual may be forced to sacrifice the needs of the future to the more urgent needs of the present to an extent which is detrimental to

the interests of the community. Community assistance is also called for wherever individuals look after their interests through "delegated agencies" or associative forms of activity, in which the active officials are responsible for other interests than their own. It is precisely this form of activity which, according to the theory of individualism, human nature is not sufficiently developed to handle successfully. The success of corporate business has given the lie to the more extreme pessimism of the economists of the early nineteenth century, but not without revealing many and grave abuses. The pseudo-individualism of large corporate enterprise is not individualism as Adam Smith or Ricardo conceived it and cannot claim the full protection of their theories.

Nor is it true that production consists solely of creating marketable goods and services and inducing individuals to undergo the costs incident to production by offering compensation which is adequate to secure their consent in a freely negotiated bargain. There are many diffused benefits which are never sold and many burdens which are imposed without specific compensation. Industrial pioneering is a matter in which the full benefits are seldom or never collected by those who have brought them into being. The evils of industrial depressions represent the results of business transactions falling in wholly untraceable ways on the economic community as a whole without the slightest possibility of bringing damage suits or collecting compensation from those who are responsible, so far as any human agency can be deemed responsible for the inevitable outcome of "legitimate" business transactions. Here all that can be done is to promote community interests and to minimize or relieve community losses on a non-individualistic basis.

Another clear ground for interference is monopoly, to which should be added many cases in which competition does not act with sufficient force or promptness to afford the individual the benefits he is supposed to receive from it. Under modern conditions the opposite extreme, cut-throat competition, is also regarded by many as a form of sickness in the competitive system, calling for some measures of relief. The cartel affords such relief to the business organization, the labor union to the workers. Both are in varying degree non-competitive and both create a need for such supervision as shall see to it that they do not exercise an oppressive degree of monopoly power.

The methods of community intervention in economic life are quite as varied and offer equally perplexing problems. They range from persuasion, as in the case of President Hoover's conferences with business leaders in the attempt to stem the depression of 1930, to far reaching compulsion, as in the case of commission control of public utilities. Undesirable practices may be prohibited, minimum standards set or absolute standards required as to both price and service. Publicity is often a formidable weapon in combating undesirable practices, and taxation is freely used to discourage various forms of business as well as to mitigate the inequalities of distribution. Arbitration of labor disputes may be voluntary or compulsory as to the submission of the dispute, as to the acceptance of the award or both.

The problem of methods of control is important where burdens are imposed simply in order to assure more desirable conditions to those engaged in the industry as well as a desirable product for the consumers. Care must then be taken that such burdens do not discourage the industry; this need is sharpened where, as in the United States, different jurisdictions set different standards for producers who must compete with each other in the same national market. That such regulation has not produced more serious disturbances is evidence that the burdens imposed have been very far from decisive. There is undoubtedly a considerable difference between imposing conditions which may incidentally increase costs of production while leaving rates of money wages and prices of products free to adjust themselves to the altered conditions, and going to the length of regulating these money payments also and leaving the employers no resource if they cannot overcome the new handicaps by increased efficiency. Where money payments are regulated, much closer consideration must be given to the law of supply and demand. But this law is not a rigid thing, and there is often a considerable margin within which control is possible without seriously handicapping production. Even the fixing of wages at a level which the least efficient employers are definitely unable to pay may operate not to check production but to hasten the transfer of the business to more competent hands—a result which competition should ultimately bring about in any case, but which may be considerably retarded, especially by forms of control over competition developed within business itself.

The type of government agency through which control is exercised varies of course with the structure of governmental machinery from country to country. This applies not so much to those forms of control which are exercised by bodies charged with general administrative functions, such as tax collecting agencies or the customs service, as to the more specific types of control, in which there has been a tendency toward the development of specialized bureaus and departments. A characteristic agency of control in English speaking countries is the administrative commission, whose functions include matters which are essentially legislative, executive and judicial and which specializes in regulating some one industry or class of problems. Labor adjustment has resulted in the joint board, representative of both sides to the controversy; it is either permanent or created for the particular occasion. For the future it may be important that business organization itself is developing representative bodies for self-regulation; these bodies increasingly acquire a governmental character with great possibilities for harm or for good according to the direction taken by the movement. If business forms of government are made adequately representative of all the essential interests involved in the various issues which arise, including political government, they may become an invaluable aid to public policy. Since the World War there has been a pronounced tendency in many European countries to incorporate such bodies in the established framework of political government and to endow them under certain safeguards with powers of compulsion. Elsewhere the assistance of the representatives of various interests and of experts is secured through the agency of advisory boards.

In the United States public control faces special legal problems. The federal constitution delegated only specifically enumerated powers to the central government, the residuary powers of state governments are also limited by the Bill of Rights, and the freedom of action of both types of governments has been further curtailed by the provisions safeguarding private liberty and private property under the Fifth and Fourteenth amendments. The courts have permitted a rather surprising extension of federal action, under authority of the few powers specifically granted, into realms characteristic of the police power reserved to the states. But they refused to permit the use of the taxing power and of the power over interstate commerce in order to enable the federal government to control child

labor. The powers of the state governments have been especially handicapped by the requirement that no person can be deprived of life, liberty or property without due process of law. Liberty and property have been so broadly defined that any effective regulation of economic affairs could be construed as a taking of these intangible values, and its constitutionality could be made dependent on whether it would be held to constitute due process. And due process has been so broadly construed as to cover the question of what subject matter the legislative power may control and what it may not. When the issue was first raised the courts held that it was not the intention to forbid types of power customarily exercised by the states, and extensions of these powers have from time to time been permitted. Judicial attempts to describe the grounds for selection have run mainly in terms of the vital character of the interests protected, justifying control in the interest of the public peace, public health and public morals with room for other matters which may be vital to public welfare. In the District of Columbia minimum wage case the court took account also of the extent of the interference with private liberty, drawing a distinction between control of the "heart of the contract"—in this instance the wage rate—and of incidental conditions. Under the progressive interpretation of the police power advocated by Justice Holmes government would have whatever powers strong and settled public conviction might decide were necessary for it. But this is not yet the law of the land.

Direct regulation of service and prices is permitted in the case of businesses "affected with a public interest." This concept covers the field of natural monopolies, certain industries on a purely traditional basis and a penumbra of other cases in which competition is an ineffective safeguard of service or price. The list is not necessarily a closed one; changed economic conditions may necessitate additions; but legislatures are not free to add any industries they choose. Thus price regulation and the positive power to require the rendering of economic services are hedged about with especially narrow limitations.

The amount and degree of control practicable in times of peace dwindle to insignificance when compared with the lengths to which control may be carried in war time, particularly during a conflict on so large a scale as the World War. War not only provides the emergency which sweeps aside all ideological and legal limitations to control; it provides the force of patriotic motive and

public opinion which puts much of wartime regulation virtually on a consent basis. Moreover war introduces a criterion of what is most essential which is quite independent of market values; no similar criterion exists in ordinary times of peace. And wartime control of prices is typically content with cutting off the peak of profiteering while still leaving profits ample to stimulate the utmost expansion of production in essential industries. There is little care to prevent profiteering in non-essentials; but when the time is ripe for effective action, supplies of fuel and materials are cut down or cut off. On the whole wartime and peacetime controls are fairly distinct. During a war the wastes and perversions of public control are less serious than the wastes and perversions to which free private enterprise would subject the warring nations; this would not, however, necessarily validate the same amount of control in times of peace.

The chief substitute for governmental control is governmental operation. This may be employed in the case of industries whose stimulation is undesirable, such as the manufacture of alcoholic liquors; or for revenue purposes; or where private enterprise will not furnish essential services; or simply as a means of furnishing service without profit. Government can secure capital more cheaply than private enterprise, but its economy of operation is commonly—not always—inferior. Thus it is peculiarly suited to cases in which capital charges are heavy and operating methods simple or well standardized. Government operation may also be used to control the charges of private business by competing with it. This method is obviously not adapted to regulating such things as wages and labor conditions. And it has a tendency to discourage private enterprise, which feels the handicap of competing against an organization that may operate at a deficit, even though private enterprise may be more efficient.

By and large, public control of business has justified itself. It is true that few of its branches have not witnessed serious perversions and abuses. The building code gives the corrupt inspector a chance for economic blackmail similar to that of the racketeer but more secure. The demagogue may attack the public utilities for the purpose of being bought off. Few trusts may be successfully dissolved and conservation of oil (on terms highly profitable to the conservers) may be temporarily prevented by the antitrust laws. Yet there is probably not a single major field of control in which the gains which have

been secured by this method would be willingly given up.

The frontiers of control are expanding. They are expanding geographically, increasing the importance of national functions as compared with those of local governments and compelling the beginnings of international regulation. And they are expanding in the range of things covered and the minuteness of regulation. The present relaxation of the application of the antitrust laws in the United States may be a symptom of a movement in the other direction, but is probably not to be interpreted so simply; it is a relaxation of one kind of control, while others are marching on. Whether one believes government control to be desirable or undesirable, it appears fairly obvious that the increasing interdependence of all parts of the economic system and such unsolved problems as the business cycle and unemployment will force more control in the future than has been attempted in normal times in the past.

JOHN MAURICE CLARK

See: ECONOMIC POLICY; CONTROL, SOCIAL; JUST PRICE; USURY; MERCANTILISM; CAMERALISM; LAISSER FAIRE; INDIVIDUALISM; COMPETITION; WAR ECONOMICS; STABILIZATION, BUSINESS; NATIONAL ECONOMIC PLANNING; LABOR LEGISLATION AND LAW; CORPORATION; COMBINATIONS, INDUSTRIAL; MONOPOLY; GOVERNMENT OWNERSHIP; SOCIALIZATION; PUBLIC UTILITIES; RAILROADS; CENTRAL BANKING; BUSINESS, GOVERNMENT SERVICES FOR; PRICE REGULATION; CONSUMER PROTECTION; POLICE POWER; DUE PROCESS OF LAW; COMMISSIONS; NATIONAL ECONOMIC COUNCILS.

Consult: Hobhouse, L. T., *Social Evolution and Political Theory* (New York 1911); Salz, A., *Macht und Wirtschaftsrecht* (Leipzig 1930); *A Plea for Liberty. An Argument against Socialism and Socialistic Legislation*, ed. by Thomas Mackay (New York 1891); Burns, C. Deslisle, *Government and Industry* (London 1921); Clark, J. M., *Social Control of Business* (Chicago 1926); Ely, R. T., *Property and Contract*, 2 vols. (New York 1914); Freund, Ernst, *The Police Power, Public Policy and Constitutional Rights* (Chicago 1904), and *Standards of American Legislation* (Chicago 1917); Goodnow, F. J., *Social Reform and the Constitution* (New York 1911); *Readings on the Relation of Government to Property and Industry*, compiled by S. P. Orth (Boston 1915); Keezer, D. M., and May, Stacy, *The Public Control of Business* (New York 1930); Roberts, E., *Monarchical Socialism in Germany* (New York 1913); Hirsch, Julius, and Falck, C., *Polizei und Wirtschaft, Die Polizei in Einzeldarstellungen*, vol. v (Berlin 1926); Le Rossignol, J. E., and Stewart, W. D., *State Socialism in New Zealand* (New York 1910); Smith, N. Skene, *Economic Control* (London 1929). For the description of government regulation during the World War see the relevant volumes in the *Preliminary Economic Studies of the War* and in the *Economic and Social History of the World War* published by the Division of Economics and History of the Carnegie Endowment for International Peace.

**GOVERNMENT REPORTING** is the series of arrangements by which reports, varying from the informal to the scientific catalogue, are prepared in order to render the ponderous governmental machine visible and understandable to those who must be consulted in arriving at decisions of public direction. A knowledge of its purpose involves exploration into the three uses of reporting: administrative guidance, research into governmental problems and popular control.

Administrative or managerial reporting aims to integrate the data revealed by budgetary, cost and other accounts required for administrative control. To chart the routing of these reports from subordinates to superiors is to trace the outline of the public structure. These reports form the basic records from which are drained the research data and the public information. The International Association of Police Chiefs has installed a reporting system in approximately a thousand American cities; the recorded data are used for administrative control, for reports to the federal department of justice and for local public reports.

For research purposes a closely knit coordination of all units of government—federal, state and local—is required to create a reporting mechanism. The compilation of mortality and morbidity statistics by the federal Bureau of the Census was a piece of pioneering work that forecasts the extension of its technique into other functions. The Wickersham Commission on Law Enforcement recommended the application of the same technique to criminal statistics by the creation of registration areas composed of states and localities cooperating with the federal government in recording the operations of criminal courts. Privately the national functional associations collate at least a sampling of data by the voluntary cooperation of municipal and state officials.

Reporting to the public arises essentially from the ideal of democratic control. It is subject to a philosophical dispute, largely illusory in nature, which consists in contrasting the more exuberant claims of the democratic dogmatists with the more repulsive practices of politics. Reporting is requisite to the two essentials of democratic control, the judgment of governmental results in the decision of policy and the participation of citizens in public processes. The continuing significance of public reporting is the fact that it reveals—whatever medium is used for disseminating data—an authentic and

interpretative account of what government is, what it is doing and what it may do. Acting upon this conception four of the leading American civic associations through a Committee on Municipal Reporting have prepared specifications for use in drafting current and annual reports which record the vital operations of local government and interpret them to officials and the public.

A cross sectional view of reports in the United States according to the public divisions or units issuing them discloses certain faults and dissimilarities in reporting. In local government the reporting mechanism is a heritage from the period of American adolescence despite an economic maturity that has broken the bounds of political frameworks so as to render the scanty informality of these early methods unsuited to the present day. The town meeting, whose ineptitude as a business meeting is equaled only by its excellence as a medium for discussion, has withered even in its original setting of New England. It has a present day analogue, divorced from the minutiae of town accounts, in the meetings of civic associations, open forums and school centers. The town accounts in turn are slowly yielding to the patient attempts of city managers and commissioners to produce an intelligent dissection of local operations. Beyle's study of the Chicago area revealed that over half of its officials who might have been expected to report did practically no reporting and that much of what was done was useless.

As compared with other divisions state governments report the largest volume of data for administrators and the smallest for public use. The state governments, whose functions are departmentalized, utilize a reporting mechanism geared to yield a regular flow of annual reports and, with a recent perception of public needs, monthly and current reports instructive to citizens. Reporting has been coincident with functionalization: the blanketing of America with state tax commissions, for example, has assured the recording of the more basic tax data. American states and cities lag behind the standards set by the yearbooks of European governmental units.

National reporting is more intermittent and specialized since national administration is more removed from the voter, whose decision is apt to be upon other and more political issues. Upon these issues, it is true, national agencies utilize more skillfully than do the smaller units the devices of publicity, whether by White House

spokesmen or press agents. It is a significant fact that as the national government acquires functions intimately affecting the people, notably in agriculture and commerce, reporting is employed as an instrument of administration. The research and publicity of the Department of Agriculture are unparalleled by the work of any agency in the United States public or private.

Various types of reports may be discerned amid the practices of all units. First may be recognized the report of opinion and policy. Under this heading is included the reporting by the executive to the legislature and through that body and the press to the public. It is based in the United States primarily upon the clause in the constitution requiring the president to report from time to time on the state of the union. Probably no other clause has been invoked more successfully by the president as a lever in molding opinion and legislation. It crystallized in all branches of American government the conception that responsible offices must report periodically the conduct of their functions and recommended improvements.

The report of public problems has been largely special in authorization and functional in content. The special legislative investigating commissions have attained a wide vogue, although legislatures frequently disregard many of their findings. During the two years from 1930 to 1932 state governments named 237 special commissions or ad interim committees.

The report of financial transactions and the fiscal audit, both of which are historical institutions, fail in many respects to conform to current accounting standards. The report informs the citizen concerning the disposition of his money and the audit assures him that the money has been expended honestly and legally. Out of the fiscal audit has developed an audit of administration that attempts to diagnose governmental ills as a basis of suggestions for improvement. A tremendous impulse to the administrative audit was given by the budgetary movement. While notably successful as a device for administrative control the budget has had desultory results as a public report.

A consequence is the effort to report governmental experience by precise units of measurement of work and functions performed. Since the public accounting systems first afforded a formalistic record of work stated in fiscal terms, the effort was first directed toward the formulation of cost accounting systems. Originally con-

finer mainly to the functions of public utilities and public works, cost accounts are being installed in other functions to reveal the unit costs at which the public secures various services. Non-cost units of performance have been introduced to measure the service in terms of services rendered, materials used and personnel employed. The social values of administrative performance may be measured by such external tests as the indices of morbidity and infant mortality in the health field. Measurement aims to present a brief series of conclusions representing truthfully the huge mass of public data and to reduce the operations of government to an orderly significance. An accompanying effort, seemingly in an opposite direction but converging to the same end, is the popularization of public reports. At times popularization can be dismissed as a mere vulgarization of scientific studies into innocuous and useless statements; at its best it may be accepted as a simple, clear restatement of scientific findings that does not molest their veracity.

Reporting depends heavily upon the older distributive methods of reaching the public; the possibilities opened up by mechanical inventions have not as yet been explored. With the disappearance of the political news organ common before the Civil War, nourished by politicians and public contracts, and the personal organ which succeeded it the press now affords a standardized and impersonal avenue of reporting. In 1926 was founded the *United States Daily* as a fact reporting organ of all current activities of the national and state governments. The pattern of this journal may prove suggestive for imitation. While the radio has been utilized by public officials to enlarge tremendously the audiences to which they speak, only a scattering number of municipalities own broadcasting stations and the radio has been only slightly used as an agency for periodic official reports to the public. The moving pictures have had meager use for this purpose, although Charles and William Beard (*American Leviathan*, New York 1930) list an imposing array of pictures utilized for civic education. It is not impossible that the mechanical evolution which so altered the bases of communal life may continue to yield mechanical inventions by which public life may adjust itself to a machine age.

To energize and suggest the public interpretation of reports, official and private agencies are required to indicate the implications of the information. American political parties have not

followed the practise of a number of European parties, notably the British Labour party, in operating research bureaus to interpret the more serious public data. The many and varied American civic organizations come nearer to performing this function than do any other institutions, by scrutinizing public reports or issuing reports of their own. Their significance is that the organizations complete—by reporting in turn to the government instead of merely receiving reports—the cycle involved in the successive stages of examination, reporting, discussion and control. Reporting can exercise its function only when agencies either of private associations or of public units assume responsibility for that review and self-examination of operations implicit in democratic government.

WYLIE KILPATRICK

*See:* GOVERNMENT PUBLICATIONS; DEBATE, PARLIAMENTARY; ADMINISTRATION, PUBLIC; BUDGET; ACCOUNTS, PUBLIC; PUBLIC OPINION; CIVIC ORGANIZATIONS.

*Consult:* Lippmann, Walter, *Public Opinion* (New York 1922) chs. xxv–xxviii; National Committee on Municipal Reporting, *Public Reporting*, Municipal Administration Service, Publication, no. xix (New York 1931); Kilpatrick, Wylie, *Reporting Municipal Government*, Municipal Administration Service, Publication, no. ix (New York 1928); Beyle, H. C., *Governmental Reporting in Chicago* (Chicago 1928), with bibliography; International City Managers' Association, *City Manager Yearbook*, 1931 (Chicago 1931) p. 105–339.

GRACCHUS, TIBERIUS and GAIUS, Roman agrarian reformers. The social and political policy of the Gracchi was motivated by the desire to restore the democracy of peasant freeholders and prevent the formation of a landless proletariat. Although of aristocratic birth they wished to return to the economic system of primitive Rome. They sought to limit the possibilities of domination by the nobility by agrarian laws which tended to divide up the great landed estates among the free citizens dispossessed by the patrician class.

Tiberius Gracchus (162–133 B.C.) was elected tribune in 134 B.C. and assumed office the next year. He immediately revived the old Licinian laws, which although they had fallen into desuetude had never been abrogated. No individual was to be permitted to hold more than five hundred jugera, with two hundred and fifty additional jugera for each of two sons. The land of the large estates over and above this limit was to be expropriated and divided among the poor citizens. Indemnification was provided to com-

pensate for useful expenditures on the land. A triumvirate was appointed to carry these laws into effect, but their work was halted by the assassination of Tiberius by the patricians.

In 123 B.C. Gaius Gracchus (153–121 B.C.) repeated the attempt of his brother. He supplemented the agrarian law with a corn law which made grain available to the citizens of the capital at a low price. He took political measures to weaken the authority of the aristocratic Senate. The patrician class rose up against him, a price was placed on his head and a slave ordered to kill him. The agrarian law of 111 B.C. abrogating all the provisions which had limited the property ownership of the patricians marked the triumph of the aristocracy, and the work of the Gracchi was reduced to nothing.

PAUL LOUIS

*Consult:* Meyer, Eduard, "Untersuchungen zur Geschichte der Gracchen" in his *Kleine Schriften* (Halle 1910) p. 381–430; Körnemann, E., "Zur Geschichte der Gracchenzeit" in *Klin*, Erstes Beihft (1903); Pöhlmann, Robert, *Aus Altertum und Gegenwart* (Munich 1911) p. 118–83; Stern, E. von, "Zur Beurteilung der politischen Wirksamkeit des Tiberius und Gaius Gracchus" in *Hermes*, vol. lvi (1921) 229–301; Oman, C. W. C., *Seven Roman Statesmen of the Later Republic* (London 1902) chs. ii–iii; Stephenson, Andrew, *Public Lands and Agrarian Laws in the Roman Republic*, Johns Hopkins University, Studies in Historical and Political Science, 9th ser., nos. vii–viii (Baltimore 1891); Salvioli, G., *Il capitalismo antico* (Bari 1929), tr. into French by A. Bonnet from Italian ms. (Paris 1908); Louis, Paul, *Le travail dans le monde romain* (Paris 1912), tr. by E. B. F. Waring as *Ancient Rome at Work* (London 1927).

GRACE, WILLIAM RUSSELL (1832–1904), American merchant and financier. Grace was active in promoting Anglo-American economic penetration of the west coast of South America and served as mayor of New York City in 1881–82 and 1885–86. As a boy of twenty he had left Ireland and become partner in a ship chandlery at Callao, Peru, which he later reorganized as Grace Brothers and Company. It developed rapidly into an exporting and importing business with agencies in South America, the United States and England. In 1865 Grace made New York the headquarters of the firm of W. R. Grace and Company, which controlled his Peruvian and other interests and became the leading house in the west coast trade. The increasing American penetration of South America broadened the scope of Grace's operations. After the nitrate war between Chile and Peru in 1879–80 his firm secured control of the mining and railway interests of the heirs of Henry Meiggs, who

had built a series of railroads in Peru, three of which were still uncompleted at the time of his death. In attempting to secure capital for their development Grace became interested in the general credit position of Peru and engaged extensively in banking. After a three-year contest for control of the Peruvian legislature, against agents of Chile and of French bankers, Grace became the government's financial agent. In 1890 the Grace-Donoughmore contract was arranged with British bondholders; railways, guano, mining and land rights and customs control were turned over to the Peruvian Railways and Development Corporation, Ltd., which assumed payment of instalments of the Peruvian debt. A year later he organized the first regular steamship service from New York to the Pacific coast, and his firm became increasingly important in the penetration of South America. Grace was active in the promotion of Nicaraguan canal projects, president of an export lumber company and director in three American banks. Developments after the Spanish American War greatly stimulated the expansion of W. R. Grace and Company.

LELAND H. JENKS

*Consult:* New York *Evening Post* for March 21, 1904; Child, Theodore, *The Spanish American Republics* (New York 1891) p. 218 26; United States, Commission to Central and South America, *Reports*, 49th Cong., 1st sess., House Executive Document, no. 50 (1886).

GRADING is the process of classifying into grades or classes of quality set up according to given criteria. It has a wide range of applications but is most commonly used to classify commodities in trade, in which sense it is often confused with standardization and simplification. While grading is classifying according to given grades, standardizing is the determining of uniformity for some practise—for example, that certain grades shall be standard—and simplification is the reducing of variety in sizes, types, models and the like.

Each case of grade making requires skilled technical research to find the qualities physically important in a commodity and social research to determine the needs of trade practise. Re-appraisals are often necessary as new varieties appear or as new recognition is given to certain characteristics. The qualities or characteristics taken into account may be illustrated by cotton grades, which are a composite of color, luster and brightness of lint; nature and quantity of foreign matter and the preparation, or ginning.

Butter grades are based on flavor, body, color, salt and package.

The lack of uniformity in the names of given grades may be indicated by the fact that wheat is given numerical ratings, cotton such grades as Middling and Strict Low Middling and eggs such rankings as United States Special and United States Standard Dirty.

Experience has shown that grade establishment and grading are most practicable for commodities whose units have a considerable uniformity, the varieties of which are somewhat limited, the qualities of which are retained for a sufficient time to complete the marketing process and which are produced and are acceptable to consumers in a similar range of qualities and sizes from year to year so that a grade once fixed is more or less continuously applicable. To be most valuable for purposes of trading, grades must be relatively narrow. Even with narrow grades, differences of price within the grade often exist.

The grading of commodities, particularly according to standards set by an authoritative body such as a government or an organized exchange, offers trade several advantages. It makes possible the sale of goods by grade without inspection even of samples and facilitates adjustments of claims growing from losses in transit. Grading provides a technical basis for market inspection and certification services. Through these it minimizes the possibilities of exploitation by middlemen and facilitates the financing of commodities in transit and in storage by giving a recognized quality to bills of lading and warehouse receipts. For cooperative associations grading makes it possible to assure each grower a return commensurate with his contribution.

In spite of these recognized values systems of grades and grading have not been made effective for the purchase of most manufactured goods by either industrial or ultimate consumers. The almost infinite variety and the rapid change of possibilities afforded by the manufacture of new articles often make practicable classification impossible. The variety of utilities and the many price ranges required make the problem especially difficult in the field of consumer goods. The industrial consumer gives specifications—thus making his own grade—but the small purchases of the ultimate consumer can usually be made on specification only at a cost which is prohibitive. In practise the consumer relies on inspection price, on the retailer's judgment or most commonly on his own and his acquaint-



ances' experiences with brands as indicative of grades.

Commercial grade making and grading were for many years carried on by commodity exchanges and other trade groups. Commercial cotton grading has been carried on in Liverpool since about 1800, commercial grain grading in the United States since the middle of the nineteenth century. Governmental grading, long carried on by certain states for commodities important to them, is now best exemplified by the work of the United States Department of Agriculture, which in 1913 expanded its grading into a major task. The country's largest staple crops were put on an adequate grading system by the United States Cotton Futures Act of 1914 and the Grain Standards Act of 1916. These with supplementary laws promulgated official standards and required their use in all interstate transactions based on grade. The United States Warehouse Act of 1916 also required the use of these grades in transactions under the purpose of that act. Important grade making has also been done by the department in dairy and poultry products, fruits and vegetables, hay and related products, livestock, meats, tobacco, wool and canned foods. Most department grades are optional or permissive, except that certain government purchases and any inspection of farm products by federal officers are based upon them. The department provides complete inspection and certification service on all mandatory grades and in some cases on permissive grades. In other cases it issues inspecting and grading licenses to persons not employed by the government. The work of the federal government has relieved the states of concern for grades of the major staples, and some of the states have passed laws which make mandatory the federal permissive grades. State grades are still important for fruit, vegetables and eggs.

The American Standards Association, the Bureau of Standards and trade associations by determining the desirability of certain qualities of commodities and procedures contribute to the work of grading. The last sometimes set up a series of recommended grades; the last two formulate "commercial standards"; and the three cooperate in formulating so-called American Standards. Among agencies interested in grading for consumers are the Bureau of Home Economics, the American Home Economics Association, leagues supported by consumers, the so-called testing institutes of advertising media and private testing and labeling agencies. The

Bureau of Standards also assists in this field.

Although governments other than that of the United States have assumed lesser roles in grading, a tendency toward government responsibility is evident. In Canada a governmental grain commission controls grain grades. In England permissive grades have been established by the Ministry of Agriculture for beef, apples, milk and certain vegetables. Inspection and certification of these grades are not extensive. In recent years there has developed grading of fruit for export in Italy, Spain and South Africa. Some United States cotton grades have been adopted by leading European cotton exchanges; United States grades for wool have been endorsed in the British trade; and arrangements have been made with certain European countries to accept United States Department of Agriculture grades in sales of wheat to them.

The United States Food and Drugs Act of 1906 is an important grading law in the interest of the consumer in the restricted sense that it illegalizes for interstate sale "foods, drugs, medicines, and liquors" classified as "adulterated or misbranded or poisonous or deleterious." Similar types of legislation are the foreign food and drug regulatory acts, the Meat Inspection Act of 1906 and the Mapes law of 1930. The last requires that certain canned foods of low quality, even though legal for trade, must be labeled "Below U. S. Standard."

LEVERETT S. LYON

See: STANDARDIZATION; MARKETING; AGRICULTURAL MARKETING; COMMODITY EXCHANGES; GRAIN ELEVATORS; AGRICULTURE, GOVERNMENT SERVICES FOR; INSPECTION; ADULTERATION; FOOD AND DRUG REGULATIONS.

Consult: "Standards in Industry" ed. by R. H. Lansburgh in *American Academy of Political and Social Science, Annals*, vol. cxxxvii (1928); United States, Department of Agriculture, "National Standards for Farm Products" by L. S. Tenny, *Circular*, no. viii (rev. ed. 1930); United States, Bureau of Standards, *Standards Yearbook*, published annually since 1927; *American Standards Year Book*, 1931 (New York 1931); United States, Department of Commerce, *Trade Association Activities*, Domestic Commerce series, no. xx (rev. ed. 1927); United States, Bureau of Standards, *Simplified Practice Recommendations*, especially no. R 16-29 (4th ed. 1929), and no. lxi (1927); Chase, Stuart, and Schlink, F. J., *Your Money's Worth* (New York 1927); League of Nations, Economic and Financial Section, *Survey of . . . Means at the Disposal of Foreign Buyers . . . to ascertain the Quality of the Goods . . .*, 1930, II, 48 (Geneva 1930).

GRADOVSKY, ALEXANDER DMITRIEVICH (1841-89), Russian jurist and publicist. Gradovsky was professor of public law at the

University of St. Petersburg. Influenced by the idealism of Fichte, Hegel and Lorenz von Stein, Gradovsky qualified their ideas with those of Comte and French positivism, insisting on the necessity of studying in detail political and social realities which underlie political doctrines, although he failed to appreciate the full significance of the economic factor. In his monumental account of Russian constitutional law Gradovsky endeavored to construct the Russian autocratic regime as a legitimate not a despotic monarchy, insisting on the importance of the intermediary bodies which are subject to the law and without which the monarchical power can seldom act. In his political sympathies Gradovsky was a moderate liberal whose ideal was the "reign of law" and the inviolability of individual liberty; but he did not overlook the fact that the state also should assume positive—cultural and social—duties. An enthusiastic partisan of the great liberal reforms undertaken in the first half of the reign of Alexander II, Gradovsky wished for a slow development of the regime toward constitutional monarchy and ardently combated all overt or veiled adversaries of the enforcement of the reforms. The political reaction which took place under Alexander III threw Gradovsky into the ranks of the opposition; after the newspaper *Golos*, on which he collaborated, ceased publication, Gradovsky abandoned his activity as a publicist.

In the great struggle between the Slavophiles and the westernists, which during Gradovsky's lifetime continued to divide Russian society, he occupied an intermediate position. The Slavophiles, he believed, were right in emphasizing the specific national quality of the Russian people and the impossibility of applying western forms to its political organization without regard for its history. But they were wrong in denying any value to western civilization. The westernists in their turn were right in their criticisms of a number of Russian institutions and in their agitation for reforms, but they were wrong in ignoring the individuality of the Russian national type and in wishing to found a state devoid of national distinctiveness. Gradovsky's own views, strongly influenced by the nationalism of Fichte, pointed to a synthesis of both civilizations as the basis for a progressive national state. In this synthesis Slavophile sympathies at first predominated, as shown particularly in Gradovsky's attitude during the Russo-Turkish war of 1876-78. After 1881 he allied himself with the partisans of western civilization. The well known po-

lemic with Dostoevsky was decisive in this direction.

GEORGES GURVITCH

*Works:* Collected works in Russian in 9 vols. (St. Petersburg 1899-1904).

*Consult:* Biographical supplement to vol. ix of collected works, p. i-cvii.

GRADY, HENRY WOODFIN (1851-89), American journalist and orator. Grady was a native of Georgia. As an editor of the Atlanta (Georgia) *Constitution*, he helped set the pace for modern southern journalism. Grady was the first southerner of stature to enunciate a policy of conciliation and self-reconstruction after the Civil War. The apex of his brief career was his appeal for American unity before the New England Society in New York in 1886. His contention was that early differences between Puritan and Cavalier had been fused in the typical American, as represented by Abraham Lincoln. Convinced that the southern agrarian system had proved its inadequacy, Grady advocated diversification of agriculture, localized production of necessities and personal industriousness and stressed the need for developing manufactures in the south. He was a particularly zealous champion of the fruit and forest products industries. Although his oratory was often flamboyant, his speeches and editorials nevertheless afforded concrete practical advice and stirred a wide public, winning respect in the north and directing southern energies into constructive economic channels.

CLARENCE E. CASON

*Works:* *The Complete Orations and Speeches of Henry W. Grady*, ed. by E. Shurter (Austin, Tex. 1910); *The New South* (New York 1890).

*Consult:* Harris, J. C., *Life of Henry W. Grady* (New York 1890); Terrell, R. F., *A Study of the Early Journalistic Writings of Henry W. Grady* (Nashville, Tenn. 1927).

GRAETZ, HEINRICH (1817-91), Jewish historian. Graetz was born in the district of Posen. He received a traditional Jewish education and later attended the University of Breslau. At first he was influenced by the neo-orthodoxy of his teacher Samson Raphael Hirsch but later he adhered to the moderately liberal "positive-historical" orientation of Zacharias Frankel, with whom he worked from 1854 as a docent of the Jewish Theological Seminary in Breslau.

Graetz' reputation as the most outstanding Jewish historian of the second half of the nineteenth century rests on his *Geschichte der Juden*

von den ältesten Zeiten bis auf die Gegenwart (11 vols., Leipsic 1853-75; tr. by B. Löwy, 6 vols., Philadelphia 1891-98). When he began his work thirty years after the publication of Jost's earlier uncritical work, he could rely upon the scholarly researches of Zuntz, Rapoport, Geiger and others; by supplementing these with his own researches based on primary sources he was able to construct a solid work of Jewish historiography instead of the "tent in the desert" erected by Jost.

Graetz possessed all the qualifications necessary for the writer of history on a grand scale: knowledge of primary sources in various tongues, a critical instinct and a constructive talent. The pathos in thirty centuries of the life of an "eternal people" inspired him as a historian. The first two volumes, dealing with the Biblical period and published after all the other volumes, bear witness to the existence of two conflicting aspirations in their author, to apply the scientific-critical method and to remain faithful to the sacred tradition.

Throughout his work Graetz took the middle course between the religious and the modern national conception of Jewish history. Sometimes he points out the national character of Diasporic history (as in the introduction to vol. v), but in his exposition he always places chief emphasis on the elements of martyrdom and learning. In both of these fields he succeeded in giving a history, systematic and critical of sources, which utilized all the material available in his time. The new Jewish historiography differs from Graetz mainly in methodology and point of view; it treats the Jewish people not merely as a special spiritual type but also as a nationality in the broad sense of the term and attempts to portray all aspects of its history, particularly the activities of its nationally autonomous communities and the social-economic preoccupations of the various classes. The newer Biblical criticism and discoveries bearing on Assyriology now make possible a more scientific account of the ancient "sacred" period of Jewish history. Graetz also ignored almost entirely the history of the largest Diaspora center in eastern Europe. But despite all its faults Graetz' work remains to this day the fundamental work of Jewish historiography and is indispensable to every new worker in this field.

SIMON DUBNOW

Consult: Abrahams, I., "H. Graetz, the Jewish Historian" in *Jewish Quarterly Review*, vol. iv (1891-92) 168-203; Meisl, J., *Heinrich Graetz* (Berlin 1917);

Bloch, P., *Heinrich Graetz* (Posen 1904); Brann, Marcus, in *Monatsschrift für Geschichte und Wissenschaft des Judentums*, vol. xxvi (1918) 231-65, vol. xxvii (1919) 34-47, 343-63, and vol. xxviii (1920) 143-56; Dubnow, S., *Weltgeschichte des jüdischen Volkes*, 10 vols. (Berlin 1925-29) vol. ix, p. 352-61.

**GRAIN ELEVATORS.** Grain elevators are warehouses in which grain in bulk is elevated by endless cup conveyors or pneumatic pipes to storage bins and from which it is discharged by gravity through shipping "legs" into cars or vessels. Country elevators first made their appearance in the grain region tributary to Chicago in the early 1860's and soon were displacing the riverside or trackside flat warehouses where grain was laboriously handled in sacks. Bulk handling through elevators utilizes the flowing properties of grain and in addition to eliminating the cost of sacks immensely facilitates the rapid receiving, grading, weighing, storage and shipment of farmers' grain during the period of heavy market movement.

From the standpoint of ownership country elevators may be distinguished as independent, "line," mill and cooperative. Line elevator systems are owned by large dealers on primary markets, who generally control terminal elevators as well. Mill elevators are located in selected areas where flour millers or cereal manufacturers choose to buy from growers directly. The farmer bringing his threshed grain to the elevator may either sell it outright on "street," accepting the buyer's grade and price; or he may have it stored with other grain of like grade, as determined by the operator; or, as is common in western Canada, he may have it stored "subject to grade" or "specially binned," with grade and dockage determined by government inspection. Street prices are generally in accordance with lists wired daily by grain dealers' associations to country points, based on the closing exchange price of the future in which country purchases are being currently hedged. When the grower stores his grain he is in a position to obtain advances against his elevator tickets, to choose his time of sale and, if he has sufficient grain in store to load a car, to consign it to a terminal commission firm, obtaining settlement on the basis of spot prices on the primary market. Line companies generally maintain commission departments operating on the exchanges. As a means of complementing the seasonal activity of grain handling, of spreading overhead costs and of attracting farmer patronage most country elevators engage in the subsidiary business of handling

bulk farm supplies (e.g. coal, lumber, cement).

Terminal elevators are located at primary markets or strategic concentration points. Here grain is received on the basis of official grade and weight, dockage is finally removed, drying or reconditioning and often mixing are carried on and seasonal storage is provided. Terminal warehouse certificates constitute the standard currency of the organized grain trade, future contracts being executed through the tender of registered receipts for grain in storage at terminal elevators designated by the exchanges concerned as regular (i.e. those delivering grain on exchange contracts). Public terminal elevators store grain not only for their operators, who are mainly line companies, but also for other persons, subject to conditions and charges regulated by governments and exchanges. Private terminals are used for the storage, conditioning and mixing only of grain belonging to their owners, who are usually grain merchants, milling, malting, linseed oil companies and the like.

Transfer elevators are located chiefly at railroad break bulk points in order to facilitate transfer to connecting lines, at water and rail transshipment points (such as Buffalo and the Georgian Bay ports) and at seaports. Grain in transfer elevators is not generally stored for sale, nor is it here given official grade inspection; it is either in process of movement to terminals for sale or having already been sold is awaiting transshipment abroad. Floating elevators are not used for storage purposes but for the running transfer and weighing, through pneumatic legs and hopper scales, of grain from barges to vessels (as between New Jersey railroad terminals and ships loading general cargo at New York berths) or from vessels to barges (as at Liverpool for continental transshipment).

Bulk handling through country elevators prevails almost exclusively in the trans-Mississippi states and in western Canada, although on the Pacific slope this method has tended to displace handling in sacks since the wartime construction of coast terminal elevators and the development of combine harvesting. It is estimated that there are about 27,000 country elevators in the United States, each with an average capacity of 17,000 bushels. In western Canada the number reported in 1930 was 5650, of which more than half were in Saskatchewan. The 509 terminal, transfer and manufacturing elevators in the United States in 1930 had a combined capacity of 430,000,000 bushels, the greatest concentration being at Minneapolis, Duluth, Chicago,

Kansas City and Buffalo. Most of these were owned by grain, milling, railroad or warehouse companies, although at New Orleans, Seattle and Tacoma public elevators have been built by port commissions. In Canada one half of the total terminal and transfer elevator capacity of 180,000,000 bushels is concentrated at Fort William-Port Arthur on Lake Superior, the remainder being distributed among inspection points in the Prairie Provinces, and lower lakes, eastern and Pacific ports, with Fort Churchill on Hudson Bay added in 1931. A large proportion of these elevators are publicly or cooperatively owned, some twenty belonging to the dominion government, various harbor commissions and the Canadian National Railways, while twelve are owned or leased by grain growers' cooperatives.

In other grain exporting countries country elevators are almost entirely lacking. In Australia and Argentina sacked grain is piled at country points under open sheds or tarpaulins, where mice ravages have at times been serious. Small terminal elevators exist, however, at certain Australian ports. Only about 10 percent of Argentina's grain exports passes through terminal elevators, located at Plata River ports and Bahía Blanca. In such cases grain from the interior has to be desacked. Lack of elevator facilities has long been a grievance of Argentine growers, and the provisional government was in 1931 negotiating with a Canadian engineering firm for the construction of a system of 600 country and terminal elevators.

The ownership of elevator facilities, particularly in the early days of the grain trade, has carried with it the possibilities of far reaching control over the marketing of grain and the returns to growers. The rapid expansion of large scale grain growing in the United States spring wheat belt after the Civil War and on the Canadian prairies after 1890 placed a tremendous strain upon the railways during the postharvest months, since slight facilities for farm storage existed. While the railroads frequently undertook the construction of transfer and terminal elevators they found it necessary as a means of speeding up the loading of cars at country points to offer special inducements to private concerns to provide elevator facilities along their lines. These took the form of leasing of elevator sites on nominal terms, of "spotting" cars for loading only from such elevators and of requiring shippers using flat warehouses or loading platforms to pay the regular elevator charges. In other

cases where railways did build elevators along their lines, rebates on the combined elevator and freight charges were often allowed to members of wheat rings who agreed to buy grain at company stations.

The most frequent grievances of growers were that they were compelled to accept the grade, dockage, weight, price and handling charges of the elevator operators, who were suspected of acting in collusion. Difficulties in securing cars for direct loading from farmers' wagons and in obtaining public storage in terminal elevators limited the opportunities for alternative outlets through consignment to primary markets or sale to independent track buyers. The granger movement of the seventies and the Grain Growers' movement in western Canada after 1900 were to a large extent actuated by farmers' complaints against railway and elevator companies.

The first state to undertake some form of public regulation of elevators in response to granger agitation was Illinois through its Warehouse Act of 1871, which required all operators of public grain warehouses to procure licenses and file bonds and to publish handling and storage rates, for which legal maxima were prescribed. The judgment of the United States Supreme Court in 1876 in the celebrated case of *Munn v. Illinois* (94 U. S. 113) sustained the validity of the Illinois law and affirmed that the operation of public grain warehouses was clothed with a public interest. This doctrine was further upheld in the subsequent cases of *Budd v. New York* in 1892 (143 U. S. 517) and *Brass v. North Dakota* in 1894 (153 U. S. 391) involving the constitutionality of statutory maximum rates.

Regulation of public terminal elevators as established in all important grain trade states today usually includes such features as the following: compulsory licensing and bonding; definition of warehouseman's responsibilities; prohibition of discrimination in charges and services; prohibition against mixing of different grades of grain belonging to persons other than proprietors of such elevators; prescription of maximum charges and of form of warehouse receipts; filing of weekly or daily statements as to grain receipts, stocks and shipments; issue of inward and outward inspection certificates by state inspectors and in some cases of weight certificates by state weighmasters. Even more intensive is the regulation exercised by the large grain exchanges over elevators classed by them as regular.

The United States Department of Agriculture began to play a part in the control of grain ele-

vators with the passage of the federal Warehouse Act of 1916 (amended in 1919 and 1923). This act covering public elevators in which grain is stored for interstate or foreign commerce is, however, not mandatory in its nature. In other words, before an operating company can become subject to the provisions of the act and do business as a federal warehouse it must make application to the secretary of agriculture for a license. In Canada elevator regulation as well as grain inspection has from the outset been a subject of federal control. The oft amended Manitoba Grain Act of 1900 was consolidated with various inspection laws to form the Canada Grain Act of 1912, and administration was placed in the hands of the federal Board of Grain Commissioners. The law embraces the regulation of country as well as terminal elevators and provides for the establishment and administration of grades, weighing and inspection.

In addition to public regulation grain growers have sought to limit the control exercised by private elevator owners through the acquisition of their own plants. Early attempts in the 1870's ended almost invariably in failure because of inadequate capital, inexperienced management and the aggressive competition of private companies. Limitation of competition in country buying through aggregation of line companies gave a renewed stimulus to the cooperative movement in the late 1880's and early 1890's, and under the inspiration of the Northwestern Farmers' Alliance numerous farmers' elevators sprang up in Iowa, Illinois and Minnesota. The federal Division of Cooperative Marketing estimated the number of farmers' elevator associations in 1929 to be approximately 4000. These had 450,000 stockholders, a total investment of \$65,000,000, handled 550,000,000 bushels annually and carried on a subsidiary supply business amounting to \$160,000,000. Where successful the cooperative elevators have brought the farmers cash, stock and patronage dividends and have had an indirect competitive influence at country points.

The chief limitation of the cooperative elevator movement in the United States has been its predominantly local, independent character. This has placed farmers' elevators at a competitive disadvantage with the strongly financed and centralized line elevator companies, which have their firmly entrenched position on primary markets as well as subsidiary control of terminal elevator facilities. There have been a few cases of limited cooperative line elevator systems in

the Dakotas and Kansas. Also in 1929 there were some twelve farmers' grain commission agencies operating on terminal markets. The Farmers' National Grain Corporation created in 1929 by the Federal Farm Board has as one of its aims the development of a national sales agency for three types of cooperative grain organizations; namely, farmers' elevator associations, terminal sales agencies and wheat pools.

In western Canada cooperative country elevators were established as units of centralized provincial systems by the cooperative elevator acts of Saskatchewan (1911) and Alberta (1913). Here government mortgage loans equivalent to 85 percent of the cost of elevator construction were made available to the respective provincial companies, conditional on stock subscription by farmers to the full amount. The plan proved highly successful. In 1926 the Saskatchewan Cooperative Elevator Company, Ltd., and the United Grain Growers, Ltd. (which had absorbed the Alberta company in 1917) operated between them some 800 country elevators and controlled as well 28 percent of the total terminal storage at the head of the lakes. The establishment of the Canadian wheat pool in 1924 was followed by the creation of subsidiary pool elevator systems in the three Prairie Provinces and the absorption of the Saskatchewan cooperative system by the pool of this province in 1926. These provincial pool elevator systems were financed through annual elevator reserve deductions from growers' returns. By 1930 the three affiliated pools had acquired 1636 country elevators as well as terminal elevator facilities of nearly 40,000,000 bushels capacity. This constituted the world's largest elevator system.

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See: GRAINS; MILLING INDUSTRY; GRADING; AGRICULTURAL MARKETING; COMMODITY EXCHANGES; FOOD SUPPLY; AGRICULTURAL COOPERATION; FARMERS' ORGANIZATIONS; AGRARIAN MOVEMENTS; AGRICULTURE, GOVERNMENT SERVICES FOR; GOVERNMENT REGULATION OF INDUSTRY; GOVERNMENT OWNERSHIP.

Consult: United States, Federal Trade Commission, *Report on the Grain Trade*, 7 vols. (1920-26) vols. i-iii; Huebner, G. G., *Agricultural Commerce* (new ed. New York 1924); Hibbard, B. H., *Marketing Agricultural Products* (New York 1921); Patton, H. S., *Grain Growers' Cooperation in Western Canada* (Cambridge, Mass. 1928); Buck, S. J., *The Granger Movement* (Cambridge, Mass. 1913); Larson, H. M., *The Wheat Market and the Farmer in Minnesota, 1858-1900* (New York 1926); United States, Department of Agriculture, "Marketing Grain at Country Points" and "Cooperative Grain Marketing," *Department Bulletin*, nos. 558, 937 (1917 and 1921), and "Farmers' Cooperative Association in the United States," *Circular*,

n.s., no. 94 (1929); Canada, Royal Grain Inquiry Commission, *Report*, Sessional Paper, no. 35 (Ottawa 1925); Northwestern Miller, *Almanack and Yearbook of the Breadstuffs Industry*, published in Minneapolis since 1928.

**GRAINS.** The cereal grasses comprise the most important group of plants in the world. The chief food grains are wheat, rice, sorghum, maize, rye, barley and oats besides several minor millets. They furnish not only the principal food of the human race but also the principal feeds of the animals on which man depends for meat, milk, eggs, leather and wool. In this double role they sustain life and are the basis of living standards.

The cereals are of ancient origin. There are several recognized criteria of the antiquity of cultivated plants, the chief being their presence in the excavated habitations of prehistoric or ancient peoples, their association with religious or other rites and ceremonies, the existence of words denoting them in Sanskrit or other root languages, the diversity of ancient cultivated forms and the absence of forms intermediate between them and existing wild species. On these bases all the important food grains except rye and possibly oats offer proof of great antiquity. Neither the time nor place of domestication of a single one of the food grains is known with certainty. Without exception excavations of the earliest habitations reveal them as cultivated crops and not as wild plants gathered for food. The primitive cultivated forms also cannot be connected conclusively with any wild species still extant. Because of the diversity of form and extensive culture of wheat and barley and to a lesser extent oats in neolithic times they must obviously have been domesticated millennia earlier.

All the major food grains except maize originated in the Old World. Maize was developed by primitive man in the tropical or warm temperate parts of the Americas. All of the Old World food grains except sorghum probably were developed in Asia. Sorghum almost certainly originated in Africa. All the Asian food grains except rice in all likelihood were developed on the treeless steppe plateau of west central Asia. Rice had its origin in the coastal swamps of southeastern Asia and perhaps also in Africa. Wheat, barley, oats and rye then, as also some minor millets, were domesticated in west central Asia or adjacent territory.

Wheat, the most important of the food grains, is likewise one of the most ancient. It comprises several groups often regarded as distinct species

or subspecies, the chief being: (a) einkorn, or one-kernelled wheat; (b) spelt and (c) emmer, with the primitive characters of fragile rachis and chaff field kernels; (d) durum, poulard, and Polish wheats, which are less primitive derivatives; and (e) the common and club wheats, forming the bulk of the commercial wheat of today. Of these groups einkorn, emmer and the common-club wheats are the oldest, being found abundantly in the late neolithic lake dwellings of central Europe and in the succeeding bronze age remains. Durum and poulard wheats apparently are warm country products not found in neolithic central Europe but abundant in the Mediterranean civilizations of ancient Egypt, Greece and Rome. The same is true of the emmers and common-clubs. Spelt is not found in the neolithic period and is not traceable in ancient languages, although occurring in Greece and Rome.

Wheats probably are derived from species of the genus *Agilops*, wild grasses of western Asia and southeastern Europe, which sometimes are placed in the wheat genus, *Triticum*. Einkorn probably derives from the wild *T. agilopoides*. Emmer may have originated from the presumably wild but exceedingly variable and perhaps hybrid *T. dicoccoides*, exploited as "wild wheat" from northern Syria. The durum, poulard and perhaps also the Polish wheats derive from emmer. The common-club group have no certain wild ancestor and may also have sprung from emmer. A wild species, *A. cylindrica* or *T. cylindricum*, of southeastern Europe probably is the ancestral form of spelt.

Barley, like wheat, is one of the most ancient of cultivated plants. Both six-row and two-row forms are found abundantly in neolithic and bronze age sites of central and western Europe and were extensively cultivated in ancient Egypt, Syria and Greece. A two-row wild species (*Hordeum spontaneum*) of western Asia probably is the ancestral form.

Oats apparently are of recent origin, springing from the wild *Avena fatua* of Europe, as they occur no earlier than in bronze age lake dwellings. They were known to Greece and Rome only as a barbarian crop of the north. The vernacular names, like those of barley, prove a long cultivation in northern Europe and the East.

Rye probably is the most recently developed of the important food grains. It is not found in neolithic or bronze age excavations and has no name in Sanskrit or its derivatives. It is not mentioned in ancient Chinese or Greek litera-

ture. It was known to the Romans only at the beginning of the Christian era and after its cultivation had begun in north Europe, where its names among the oldest peoples show a common origin. The wild species of the genus *Secale* are found chiefly in Russia and western Asia.

At least two millets, common and proso, occur in the neolithic lake dwellings of central Europe. They probably, although not certainly, have Sanskrit names; and one or the other was known to the ancient Chinese, Greek, Egyptian and Roman civilizations. Presumably both originated in western Asia.

Rice is of very ancient origin, as indicated by the thousands of cultivated varieties existing, its ancient culture in China and India and its Sanskrit names. The Greeks first received it through Alexander's expedition, and the Egyptians many centuries later. Wild species occur in both India and central Africa.

The origin of sorghum is not known, but its cultivation in Africa, India and northeastern China undoubtedly is ancient. Being tropical or subtropical it is not found in the neolithic or bronze age sites of Europe. It occurs in the paintings and sculpture of old Egypt and is mentioned once in the Old Testament as a bread making cereal. The fact that it was cultivated in ancient Egypt but not in India until after the Aryan invasion or in China until still later indicates African origin and a migration from west to east. Wild species are found in Africa. It has no Sanskrit names and is not mentioned by ancient Chinese or Greek authors. Its introduction into Italy from India occurred in the first century A.D.

Maize was not known until the discovery of the New World, where it was found being cultivated by the native Amerinds throughout both the continents. The immense diversity of kinds, its general geographic distribution among different native peoples, its abundant presence on pottery and in sculpture and its wide use in religious and other ceremonies all indicate a very ancient origin. No wild species exist, its nearest relatives being two species of *Euchlaena* in tropical America, from which it may have been developed ages ago.

Wheat, barley and oats have about the same soil and climatic requirements and compete with each other and with maize in its northern extension. Rye can be grown on poorer and sandier soils and somewhat farther north than these crops and therefore more nearly competes with barley and oats. Two or more of these often were

grown in a mixture called maslin. Wheat, rice and sorghum are complementary rather than competing crops and their areas overlap but little. Wheat prefers a moist, temperate climate and clay-loam land; grain sorghums can occupy land too hot and too dry for wheat; while rice requires low fertile land, a warm climate and abundant water, either by precipitation or by irrigation. In India, for instance, sorghum occupies the dry hot interior, rice occupies the low wet coastal areas and wheat occupies the high cool plateau in the north and northwest, where barley too is grown.

The seven important food grains are classified into two groups: the small grains, wheat, barley, oats, rye and rice; and the large growing sorghum and maize. The four temperate small grains, wheat, barley, oats and rye, all have been handled in about the same way since their culture began. The grain is sown directly on the field where the crop is to be produced, and no further treatment except some weeding is required until harvest. Cultural methods for these crops have been similar among primitive peoples throughout the world's history. Possibly palaeolithic man and certainly neolithic man accomplished rude seed bed preparation, or tillage, with the progenitor of the modern hoe, which as a rule was fashioned from a barbed stick or from deer antlers, shoulder blades, shells or chipped stones fastened to a wooden handle. Seeding was by hand in the soil thus loosened. Harvest at first was by hand plucking and later by the aid of a flint knife. Threshing, done at first by rubbing out the grain with the bare hand, was accomplished later by beating with a stick, the prototype of the flail.

The use of the ox as a draft animal followed the domestication of cattle and was the first great improvement, the hand hoe changing into a crude plow. Sowing was still done by hand. The short, straight harvesting blade became longer, then curved and finally fitted with a handle. With the coming of the bronze age the quality of these tools, especially the sickle, was improved and the cultivated area increased. The brush drag for smoothing and fining the rough surface was followed by the log drag and eventually by the harrow. The domestication of the ox and the horse permitted treading out the grain by use of these animals, assisted finally by an attached wooden or stone roller, later roughened or spiked. Such was the sum total of the improvements accomplished during many thousands of years. It is interesting to note that prac-

tically all of these primitive implements have persisted until the present day.

Rice differs from the other small grains chiefly in being grown under water during its juvenile stage. To prevent the plants from being choked by water loving weeds the seeds usually are sown very thickly in a specially prepared seed bed and later are transplanted by hand to the field, a tedious process possible only where labor is cheap.

Because of the much larger size of the plants sorghum and maize are grown in small groups or hills, spaced more or less regularly, rather than sown broadcast or drilled closely. This method has required cultivation to destroy weeds on the unoccupied soil. The harvesting methods of these grains also have differed in that the individual head or ear has been the unit of harvesting to the present day. Because of the large and unprotected heads of the sorghum they often have required protection from birds by the grower.

Improvement of the food grains has been in progress through many millennia. Primitive man must have had the necessary intelligence to select the larger, better flavored, better seed holding and more productive plants. Different wild strains, natural hybrids and mutants, in both wild and cultivated crops, gave him a continuing basis for selection. Modern man has added two improvements to the selection process: the ability to make artificial hybrids and to discover and apply the laws of genetics. These advances have given him an enormous advantage but not complete control over his crop plants. His major interest is to improve their quality and productiveness as well as their resistance to fungous and insect pests and unfavorable climatic environment. Desirable characteristics unfortunately often are closely linked with undesirable ones.

Neolithic man learned how to grow better crops by the application of fertilizing substances, such as fish and other animal remains and manures, and he or bronze age man applied inorganic substances such as marl and chalk. Later but at least as early as Roman times were discovered the use of green manures, such as leguminous crops, and the benefits to be derived from crop rotation. Modern man has improved and extended these practices and has made original discoveries in soil tillage, seed inoculation and control of fungous diseases and insect pests.

Until recent times a large part of any population was employed in producing the needed food. The food grains required great areas as



well as an enormous quantity of hand labor for preparing the land and for sowing, harvesting and threshing the crops. The development of machinery to relieve human drudgery in grain growing has been the achievement of the past one hundred years. Within a century there have appeared to replace the wooden plow, cradle, scythe, fork, flail, winnower and scoop the following important agricultural implements and machines: the metal plow and harrow, grain and maize drills, manure and fertilizer spreaders, the mower, reaper, binder, header, combine, maize harvester, separator, cultivator, fanning mill and maize sheller. But machines are for the forward lands only, and today vast quantities of food grains still are being produced almost wholly by hand labor everywhere on the face of the earth.

Modern large scale production of food grains is dependent not only on economic ability but on physical factors as well. Among these are extensive areas of relatively clear and level land, temperate climate with moderate precipitation and the use of machinery to cut costs and to speed operations at seedtime and harvest. These conditions characterize much of the great grassland or steppe areas of the world, such as the central plain of North America, the central steppe of Eurasia (stretching from Hungary to Siberia) and the smaller plateaus of Argentina, southeastern Africa, Australia and northern India.

In the production of the staple food grains two different trends are evident under different economic conditions. One is toward the largest possible production per land unit, the other toward the largest possible production per man unit. Where population is dense and land values high, production per acre must be greatly increased, as has happened in the case of rice in Japan and in the case of wheat in Germany, England and France. Where land is abundant and population less dense, production per man unit becomes greatly increased. Such has been the history of wheat and maize growing in the United States and Argentina and of wheat growing in Canada and Australia.

The food grains are produced both for human food and for animal feed. During long millennia there have been significant changes in their kinds and uses. Barley and oats, for instance, once important human foods, now are chiefly feedstuffs and rye and maize have succeeded them as the secondary food grains of Aryan peoples. Palaeolithic man, it is likely, ate the wild grain

seeds raw. Later the palaeolithic or neolithic cultivator probably parched the grain. Neolithic man certainly ground his grain at an early date, learning to cook porridge and bake a primitive scone on hot rocks. Modern man has added leavened bread and also given a much better quality to the other forms of cereal food.

Of all the important foodstuffs in their natural state the food grains are best adapted to commerce because of their non-perishable nature and ease of handling. With the development of settlements and the beginning of manufacture and trade there arose the necessity of transport and exchange of food grains. Since the early bronze age the only changes in methods of transport have been the slow substitution of vehicles for panniered pack animals and the increase in ship size.

Public storage in huge guarded granaries against time of scarcity was a common feature of the ancient civilized world. Here too appeared grain markets in which the millers and bakers were the chief dealers and the overlords and growers the sellers. The middleman was an early phenomenon, but through long centuries public effort was directed toward accomplishing the transfer from producer to consumer with as few intermediate steps as possible. Reselling in the same market was at first prohibited and then greatly restricted in mediæval Europe, and stringent laws were written to prevent either the cornering of the supply or efforts to inflate prices by rumor and manipulation.

Modern merchandising of food grains, on the other hand, has assumed enormous proportions. The annual production is derived from tens of millions of individual holdings, small and large, scattered over almost every country on the earth's surface. From these farms the product trickles or flows to local markets, whence part of it moves by pack train, water or rail to more distant centers or terminal markets. Ultimately the food grains entering into commerce reach the manufacturing and deficiency areas everywhere. Only a small part, however, of the grain production of the world finds its way into international trade.

Under modern conditions, as in the United States and Canada, the grain is threshed and cleaned on the producing farm and the surplus above the needs for feed and seed is hauled by wagon or motor truck to a grain elevator at the nearest town. At this country elevator the grain is dumped mechanically into a pit from which machinery conveys it to one or another of the storage bins in the structure or directly to a wait-

ing freight car. The car when loaded, weighed and sealed moves out with others en route to another market. It may be consigned to a central agency representing the elevator owners or to a commission merchant. Commission firms or other central agencies may resell to a local or distant miller, to another dealer, to a speculator or to an importer. Practically all food grains moving in interstate commerce in the United States are inspected and graded under federal standards. Many states also apply identical or similar standards to grain in intrastate commerce. The result of such practices is to make possible safe buying without samples.

In the United States, Canada, the United Kingdom and Australia, possessing a combined population of 187,000,000 persons, or nearly 10 percent of the world's inhabitants, wheat is the staple food grain and there is now no close second. In Europe (excluding the United Kingdom) with its 500,000,000 persons wheat ranks first with rye a close second. In the densely populated subtropical and tropical portions of Asia and Polynesia rice forms the largest item in the grain diet and in fact is the chief food of probably one third of the human race. In Africa with its 150,000,000 population sorghum is the principal food grain with maize second. Sorghum likewise is a staple food grain (with rice) in large areas of central India, northeastern China and Manchuria. In Latin America (South America, Central America, Mexico and the West Indies) with a population of 110,000,000 maize takes precedence over all other cereals with wheat and rice next in order. Maize also is becoming significant in portions of south central Europe. Barley remains an important human food only in certain limited areas, notably the Mediterranean fringe of northern Africa and some localities in northern Europe. Oats nowhere now outrank any other grain as human food nor does either of the millets. In 1929-30 there were grown in the world (exclusive of China) 18,500,000,000 bushels of wheat, rye, oats, barley and maize and approximately 127,000,000,000 pounds of rice, not to mention immense but unknown quantities of sorghum.

Wheat growing today occupies a belt of latitude between 35° to 50° north in North America and Europe, with smaller areas at latitudes 30° to 40° south in South America and Australia and at higher elevations between latitudes 25° to 30° north in India. As Table I indicates, the annual world production of wheat (excluding China) was in the neighborhood of 4,500,000,000 bush-

els in the period 1927-31, an increase of about 100 percent over the crop of 40 years ago (1891-95). In the same period European production (excluding Russia) increased only 30 percent, while the combined production of the United States, Canada, Australia and Argentina increased 177 percent. In 1927-31 these new grasslands were responsible for 38 percent of world production as compared with 27 percent in 1891-95; at the same time the share of Europe (excluding Russia) declined from 45 percent to 30. The record of the war years 1915 to 1919 is of particular interest in this connection. The world's annual production during that five-year period was not materially smaller than the average annual crop of the five years preceding the outbreak of hostilities; this was due entirely to the fact that Europe's increased deficits were overcome by the expansion of wheat areas in the United States, Canada, Argentina and Australia.

TABLE I  
WORLD PRODUCTION OF WHEAT, 1891-1931  
(In 1,000,000 bushels)

|  | AV                       |                          |                          |                          |                           |
|--|--------------------------|--------------------------|--------------------------|--------------------------|---------------------------|
|  | 1890-91<br>to<br>1891-95 | 1896-10<br>to<br>1913-14 | 1914-15<br>to<br>1918-19 | 1921-22<br>to<br>1925-26 | 1927-28<br>to<br>1930-31* |
| United States                            | 487                      | 690                      | 838                      | 804                      | 857                       |
| Canada                                   | 43                       | 197                      | 255                      | 366                      | 431                       |
| India                                    | 254                      | 352                      | 346                      | 336                      | 332                       |
| Argentina                                | 54                       | 147                      | 177                      | 203                      | 259                       |
| Australia                                | 30                       | 90                       | 114                      | 129                      | 156                       |
| Russia                                   | 274                      | 757                      |                          | 424†                     | 799†                      |
| Europe exclud-<br>ing Russia             | 1036                     | 1348                     | 926                      | 1194                     | 1342                      |
| World exclud-<br>ing Russia and<br>China | 2025                     | 3041                     | 2997                     | 3307                     | 3676                      |

\* Figures for 1930-31 preliminary.

† Figures for the U.S.S.R. excluding Turkestan, Transcaucasia and the Far East.

Source: United States, Department of Agriculture, *Yearbook*

The international trade in wheat is so general and so extensive that it links almost all the peoples of the globe. The average annual amount entering international trade is estimated at 750,000,000 bushels for the five-year period preceding the World War and at 800,000,000 bushels in the years 1926-30; these amounts constitute from 15 to 20 percent of the world production. The relative position of the principal exporting and importing countries before the war and in the last quinquennial period for which data are available is shown in Table II. It is to be noted

that in the pre-war period Russia, India, Hungary and Rumania also played an important part in the feeding of nations compelled to look abroad for portions of their food supply; in recent years, however, the contributions to the world's surplus wheat stocks made by these countries have been slight. Whether Russia will be able to recapture the commanding position it occupied in the international wheat trade in the pre-war period (its annual net exports for the five years preceding July, 1914, averaged 164,306,000 bushels) is still problematic. The needs of the principal importing countries have not changed markedly since the pre-war period and their dependence upon outside supplies is just as great, despite the vigorous encouragement which has been given domestic agriculture by public authority.

TABLE II

INTERNATIONAL TRADE IN WHEAT, 1910-14 AND  
1926-30  
(In 1000 bushels)

| PRINCIPAL EXPORTING AND IMPORTING COUNTRIES | ANNUAL AVERAGE           |                           |
|---|--------------------------|---------------------------|
|   | 1909-10<br>to<br>1913-14 | 1925-26<br>to<br>1929-30* |
|   | NET EXPORTS              |                           |
| Canada                                      | 93,839                   | 306,844                   |
| United States                               | 105,309                  | 154,276                   |
| Argentina                                   | 85,217†                  | 158,010                   |
| Australia                                   | 49,725†                  | 83,289                    |
|   | NET IMPORTS              |                           |
|   | 215,738                  | 204,295                   |
|   | 52,704                   | 74,105                    |
|   | 68,551                   | 74,075                    |
|   | 42,851                   | 42,399                    |
|   | 50,912                   | 41,039                    |

\* The figures for 1929-30 are preliminary.

† Average of calendar years 1909-13.

Source: United States, Department of Agriculture, *Yearbook of Agriculture* 1931 (1931) p. 599.

Although of tropical origin maize now has a wide temperate range, being grown principally in latitudes 30° to 45° north in the United States and as far as 48° north in Europe. It continues to be the principal food grain in much of Latin America and its popularity is growing in southern Europe and Africa. In Anglo-Saxon America it is the dominant feed grain. Thus in the United States 85 percent of the annual crop is fed to livestock, 10 percent is consumed by humans, 3 percent enters manufacture and but 2 percent is exported. The world output of maize averaged about 3,400,000,000 bushels in 1901-05

and except for the war years increased steadily to an average of 4,400,000,000 bushels in 1926-30. United States output, which in the first period amounted to 68 percent of world production, did not keep pace with this growth; by 1926-30 the United States share declined to 63 percent. On the other hand, production in Latin American and eastern European countries increased appreciably; in 1926-30 the average annual output of the principal producers in these regions was as follows (in 1,000,000 bushels):

|                  |     |
|------------------|-----|
| ARGENTINA        | 287 |
| BRAZIL (1926-29) | 159 |
| ITALY*           | 96  |
| JUGOSLAVIA       | 120 |
| RUMANIA          | 179 |
| RUSSIA           | 141 |

The international trade in maize is small, comprising only from 5 to 7 percent of the annual production. In 1926-30 Argentina accounted for about 70 percent of the total entering international trade and the United States, Rumania, the Union of South Africa and Russia for most of the remainder. The leading importers are the countries of northwestern and central Europe, which use the grain for cattle (and to a lesser extent hog) feed.

Rye, a hardier winter grain than wheat, will grow in colder and more exposed places. In the United States it occurs between 40° and 50° north latitude; in Europe, from 45° to as far north as 60° latitude. It is an important foodstuff to most of the peoples of continental Europe but it is used little in other lands. Chemically similar to wheat, rye lacks an elastic gluten and therefore forms a heavier loaf. The transition from a wheat and rye diet to an exclusively wheat diet began in England fully 1000 years ago and was practically completed by the middle of the eighteenth century. On the European continent progress in this direction has been much slower. As shown in Table III the world's production (excluding China) increased from about 1,400,000,000 bushels in 1895-99 to 1,750,000,000 bushels in 1924-28, or 25 percent. Russia alone produced 54 percent of the world's crop in the earlier period and 49 percent in the later; other continental European countries account for most of the remainder. The World War, as the figures reveal, seriously curtailed production, its effect on the central European food supply being particularly marked. The proportion of the rye crop entering into world trade has been dwindling: in the immediate pre-war period 6.6 percent was exported as compared with 3.5 percent in 1926-30.

TABLE III

WORLD PRODUCTION OF RYE, 1895-1928  
(In 1,000,000 bushels)

|                                     | ANNUAL AVERAGE           |                          |                          |                          |
|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
|                                     | 1894-95<br>to<br>1898-99 | 1909-10<br>to<br>1913-14 | 1914-15<br>to<br>1918-19 | 1923-24<br>to<br>1927-28 |
| Russia                              | 764                      | 926                      |                          | 864*                     |
| Germany                             | 279                      | 445                      | 312†                     | 265                      |
| Poland                              |                          |                          |                          | 218                      |
| Europe excluding<br>Russia          | 596                      | 802                      | 548                      | 801                      |
| World excluding<br>Russia and China | 643                      | 854                      | 635                      | 884                      |

\* Figure for the U.S.S.R. excluding Turkestan, Transcaucasia and the Far East.

† Average for 1914-15 to 1916-17.

Source: United States, Department of Agriculture, *Yearbook 1931* (1931) p. 611.

Barley was an outstanding human food in the ancient world and for a time occupied an important place in the diet of northern European peoples. Since the early part of the Christian era it has been used largely for the making of beer and more recently it came to be used as a feedstuff for livestock. In minor areas in north Africa and parts of northern Europe it is still not uncommon as a human food. In fact Algeria has 40 percent of its cropped land in this grain; in Japan the proportion is 25 percent. In pre-war United States 30 percent of the crop was used for the brewing of beer. Despite a greatly reduced use for beer making, acreage and production have grown in the post-war years; the increased output has been absorbed in stock feeding. As indicated in Table IV the world's yield of barley has grown by about 50 percent from 1895-99 to 1926-30, at the same time the share represented by the United States and Canada increased from 8 percent to 20 percent, while that of Russia declined from 20 percent to 14 percent.

The world trade in barley, as in the case of rye, has been declining. Exports for the immediate pre-war period accounted for about 14 percent of the annual crop, while in 1927-28 only 7 percent of the crop was exported. Before the war 62 percent of the world's export came from Russia, but since the war the principal exporting countries have been the United States, Canada, Argentina and Rumania. The scale of their operations, however, is much smaller than that of pre-war Russia; in fact the aggregate export of these countries is less than the amount exported by Russia alone in the years preceding the war.

While the production of Russia has been slowly mounting, the country still has far to travel to dominate again the world trade in this grain as it did in the pre-war period. The principal importing countries are Germany and the United Kingdom. Before the war Germany absorbed 54 percent of the world imports of barley; in 1926-30 its proportion declined only to 51 percent. The share of the United Kingdom in the same periods was 18 and 20 percent respectively.

TABLE IV

WORLD PRODUCTION OF BARLEY, 1895-1930  
(In 1,000,000 bushels)

|  | ANNUAL AVERAGE           |                          |                          |                          |                          |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
|  | 1894-95<br>to<br>1898-99 | 1909-10<br>to<br>1913-14 | 1914-15<br>to<br>1918-19 | 1923-24<br>to<br>1927-28 | 1928-29<br>to<br>1929-30 |
| United States                          | 99                       | 185                      | 205                      | 181                      | 265                      |
| Canada                                 |                          | 45                       | 57                       | 72                       | 104                      |
| India                                  |                          | 145                      | 147                      | 130                      | 116                      |
| Russia                                 | 245                      | 505                      |                          | 177*                     | 260*                     |
| Germany                                | 126                      | 154                      | 129†                     | 93                       | 132                      |
| Europe excluding<br>Russia             | 529                      | 701                      | 464                      | 583                      | 715                      |
| World excluding<br>Russia and<br>China | 973                      | 1424                     | 1202                     | 1305                     | 1568                     |

\* Figures for the U.S.S.R. excluding Turkestan, Transcaucasia and the Far East.

† Average for 1914-15 to 1916-17.

Source: United States, Department of Agriculture, *Yearbook 1931* (1931) p. 614.

Oats once were an important food grain in central and northern Europe; but in recent centuries their use as food has been negligible except in Scotland and the Scandinavian countries. On the other hand, their use for animal feed has increased enormously, particularly in Europe and North America. In the United States but 3 percent of the annual crop is milled for oatmeal and of even this small proportion a part is exported. As indicated in Table V world production (excluding China) increased 54 percent from 1895-99 to 1926-30, while European production after recovering the losses of the war and post-war years rose only 31 percent. It is to be noted that production in the United States has been declining since the war and that Russian output has practically reached the pre-war level.

The international trade in oats too has been declining. In the immediate pre-war years 5.1 percent of the annual world crop entered into export; in 1926-30 the proportion was but 2.4

TABLE V

WORLD PRODUCTION OF OATS, 1895-1930  
(In 1,000,000 bushels)

|  | ANNUAL AVERAGE           |                          |                          |                          |                          |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
|  | 1895-05<br>to<br>1905-10 | 1906-10<br>to<br>1913-14 | 1914-15<br>to<br>1918-19 | 1919-21<br>to<br>1921-25 | 1926-26<br>to<br>1930-30 |
| United States                            | 803                      | 1143                     | 1423                     | 1320                     | 1317                     |
| Russia                                   | 723                      | 1089                     |                          | 452*                     | 1021*                    |
| Germany                                  | 431                      | 592                      | 506†                     | 353                      | 450                      |
| France                                   | 204                      | 368                      | 278†                     | 293                      | 354                      |
| Canada                                   |                          | 374                      | 420                      | 514                      | 416                      |
| Europe exclud-<br>ing Russia             |                          |                          |                          |                          |                          |
| World exclud-<br>ing Russia and<br>China | 1410                     | 1929                     | 1270                     | 1537                     | 1854                     |
|  | 2372                     | 3601                     | 3265                     | 3506                     | 3741                     |

\* Figures for the U.S.S.R. excluding Turkistan, Transcaucasia and the Far East.

† Average for 1914-15 to 1916-17.

Source: United States, Department of Agriculture, *Yearbook 1917* (1917) p. 643.

percent. In the pre-war period Russia exported almost one third of all the oats entering world trade; in the 1920's its exports of the grain were insignificant. Principal exporting countries in the post-war years have been Argentina, the United States and Canada. Before the war the United Kingdom, France, Switzerland and Italy absorbed a comparatively large amount of imports; since then French imports have suffered a considerable decline.

Rice is the chief food grain of hundreds of millions of people in southern and southeastern Asia and the adjacent islands and is used although to a smaller extent throughout the world. It provides a less completely balanced ration than any other cereal, protein being almost lacking and when polished its vitamin content being almost completely destroyed. These facts largely account for the malnutrition among many rice eating peoples and the frequent havoc caused among them by deficiency diseases, particularly beriberi. Rice growing is to be found for the most part in latitudes 10° to 35° north, although there are large areas under rice in Japan as far north as 50°. Table VI indicates that the world production of rice (excluding China) was 125,000,000,000 pounds on the average in 1922-26, an increase of 16 percent over the annual crop of the immediate pre-war period. China is an important producing and consuming country, but official statistics are not available. Unofficial estimates of the Chinese crops are as follows: 70,219,000,000 pounds in 1917; 52,788,000,000

pounds in 1920; 50,056,000,000 pounds in 1923. India has been producing from 59 percent to 56 percent of the world's rice crop (excluding China) during the immediate pre-war and post-war periods.

TABLE VI

WORLD PRODUCTION OF RICE (CLEANED)  
(In 1,000,000 pounds)

|                          | ANNUAL AVERAGE           |                          |                          |
|--------------------------|--------------------------|--------------------------|--------------------------|
|                          | 1909-10<br>to<br>1913-14 | 1914-15<br>to<br>1918-19 | 1921-22<br>to<br>1925-26 |
| India                    | 64,144                   | 71,719                   | 70,270                   |
| Japan                    | 15,787                   | 17,873                   | 18,107                   |
| Indo-China               | 7,332                    | 6,760                    | 7,682                    |
| Java and Madura          | 5,983                    | 6,774                    | 6,615                    |
| Siam                     | 4,258                    | 4,537                    | 6,065                    |
| Korea                    | 3,293                    | 4,283                    | 4,556                    |
| Philippines              | 1,213                    | 1,914                    | 2,744                    |
| World excluding<br>China | 100,000                  | 123,000                  | 126,000                  |

Source: United States, Department of Agriculture, *Yearbook 1931* (1931) p. 661.

The world trade in rice has not changed significantly over the past twenty years; in the immediate pre-war period 11.4 percent of the crop was exported as compared with 10.6 percent in 1928, when the total export was 13,774,000,000 pounds. The principal exporting countries have been India, Indo-China and Siam; in 1928 they accounted for over 80 percent of total exports. The principal importing countries have been China, British Malaya, Dutch East Indies, Ceylon and Japan; between them they absorbed 63 percent of total imports in 1928. Other countries which also import rice are Germany, France, the United Kingdom, Cuba and the Philippine Islands.

Sorghum is an extremely important food grain in most of Africa, in much of India, northeastern China and Manchuria and in parts of southwestern Asia. The grain is grown as far south as 30° latitude in Africa and as far north as 45° latitude in Manchuria. In India it is cultivated between 10° and 25° north and in the United States between 30° and 40°. No statistics for the crop are available for Africa and China. In India more than 25,000,000 acres (approximately one third of the rice acreage) are regularly under sorghum, the chief centers of production being the Madras and Bombay residencies and Hyderabad.

Shifts in one or all of the following three factors are likely to have important effects on the

production and consumption of the food grains: population increase (or decrease), per capita cereal consumption and cereal preference. Until recently most populations tended to grow at a rapid rate and pessimistic predictions regarding the world's future food supplies frequently were heard. In the post-war years, however, some nations already have reached a stationary population while in others the rate of increase has become slower. In general these tendencies are limited to those countries where wheat is the principal food grain. They are offset to an extent by declines in the death rate resulting from higher standards of living and better medical care. Curtailment of immigration has had a pronounced effect on the population growth of the United States, one of the largest consumers of food grains.

A decrease in the per capita consumption of food grains already is evident in the United States. Doubtless this same tendency will manifest itself in other countries if economic conditions permit. This decline in consumption seems to be due to a fundamental dietary change. Among the discernible causes are a lessening of physical labor, more abundant and all year consumption of fruits and vegetables, better heating of buildings and an increasing use of sugars. Further shifts in cereal preference also probably are in progress. In the recent past barley and oats have almost completely dropped out of the human diet and the consumption of wheat, rye and maize has been increasing. Following the same trend rye may in time be supplanted entirely by wheat and rice; sorghum and maize also may yield before the advance of wheat. All this of course is dependent upon a general rise in mankind's standards of living.

CARLETON R. BALL

See: FOOD SUPPLY; AGRICULTURE; AGRICULTURAL MARKETING; COMMODITY EXCHANGES; GRAIN ELEVATORS; GRADING; FOOD INDUSTRIES; MILLING INDUSTRY; LIVESTOCK INDUSTRY; AGRICULTURAL MACHINERY; AGRICULTURE, GOVERNMENT SERVICES FOR; NUTRITION.

Consult: *Cyclopedia of American Agriculture*, ed. by L. H. Bailey, 4 vols. (New York 1907-09) vol. ii; Ashley, W. J., *The Bread of Our Forefathers* (Oxford 1928); De Kruif, P. H., *Hunger Fighters* (New York 1928); Smith, J. Russell, *The World's Food Resources* (New York 1919); Finch, V. C., and Baker, O. E., *Geography of the World's Agriculture* (Washington 1917); Hunt, T. F., *The Cereals in America* (New York 1904); Spillman, W. J., *Picture of the Grain Industry* (Chicago 1922); Bengston, N. A., and Griffith, D., *The Wheat Industry* (New York 1915); Swanson, W. W., and Armstrong, P. C., *Wheat* (New York 1930); Ball, C. R., and others, "Wheat Production and Mar-

keting" in United States, Department of Agriculture, *Yearbook 1921* (1922) p. 77-160; Schoenfeld, W. A., "The Wheat Situation" in United States, Department of Agriculture, *Yearbook 1923* (1924) p. 95-150; Baker, O. E., "The Potential Supply of Wheat" in *Economic Geography*, vol. i (1925) 15-53; Burtt-Davy, J., *Maize* (London 1914); Brooks, E. C., *The Story of Corn and the Westward Migration* (Chicago 1916); Montgomery, E. G., *The Corn Crops* (rev. ed. New York 1920); Leighty, C. E., and others, "The Corn Crop" in United States, Department of Agriculture, *Yearbook 1921* (1922) p. 161-226; United States, Bureau of Foreign and Domestic Commerce, "International Trade in Corn" by T. D. Hammatt, *Trade Information Bulletin*, no. 591 (1928); Carleton, M. A., *The Small Grains* (New York 1916); Ball, C. R., and others, "Oats, Barley, Rye, Rice, Grain Sorghums" in United States, Department of Agriculture, *Yearbook 1922* (1923) p. 469-568; Hitchcock, A. S., *A Textbook of Grasses* (New York 1914); Huebner, G. G., *Agricultural Commerce* (new ed. New York 1924); Buechel, F. A., *The Commerce of Agriculture* (New York 1926); Barnes, J. H., *Exporting Grain and Cereal Products* (Chicago 1924). For current statistics see *International Yearbook of Agricultural Statistics*, published by the International Institute of Agriculture in Rome since 1912; *Broomhall's Corn Trade Yearbook*, published in London since 1926; *Yearbook of the United States Department of Agriculture*, published since 1894.

GRAMONT, SCIPION DE (d. 1638), French economist. Little is known of Gramont's life except that he was born in Provence, became secretary of the cabinet (probably an honorary title) of Louis XIII, that he gained the confidence of Richelieu and that he made several voyages to Italy, where he died. In the list of his publications are found a treatise on the rapid teaching of languages, a book on geometry, some books of verse. Haureau identifies as his an account of maritime expeditions.

In 1620 he handed to the superintendent of finance, Schomberg, a work entitled *Le denier royal, traité curieux de l'or et de l'argent* (Paris). Although this treatise was ignored or discredited by his contemporaries and has since fallen into oblivion it presents an extraordinary originality. It constituted in effect: the first fairly detailed history of money ever published; a theory of money which can be designated psycho-sociological since Gramont finds in "human judgment," in the habits of the public, the cause of fluctuations in the value of money; one of the first psychological theories of value based on the two cardinal concepts of utility and scarcity; a definitive explanation of the rise of prices in the sixteenth century in terms of a change in the value of money; and a study comparing the fiscal system and the yield of imposts of countries of

antiquity with those in countries of the seventeenth century.

PAUL HARSIN

*Consult:* Conigliani, C. A., "L'aumento apparente delle spese pubbliche et le denier royal di Scipion de Gramont" in *Filangieri*, vol. xv, pt. i (1890) 265-92; Harsin, Paul, *Les doctrines monétaires et financières en France du XVI<sup>e</sup> au XVIII<sup>e</sup> siècle* (Paris 1928) p. 57-68.

**GRAND JURY.** The grand jury as it is now known is directly derived from the ancient *inquisitio* brought into England by the Normans. It first appeared in England, according to Maitland, as "a body of neighbors summoned by some public officer to give, upon oath, a true answer to some question." The regular use of the grand jury to discover and present persons accused of serious crime, however, may be said to date from the Assize of Clarendon in 1166. The use of this new piece of judicial machinery—presentment by a jury—came to be the most important function of the court known as the "sheriff's tourn," which emerged as a distinct court at the end of the thirteenth century. The presentments were made to a jury of twelve free-men of the hundred, who either accepted or rejected them. If they were accepted they were passed on to the sheriff, who sent those accused of more serious crimes to the itinerant justices after they had been taken into custody. The sheriff punished the lesser crimes himself by amercement.

These ancient grand juries closely resemble those of today in personnel, duties and powers. They could present either from their own knowledge or from the information of others. But as the courts of assize and quarter sessions took the place of the earlier courts, the juries came to be drawn not from the several hundreds but from the body of the county. Twenty-four jurors were summoned, out of which twenty-three were chosen; and the majority decided whether to "find a true bill" or "ignore" the accusation. The presentment of the grand jury, then as now, was merely an assertion that on the evidence of the prosecution the party presented was suspected, never that he was guilty. It was the function of the trial, or petit, jury to pass upon the question of guilt.

The other great method of accusation, the criminal "information," has a history almost as old as that of the indictment. Its underlying idea was simply that "the king by his counsel should 'inform' his courts of some fact which had legal consequences." Many kinds of "information"

developed, the chief varieties consisting either of suits by the king filed ex officio by his attorney general or suits nominally by the king but exhibited, at the relation of some private person or common informer, by the king's attorney, usually called the master of the Crown Office. The right to proceed by information rather than by presentment and indictment, however, became restricted to misdemeanors, probably by the close of the mediaeval period. The frivolous use of the ex officio information for purely personal or political objects caused the legality of this method of procedure to be called into question. But in 1695 a group of cases decisively established its legality and the abuses that had arisen were checked by legislation.

The Fifth Amendment to the United States constitution preserved the indictment in the federal courts in the case of capital or otherwise infamous crimes. In twenty-four states the constitutions or statutes now provide, with certain qualifications, that indictable offenses may also be prosecuted by information. These states are Arizona, California, Colorado, Connecticut (except for offenses punishable by death or life imprisonment), Florida (in certain counties), Idaho, Iowa, Indiana, Kansas, Louisiana (as in Connecticut), Michigan, Minnesota (except for offenses punishable by death or imprisonment for more than ten years), Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, Vermont (as in Connecticut), Washington, Wisconsin and Wyoming. In all but a few of these states by far the majority of prosecutions are upon information. It seems to be the practise for the prosecutor to pass to the grand jury only such cases as those in which an important public interest is involved and in which he wants to show complete impartiality or certain very doubtful cases in which he permits the grand jury to assume responsibility.

In judging the relative merits of the indictment and information it should be noted first of all that the primary point of distinction between them is simply whether prosecution shall rest with the grand jury or the prosecuting attorney. The proceedings prior to this determination are usually identical. After arrest a preliminary hearing is held before a magistrate and commitment or "holding over" for trial takes place. Thereafter the prosecutor may simply file an information and proceed to trial thereon. If he proceeds by indictment, the calling of the grand jury, its examination and consideration of

the case and the drawing and filing of the indictment supervene.

The information costs less in both money and time. Dean Morse's study of the cost of one phase of the procedure by indictment—the grand jury hearing—shows that in 244 counties in selected states using the indictment the average cost per county for grand jury hearings alone for the year 1928 was \$1466. This of course constitutes merely a fraction of the true cost of the method where inefficiencies or delays are present. Statistics moreover indicate that very marked delays are occasioned by waits for grand jury action, not because of the necessity for preliminary investigation by the state or of the time which is spent by the grand jury itself in deliberation, but simply because with a grand jury meeting only at set times in the year cases accumulate. Such delay not only helps the state very little in preparing its case but results in unfortunate and friendless defendants languishing in jail, while it permits resourceful defendants to carry on their business of crime or tamper with witnesses while out on bail. In a large city like New York, where grand juries are continuously sitting, the delay is less, but it is still greater than in most of the cities where information is used.

The grand jury method is also inefficient because it involves unnecessary duplication of the preliminary hearing, at which the state is required to prove that there is reasonable cause to believe that the accused has committed a public offense. It is clearly unjust to drag witnesses before the grand jury for an exhaustive hearing of evidence which has already been presented at the preliminary hearing. In most cases the evidence presented at the grand jury hearing is practically all voluntarily given and would be just as freely given to the prosecutor himself without legal compulsion. It is sometimes contended, however, that a grand jury hearing protects the prosecution from revealing the nature of its evidence to the defense, but in fact a prosecuting attorney at a preliminary hearing has simply to show that there is probable cause to believe the prisoner to be guilty. If the prosecutor is frequently forced to prove his case beyond a reasonable doubt, it is because the power placed within the reach of the average grand jurymen is often abused. He is unable either to direct his questions to genuine relevancies or to form a definite judgment as to the value of the evidence presented. Grand jurors need constantly to be warned that they are not conduct-

ing a trial. Moreover they frequently imperil the people's case by breaking their oath of secrecy.

In theory the grand jury system protects persons against the expense and embarrassment of a public trial, but actually it results in the accusation of many innocent persons. Available statistics show that the information is better suited to the selection of really meritorious cases. Under it there are a larger proportion of convictions and more pleas of guilty to the offense charged. Great numbers of indictments seem to be returned every year in which the prosecutor is unable to prove the crime as serious as charged, but less "bluffing" seems to be done with the information than with the indictment. Whether this is because the prosecutor feels less responsible when the latter is used is a debatable question.

Unless a grand jury is provided with unusual experience and competence in its membership, the prosecutor becomes absolute master of its decisions. In a process which usually depends entirely on matters of legal definition the sole legal adviser of the civilian grand jury is able to have his way in nearly every case. The feeling of the jury that it is acting independently is illusory. Even when the jury itself contains sufficient leadership to control the prosecutor its triumph is short lived, because the prosecutor can accomplish his purpose by a subsequent *nolle prosequi* or some other method of disposing of the case. Thus the function of the grand jury is merely to provide a means by which the prosecutor may, while exercising his own discretion and enforcing his own will, escape responsibility.

Modern conditions have rendered obsolete not only the accusatory but the investigatory powers of the grand jury. The modern system of police is better suited to criminal investigation. The existence of the grand jury as an inquisitorial body may, however, have a wholesome effect upon the community. Its broad power to summon witnesses whose testimony is not confined to narrow legal questions, as in the case of a court inquiry, makes it of inestimable value where a state of public corruption exists and widespread inquiry seems desirable. Although it is probably not the ideal organ for the purpose it seems at the moment the most available instrument.

A slowly growing dissatisfaction with the cumbersome and ineffective work which the grand jury performs seems to have consigned the once powerful institution to an ever declin-



ing importance. France, which adopted the grand jury after the revolution, abolished it after a short period of experiment. The grand jury as an instrument for the routine work of initiating prosecutions is being supplanted by the public prosecutor.

RAYMOND MOLEY

See: JUSTICE, ADMINISTRATION OF; CRIMINAL LAW; PROSECUTION; JURY.

Consult: Holdsworth, W. S., *History of English Law*, 9 vols. (3rd ed. London 1922-26) vol. i, p. 77, 313-23; Morse, W. L., "A Survey of the Grand Jury System" in *Oregon Law Review*, vol. x (1931) 101-60; Moley, Raymond, *Politics and Criminal Prosecution* (New York 1929) p. 127-48, and "The Initiation of Criminal Prosecutions by Indictment or Information" in *Michigan Law Review*, vol. xxix (1930-31) 403-31; Esmein, A., *Histoire de la procédure criminelle en France* (Paris 1882), tr. by John Simpson, *Continental Legal History series*, vol. v (Boston 1913) p. 322-50, 482-99.

GRANGE. The Grange, or Patrons of Husbandry, a secret fraternal society open to both men and women, was founded in 1867 by Oliver H. Kelley and six associates, all but one of whom were government clerks in Washington. The purpose of the founders was to give to farmers in the United States opportunities for social intercourse and intellectual advancement. The constitution provided for local granges, state granges and a national grange, the last two being delegate bodies; later, provision was made for county granges. Although the farmers at first regarded the Grange with suspicion or indifference, during the agricultural depression of the seventies they joined it in large numbers and took control of the national association. From the spring of 1873 to the fall of 1874 the number of local granges rose from 3360 to 20,365, most of them located in the middle west and the south. The Grange gave its name to and became a significant factor in the granger movement—the first stage of the agricultural uprising of the seventies against the new industrialism which threatened pioneer democracy.

Up to this period in the history of the United States it had been possible for the farmer in straitened circumstances to move west and take up new land. Beginning with the seventies, however, it became difficult to obtain land suitable to the old type of pioneer self-sufficing agriculture, and the farmer on the new frontier found himself fully as dependent as the eastern farmer on prices, transportation facilities and marketing agencies. Early enthusiasm for the expansion of railroad systems gave way to a demand for pub-

lic regulation when it appeared that the high rates made impossible a "reasonable" producers' profit and were accompanied by abuses in the management of railroad corporations, such as construction rings, watered stock, free passes and discriminatory rates. Especially in the south the credit system often kept the farmer at the mercy of the local merchant; high interest rates on mortgages and an appreciating currency added to his troubles. Confronted with declining prices for their products, the farmers of the west and south sought through the Grange and other agencies to reduce transportation costs and to eliminate middlemen.

Many farmers believed that the remedy for their ills was to be sought in political action; but, lacking organization and accustomed to divide their votes on hygienic issues, they found themselves without political influence. The Grange was nominally non-political, but it served as a medium of organization and discussion and paved the way for the rise of independent, anti-monopoly or farmers' parties in eleven western states, some of which won victories through fusion with the minority party. The principal result of this political upheaval was the passage of acts regulating railroad rates in Illinois, Minnesota, Iowa and Wisconsin. Although most of these "granger laws" were repealed or greatly modified in a few years, their testing before the United States Supreme Court in the "granger cases" laid the basis for future railroad regulation.

To effect the elimination of middlemen the grangers established purchasing agencies and cooperative stores, some of which did a large business for a few years and undoubtedly saved money for members and other consumers. The opposition of local merchants, coupled with ignorance and inefficiency on the part of the Grange agents, hampered these enterprises, and the attempts of the National Grange and some of the state granges to enter the field of cooperative industrial production by manufacturing agricultural machinery on a large scale were disastrous. Fear of responsibility for debt caused the disbandment of granges, and in the late seventies the order declined rapidly in those states where formerly it had flourished most vigorously.

Although the granger program was regarded as radical and visionary, many of the measures which it advocated, such as railroad regulation, antitrust laws, income taxes, popular election of United States senators, parcel post and postal

savings banks have since been enacted. Moreover, it established the idea that the farmers could advance their interests by organization, and the Farmers' Alliance, which spread through the west and the south in the eighties, was modeled to a large extent upon the Grange. It likewise influenced farmers' organization in Canada. The independent political movements associated with the Grange demonstrated the possibility of effective political action by farmers and forced the major parties to give more consideration to their needs and desires. As early as 1874, long before the general acceptance of the participation of women in politics, the Grange had endorsed the principle and had given women equal rights in the order.

In spite of the fact that the social and intellectual objectives of the founders of the Grange were overshadowed during the seventies by the economic and political issues, important results were achieved in the former fields; the meetings, picnics and festivals of the local granges helped to relieve the social and intellectual drabness and isolation of rural life. After the debacle of the late seventies emphasis was shifted to these features; and the order flourished most vigorously in the east, where it had not been involved in politics and business ventures. The membership, which was 858,050 in 1875, fell to 124,420 in 1880 and remained at about that figure for the next ten years. Then began a slow and fairly steady advance, until in 1927 the membership rose to approximately 600,000 concentrated largely in New England and the north central states, Ohio, Michigan, Kansas, and the Pacific northwest. The promotion of agricultural research through the state experiment stations and of education in the technique of agriculture and in home economics had received much aid in its initial stages from the Grange and remains one of its major interests. The organization, however, still brings its influence to bear on state and national issues. It maintains headquarters in Washington and endeavors alone or in cooperation with the National Board of Farm Organizations to obtain legislation believed to be advantageous to farmers. It is now, however, one of the more conservative of the farmers' organizations.

#### SOLON J. BUCK

See: FARMERS' ORGANIZATIONS; AGRARIAN MOVEMENTS, section on UNITED STATES; PARTIES, POLITICAL, section on UNITED STATES; AGRICULTURAL POLICY.

Consult: Buck, Solon J., *The Granger Movement* (Cambridge, Mass. 1913); Atkeson, Thomas C.,

*Semi-centennial History of the Patrons of Husbandry* (New York 1916), and *Outlines of Grange History* (Washington 1928); Wiest, Edward, *Agricultural Organization in the United States* (Lexington, Ky. 1923) 365-431; Wood, L. A., *A History of Farmers' Movements in Canada* (Toronto 1924).

GRANOVSKY, TIMOFEY NIKOLAEVICH (1813-55), Russian historian. After graduating from the University of St. Petersburg at the age of twenty-two Granovsky spent over two years abroad, mostly in Berlin, in preparation for an academic career. Upon his return in 1839 he was appointed to the chair of general history at the University of Moscow, which he held until his death. Granovsky's lectures soon earned him an unflinching popularity among the students and attracted general public notice. Distinguished for their literary excellence, these lectures presented the first instance of Russian university teaching raised to the level of western scholarship and were in no small measure responsible for the reputation enjoyed by the University of Moscow in the forties and fifties.

The principal strains in Granovsky's historical outlook were Hegelianism and Savigny's conception of organic development; these were tempered by the influence of Guizot and Thierry, which guarded him against the extreme conservatism of the right Hegelians, and modified by the teachings of Ritter, which led him to emphasize toward the end of his life the historical importance of the material, particularly the geographical, environment. In his interpretation of the historical process he emphasized the importance of the intellect and of the untrammelled personality, thus indirectly opposing humanist and liberal ideas to the ideology of repressive absolutism of contemporary Russia. This interpretation is intimately related to his views on Russian history and civilization; in that field he was prominently identified with moderate westernism.

#### V. MIKOTIN

Works: *Sobranie sochineniy* (Collected works) (4th ed. Moscow 1897); *Granovsky i ego perepiska* (Granovsky and his correspondence), ed. by A. Stankevich, 2 vols. (2nd ed. Moscow 1897), the first volume of which is a biography of Granovsky by Stankevich.

Consult: Vetrinsky, Ch., *T. N. Granovsky i ego vremya* (T. N. Granovsky and his time) (2nd ed. St. Petersburg 1905); Miliukov, P. N., *Iz istorii russkoy intelligentsii* (2nd ed. St. Petersburg 1903), tr. by J. W. Binstock as *Le mouvement intellectuel russe* (Paris 1918) p. 301-76; Mikotin, V., *Iz istorii russkogo obshchestva* (On the history of Russian society) (St. Petersburg 1902) p. 303-73.

**GRANTS-IN-AID.** A grant-in-aid is a sum of money assigned by a superior to an inferior governmental authority either out of the exchequer of the former or out of sources of revenue specifically designated. The term is English in origin; in that country grants are given to overcome the poverty of local authorities, to make possible a fairly high minimum standard of efficiency over the whole country and to provide a sanction for the exercise of regulatory and inspectorial power by the central authority. The analogous device has a different name in other countries and may be adapted to somewhat different purposes because of a different relation between the center and the localities.

The English system of grants-in-aid is only in its later stages the result of conscious attention to the problem of a good workable relationship between central and local authorities. Before 1835 not a pound was paid to local bodies. Grants began merely as an attempt to relieve the agricultural classes of the burdens of local taxation, which was based upon the value of real property only. This property was mainly agricultural and the multiplication of grants-in-aid was partly an answer to the constant demand of the farmers, voiced through the Conservative party, for rate relief. A further impetus to the use of grants came from expenditures for those governmental services—education, police, public health, roads, poor relief and housing—which, while not obviously central like the army, the navy or the currency, nevertheless concern the state as a whole because the social causes and benefits of the expenditure are wider than any local area. Complete centralization of such services, however, implies a ubiquitous central bureaucracy and parliamentary control, which are unadaptable to local circumstances. What was needed was local executive discretion with central regulation through a grant-in-aid sufficient for the local authority's contribution to the common welfare yet not enough to relieve the local authority of the anxiety of paying for extravagance out of its own rate fund. Such considerations first arose in 1846 under Sir Robert Peel, the first administrator statesman to understand the significance of grants-in-aid.

The first grants were given directly to the local authorities concerned, who thus felt their due dependence upon the central supervising departments. In 1888 the Goschen reforms, embodied in the Local Government Act, provided assignment to the county and county borough councils of specific revenues which should ex-

pand with their needs and payment to the smaller local authorities indirectly through these councils. The influence of the central departments was thus considerably reduced; furthermore, no revenues were discovered whose expansion was exactly proportionate to that of local needs. For these reasons the Goschen system was gradually abandoned and subsequent grants, such as those for education, were given out of the national Exchequer directly to the authorities concerned; its final and complete abolition came with the Local Government Act of 1929.

Grants may be allocated to a specific use or they may be "block" grants in aid of a general purpose, e.g. health or police, but without specific allocation to detailed items. The allocated grant permits the more enlightened central authority to encourage local provision of services which it deems necessary. It requires, however, a central staff to supervise and audit expenditures and it raises many problems of classification. The block grant eases the work of the central authority and permits local adaptation by and a sense of freedom in the local authorities. In general the English system is now mainly the block grant. The earliest and easiest type of block grant was a sum of money bearing no particular relation to local government needs. Then came the method of granting a percentage of local expenditure for a particular purpose, such as one half the salaries of teachers in poor law schools or one half the cost of police. By 1929 most English grants were percentage grants. They gave least to the poorest localities, which needed most. The grants were exceedingly indiscriminating and made no allowance for the extreme variations in ratable value as between different sections. Towns in southern England, for example, have a ratable value per head over three times that of towns in some industrial areas. The percentage system furthermore lets the local authorities set the pace of central expenditures and so tends to make them reckless.

The education grants were the first to abandon the percentage system and to apply to block grants a formula based on the need for the service weighted by the relative poverty of the area. The former was estimated with reference to the number of children attending school, the cost of administration and the cost of teachers' salaries; the latter with reference to the lowness of the ratable value per head. The Local Government Act of 1929 established a somewhat similar system for all grants other than education, police

and the principal highways. The basis of the formula is population, weighted by the proportion to population of children under the age of 5; the extent to which the ratable value is less than £10 per head; unemployment where the ratio of unemployed to total population is over 1.5 per cent; and density of population per mile of public road (the less the density the larger the grant). This formula gives the index of distribution between counties and county boroughs. The counties themselves receive one half the amount indicated by the formula; the rest is divided among the municipal boroughs and urban districts according to the proportion their population bears to the whole population of the county and among the rural districts on the basis of one fifth of the proportion of their population. The present total amount divisible among the local authorities on this basis is about £45,000,000, which constitutes the General Exchequer Contribution fund. Police grants are still 50 per cent of the annual expenditure of the local police authorities.

The Goschen system of assigning specific revenues to the counties and county boroughs gave stability to both local and central finances but made no allowance for recalculation to provide for changes. Under the act of 1929 all grants save education and police are to be recalculated after three, seven, twelve and seventeen years. Grants for education and police are annually recalculable. The act of 1929 provides for a reexamination of the entire problem of grants after seven years. Since 1929 inefficiency in any one branch of service may entail stoppage of the entire grant-in-aid (except for police and education); formerly it was withdrawable from each specific service for inefficiency in that service only.

The total annual amount of grants is about £80,000,000, which is equivalent to about 25 per cent of the total local expenditures. This represents an increase from £5,000,000 in 1880, £16,000,000 in 1900 and £65,000,000 in 1920-21. Most of the growth came after 1874, with a very marked acceleration after 1900.

In France the departments and the communes may add to the taxes of the central government certain *centimes additionnels* which they may collect for their own use. The amount and purpose of such additions is limited by general act of parliament; the fact that they may be levied because of the insufficiency of the local revenue for the services required of the local governments by the central government, for police, roads and poor relief or for general expenditures, gives

them a certain functional relation to grants-in-aid. In addition to this important source of revenue the departments and communes share in certain *fonds communs* set aside by the central government out of the receipts from certain taxes. The system of *fonds communs* may be said to date from 1890, but it acquired vastly increased importance after the World War with the establishment in 1918 of a fund from a portion of the taxes on alcoholic liquors and in 1920 of a fund receiving 10 per cent of the general sales tax. The former is divided among the communes alone on the basis of population and of consumption of alcoholic liquors in 1913; the latter in general according to population, one third going to the departments and two thirds to the communes. In 1925 the communal receipts from these two funds was 708,000,000 francs; in the same year the departments received from the sales tax fund 98,000,000 francs. *Subventions* corresponding more strictly to the English grants-in-aid are given to the departments by the central government on conditions of efficiency and central sanction of schemes; the communes are subsidized by both central government and departments under definite conditions for such services as roads, health, care of children, fire brigades, water supply, education, agricultural experiment stations, regular motor and tramway service and electrification. The amount of these grants is much smaller than in England.

In Germany grants from individual states to their own local authorities are used in ways similar to those found in a unitary state like England. Thus, in Prussia until 1919 the central authority gave two kinds of grants-in-aid, *Subventionen* and *Dotationen*. The former was a variable sum paid for specific purposes to secure administrative control, such as payments to school authorities in aid of the pay of school teachers in order to raise the standard of training and recruitment. The main grants were given on the *Dotation* principle; that is, the higher local authorities, the *Provinzen*, received one half of their total expenditure from the state because they were carrying out state duties and supervising the smaller authorities. The *Provinzen* in turn distributed grants to local units on various bases such as need (poverty), area and population. The *Dotationsgesetz* of 1902 established a formula for distribution which combined ratable value, expenditure per head and population. Roads, poor relief, the care of the blind and the mentally deficient, agriculture and midwifery were subsidized. Since the revolution Prussia

has continued to divide a portion of the revenue it receives from the Reich among the different classes of local authorities on the basis of such factors as income before the war, work to be done, population, area, length of roads and number of school children. Other German states follow similar systems. Grants are not generally allocated in detail, and they are less an instrument of central control than in England.

In addition to these financial arrangements between the states and local governmental units the German Reich has since 1879 assigned some of its income for distribution among the individual states. In 1902 the Reich gave direct subventions to certain needy states; East Prussia was similarly aided during the World War. The Weimar constitution gave the Reich paramount control over revenue, but a percentage of certain revenues which it collects is automatically assigned to the individual states. The terms of the arrangement are set by the Financial Settlement Law (*Finanzausgleichsgesetz*) of 1923 and its amendments. While these assignments (*Überweisungen*) may be included under a broad definition of grants-in-aid and while they may have important consequences for the relative political strength of the two governmental authorities, they have not the same importance for immediate control of expenditures as the grant-in-aid more narrowly interpreted. A grant of about 190,000,000 marks per year is made to the states for police; distribution is on the basis of the expenditures of the states for that purpose. The Reich may also aid with a subvention (*Zuschuss*) or take over such state undertakings as are too large for a single state or extend in influence beyond the borders of the local authority; grants of this type are rare. A function similar to that of the grant-in-aid is performed by the small but significant subsidies paid to quasi-public bodies at the discretion of department heads out of certain funds voted to their departments without specific allocation.

In Switzerland since 1874 a strong central tendency has prevailed, but a fairly large field of central authority is offset by a primordial and lasting notion of local sovereignty. This is evidenced by the vesting of administrative power in the cantons, even in matters of central legislation, and by what is partly a result of this, the restriction of federal financial competence. The federal authority has in the main the field of indirect taxation; the cantons, that of direct taxation. But as the federation raises new taxes, the cantons claim a share. There is therefore an in-

cessant financial assignment of revenue to the cantons, through *Überweisungen* and *Subventionen*. The former are given without specifying the object of expenditure, sometimes according to population, sometimes according to a fixed figure determined by the amount of revenue lost in a given year. In the case of subventions the objects of expenditure (roads, canals, forestry and agriculture, health, land registry, education and social welfare) are prescribed and federal supervision is strict. The results upon social development have been important and beneficial. The importance of federal subventions for cantonal economy has declined. In 1922 they represented almost 17 percent of cantonal expenditures; in 1924, slightly more than 9 percent.

In the American federal system state and central authorities have extensive independent sources of revenue. Neither this fact nor the constitutional limitations upon the powers of the federal government have prevented the development of a system of federal aid to the states under which the federal government is able to control many types of governmental activity which otherwise would be beyond its authority. The earliest federal grants to the states—land from the public domain and \$20,000,000 distributed from the federal Treasury in 1837—were made with practically no supervision or conditions as to expenditure. But the poverty and cultural backwardness of some states and the desire of the central government to secure more uniform progress in certain fields of state activity forced the development of a system of federal aid prescribing minimum conditions for the grant of assistance. The development of the present technique of federal control of money grants dates essentially from the passage of the Weeks Act in 1911. The act appropriated \$200,000 to be distributed among the states to aid in the fighting and prevention of forest fires. The conditions of the grant were that the state should appropriate a sum as large as the federal grant made to it and that the plans for the expenditure of both federal and state money were to be drawn up by the state officials, but that they were to be approved by the United States Department of Agriculture. These requirements of equal state contributions and federal supervision of state drawn plans have become the corner stones of the federal system of grants. They give the federal government control not only of twice its own grants but of much more, since plant and equipment, for which no federal grants are ever made, must nevertheless meet

federal minimum requirements. Despite the importance of the grants as a means of increasing federal control every state has with few exceptions accepted every subsidy offer of the federal government. The principal directions of federal aid are the prevention of forest fires, the development of agriculture and roads, the maintenance of the national guard, the promotion of vocational education, the rehabilitation of disabled persons and the promotion of child and maternity welfare. The total grants from the federal Treasury (exclusive of the value of land grants) were about \$8,000,000 in 1912; they were over \$135,000,000 in 1930. Of this last amount 56 percent was in aid of the great arterial roads and 24 percent for the National Guard. The prevailing principle of distribution of grants is on the basis of population. In the case of the highways two other factors are also considered, while the distribution of the grants for forest fire prevention, discretionary with the secretary of agriculture, has been on the basis of need measured by the cost of protection.

Local governmental units in the United States have been aided in various ways and for various purposes by the state governments. Taxes are assigned by the state to the local authorities for urgent services of more than local importance, a method which keeps state supervision at a minimum. Various proportions of state taxes are returned to the local authorities earmarked for special purposes, for example, roads, education, poor relief and police. The amounts given are sometimes made to depend on the units concerned, e.g. school children, teachers or miles of road. Grants-in-aid proper are given by the states to counties and municipalities, while in some cases counties make grants to municipalities within their boundaries. Grants from the states averaged between 7 and 8 percent of total local revenue in 1925, but there was a wide range from less than 1 percent in Kansas to over 27 percent in Wyoming. Almost three fourths of these grants were for education and slightly less than one fifth for roads. Education grants predominate to an even greater extent in grants to municipalities. Between 4 and 5 percent of all municipal revenue comes from state and county grants. While the states have attempted to set standards for the use of the grants and even in some cases for the use of earmarked taxes, they have on the whole not succeeded as well as the national government in raising administrative standards by this device.

While the grant-in-aid has succeeded in

achieving considerably heightened efficiency in governmental administration it has everywhere encountered serious opposition from advocates of local self-government. This opposition has in general cut across party lines. The local authorities have desired the grant without control, the central authority control without a grant. The history of grants-in-aid indicates that local authorities have allowed themselves to be bought and that central authorities have acquired by the grant-in-aid the power to encourage local authorities to develop and maintain standards which would undoubtedly not have been attained without external stimulus. The grant is a supple instrument at once effective and inoffensive. Yet it is only a sanction. Whether central control shall be effective or not depends more upon the central regulations, the prestige, number and quality of its inspectors than upon the amount of the grant.

HERMAN FINER

See: CENTRALIZATION; LOCAL GOVERNMENT; MUNICIPAL GOVERNMENT; FEDERATION; STATES' RIGHTS; COUNTY GOVERNMENT; UNITED STATES; EXPENDITURES, PUBLIC; SUBSIDIES; LAND GRANTS; ROADS; EDUCATION, section on EDUCATIONAL FINANCE; AGRICULTURE, GOVERNMENT SERVICES FOR; PUBLIC WELFARE.

Consult: Grice, J. W., *National and Local Finance* (London 1910); Webb, Sidney, *Grants in Aid* (new ed. London 1920); Finer, Herman, "Die neuen Entwicklungstendenzen in der englischen Lokalverwaltung," and "Recent Reforms in English Local Government" in *Jahrbuch des öffentlichen Rechts*, vol. xvi (1928) 92-167, and vol. xviii (1930) 208-32; Delaporte, J., *Le budget départemental* (Paris 1930); Berthelémy, H., *Traité élémentaire de droit administratif* (12th ed. Paris 1930); Huet de Grais, R., *Handbuch der Verfassung und Verwaltung* (25th ed. Berlin 1930); Jessen, A., *Finanzbedarf und Steuern* (Berlin 1928); Hensel, Albert, *Finanzausgleich im Bundesstaat* (Berlin 1922); Macdonald, A. F., *Federal Aid* (New York 1928); Newcomer, M., "Tendencies in State and Local Finance" in *Political Science Quarterly*, vol. xliii (1928) 1-31; Anderson, W., *American City Government* (New York 1925); Wallace, S. C., *State Administrative Supervision over Cities in the United States* (New York 1928); Fairlie, J. A., and Kneier, C. M., *County Government and Administration* (New York 1930).

GRASLIN, JEAN JOSEPH LOUIS (1727-90), French economist. Graslin was one of the leading opponents of the physiocrats. In his *Essai analytique sur la richesse et sur l'impôt* (London 1767; ed. by Auguste Dubois, Paris 1911) he rejected the physiocratic principle that agriculture alone is truly productive and asserted that labor, regardless of whether applied to agriculture, commerce or industry, is the only source

of wealth. This recognition led him to the rejection of the second major physiocratic principle, that of a single tax on agriculture. With the mercantilists he stressed the importance of immaterial goods or services and justified taxes as payment by citizens for state protection. He also saw in the tax an instrument to be used for the purpose of balancing the income shares of the economic groups and preventing the recurrence of economic crises. Graslin emphasized the subjective element in the formation of value but failed to distinguish clearly between value and wealth. He struck an original note in attempting to give a sociological interpretation of value. Two different concepts of wealth and value underlie the two main social classes, the *possesseurs* and the *consommateurs*. The former, interested primarily in the possession of wealth already produced and appropriated, are likely to stress scarcity as the dominant element in value formation; while the latter, intent upon the task of securing commodities, approach the process of valuation from the standpoint of *abundance* as reflected in the degree of accessibility to resources and conditions of production.

Graslin occupies a unique position in the history of economic thought. His views on protection and monopolies led some to classify him as a mercantilist. The social note which pervades his writings—as exemplified in his demand that those who cultivate the soil should own it—brought him within the orbit of socialism. In his view of labor as the source of wealth and in his emphasis on value as the central point of economic discussion he anticipated the era of classical economics.

LOUISE SOMMER

*Works:* *Correspondance . . . entre M. Graslin . . . et M. l'abbé Baudouin*, 2 vols. (London 1777-79); "Polémique de J. J. L. Graslin avec les Éphémérides du citoyen" in *Éphémérides du citoyen*, vols. ix-x (Paris 1767-68).

*Consult:* Desmarts, Joseph, *Jean-Joseph-Louis Graslin* (Rennes 1900).

GRATIAN, Italian canonist of the twelfth century. Gratian was a Camaldolensian monk. He was born perhaps at Chiusi and taught at the monastery of Saints Felix and Nabor in Bologna. About 1140 he composed his *Concordia discordantium canonum*, which soon became known simply as the *Decretum*. It assembled close to 3500 texts—canons of the councils, decretals, Roman laws, extracts from the church fathers and the like—bringing together the materials from the existing collections which circulated in

the west after the Gregorian reform, such as those of Anselm of Lucca, Yves of Chartres and Alger of Liège. The *Decretum* is divided into three parts; the first consists of 101 *distinctiones*, relating to the sources of the canon law, and ordination, the second part, consisting of thirty-six *causae*, treats in the form of hypothetical cases questions of procedure, ecclesiastical perquisites, persons in orders, matrimony, penitence; the third part, entitled *De consecratione*, consists of five *distinctiones* relating to church ritual and the sacraments. Upon every point Gratian grouped the divergences of the authorities and in his *dicta*, or comments, attempted to reconcile them by virtue of a method which was historical as well as logical.

Gratian's work never had more than a private character, but the popes and ecclesiastical courts have treated it as of the greatest authority and since the twelfth century it has formed the basis of instruction in the canon law. It has formed moreover the first part of the *Corpus juris canonici*, and the *Code* which replaced the *Corpus* in 1917 borrowed from it many of its rules. It may thus be considered the sum of the ancient canon law as well as one of the principal sources of the living law.

Theology and morals still hold a great place in the *Decretum*, but little attention is paid to pure speculation. Gratian had the great merit to apply a juridical method to the texts which contained the actual disciplinary rules; and he thus contributed to the creation of an autonomous science of canon law, which in the future was taught in accordance with the *Decretum* side by side with theology. As a result the *Decretum* has had a great influence upon political and social doctrine and has provided some of the foundations for the contemporary Christian society. Its theory and practise of religious organization and many of its views of the state, the relation between church and state, the theory of war, the rights of property and contract and the law of civil and of criminal procedure were based in large part on the texts of the *Decretum*.

GABRIEL LE BRAS

*Consult:* Sigmüller, J. B., *Lehrbuch des katholischen Kirchenrechts*, 2 vols. (4th ed. Freiburg i. Br. 1926) vol. i, sect. 43, and literature there cited; Van Hove, A., *Commentarium lovaniense in Codicem juris canonici*, vol. i (Louvain 1928) p. 160-67, and literature there cited.

GRATTAN, HENRY (1746-1820), Irish statesman and orator. Gratian came of a refined Dublin family, son of the recorder, went to Trinity

and was admitted to the bar. In London he studied Chatham's oratory, entered the Irish Parliament in 1775 and soon rose to leadership of the Patriot party. The ideas of parliamentary self-assertion that had been planted by Molyneux and Swift were rapidly ripening through events in America. Grattan's eloquence found a ringing response even in a lower House controlled by borough owners, while the armed strength of the Volunteers—a Protestant force organized against possible French invasion—excited and reinforced his demands. His first victory was the free trade legislation of 1779. As the American war progressed, analogous aspirations pulsed in Ireland. The Volunteers rose from 4000 to 80,000, and eventually to over 100,000. The surrender of Yorktown and the downfall of North in 1782 brought a crisis in which Grattan struck with decision. The crown yielded. "Grattan's Parliament," free from English supervision and review, was hailed with extraordinary enthusiasm, and £100,000 voted to Grattan, of which he consented to take £50,000. But while Ireland thus entered into dual monarchy on apparently equal terms, the borough owners still remained in control of the lower House, the English interest controlled the borough owners, the English cabinet appointed the Irish executive officers and three fourths of the people, as Catholics, were denied representation. Grattan desired reform but his reluctance to uphold the Volunteers in their attempt to force the hand of Parliament to reform itself left him dependent on eloquence. He was able to increase commerce and help agriculture by paternal legislation and in 1793 the franchise was extended to Catholics. But in 1795 he came into conflict with Pitt on full Catholic emancipation, the English interest dominated the Irish Parliament, and Grattan could make no further headway. The French Revolution had meanwhile brought Wolfe Tone and the United Irishmen into activity. Grattan so strongly dissociated himself from the United Irishmen on the one hand and the united placemen on the other that he retired broken before the rebellion of 1798, although at the last minute in 1800, on the eve of the corrupt vote that extinguished his Parliament and enacted legislative union, he flamed out in patriotic eloquence. At Westminster, where he held a seat from 1805 until his death, he vindicated his fame as the "Irish Demosthenes" and continued unrelentingly to advocate the full political and social equality of the Catholics, though he parted with O'Connell on the refusal of the Irish to give to the Eng-

lish crown a voice in the nomination of Irish bishops.

Grattan's importance, and his limitations, came from the ardor with which he strove to combine legislative independence for Ireland with loyalty to the empire during the American and French revolutions. A Whig in his ideals, a believer in the landed gentry, an aristocrat and hater of the mob, he still demanded "whether Ireland shall be an English settlement or an Irish nation," and although born into the Protestant ascendancy he held, in advance of most of his class, that "the Irish Protestant will never be really free until the Irish Catholic ceases to be a slave." Grattan was not a profound political thinker or an unfailingly astute diplomatist, and he never fully appreciated the dynamics of the revolutions of the eighteenth century. But he was pellucidly honorable. His idealism and his courage enabled him to play an indispensable part in the formation of the Irish nation.

FRANCIS HACKETT

*Works: Speeches*, ed. by D. O. Madden (2nd ed. Dublin 1853), containing a biographical note.

*Consult: Grattan, Henry, Memoirs of the Life and Times of Henry Grattan*, 5 vols. (London 1839-46); Zimmern, A. E., *Henry Grattan* (Oxford 1902); Lecky, W. E. H., *Leaders of Public Opinion in Ireland*, 2 vols. (new ed. London 1903) vol. i, p. 94-321; Bowers, Claude G., *The Irish Orators* (Indianapolis 1916) ch. ii.

GRAUMANN, JOHANN PHILIPP (1690 or 1706-62), German currency theorist and administrator. Graumann was one of those eighteenth century adventurers who wandered from court to court with schemes for enriching both the princes and themselves. He was fully convinced that the state could control economic activity by establishing a reliable currency. According to his theory the absolutist state should mint coin with the ordinary manufacturer's purpose of extracting a profit, the seigniorage. To augment the seigniorage it should create a steady demand for its coins abroad and thus raise the ratio in which they exchanged against bullion. In 1750 Frederick the Great summoned him to direct the Prussian mint; Graumann accepted, promising that he would make Prussian money supplant the Dutch ducat as the commercial currency of northern and eastern Europe—an achievement which would raise the seigniorage to its peak. At this time the increased supply of gold during the first half of the century and the consequent decline in its value had seriously impaired Frederick's silver standard, but he refused to abandon it. In 1747 as master of the



mint in the duchy of Brunswick Graumann had already foreshadowed his solution for this difficulty by coining lighter silver pieces than those commonly in use in German territories since 1566. He now introduced into Prussia his standard of mint—fourteen thaler to the mark of fine silver—and established a fixed par for gold by coining the new *Reichstaler*. But the facts soon demonstrated that the mere export of coin without the export of goods was inadequate to control the rate of exchange and the price of silver. Graumann's standard had to be abandoned and he was dismissed. In 1764, however, the fourteen-thaler standard was restored, although Graumann's theories were not revived with it. Since at about the same time the south German states adopted the uniform *Konventionsmünze* as the rival of the northern *Reichstaler*, Graumann may be credited with substituting for the motley coinage of the Holy Roman Empire two standard systems which prevailed over wide areas and lasted for over a century.

ECKART KEHR

*Important works:* *Abdruck von einem Schreiben, die deutsche und anderer Völker Münz-Verfassung und insonderheit die hoch-fürstl. braunschweigische Münze betreffend* (Leipsic 1749); *Vernünftige Vertheidigung des Schreibens* (Berlin 1752); *Gesammelte Briefe von dem Gelde* (Berlin 1762).

*Consult:* Schrötter, F. von, *Das preussische Münz-wesen im 18. Jahrhundert: Münzgeschichtlicher Teil, Iorussica, Münzwesen*, 4 vols. (Berlin 1904-13)

GRAUNT, JOHN (1620-74), English statistician. Graunt was the son of a London draper and was apprenticed to a haberdasher. He later followed this trade and soon achieved wealth, political success and social standing. In 1662 he published *Natural and Political Observations . . . Made upon the Bills of Mortality* (London), which secured his election to the Royal Society and assured him fame as the father of modern vital statistics. Within a brief period five editions made their appearance and a German translation appeared in Leipsic in 1702.

From the confused and long neglected contents of the bills of mortality for the city of London and adjoining parishes, first compiled in 1532, Graunt derived four basic demographic principles: certain vital phenomena are regular; the urban death rate normally exceeds the rural death rate; mortality rates are highest in the early and the late years of life; male exceed female births, but females constitute approximately one half of the population. He constructed the first

London life table; classified deaths and death rates by cause; noted seasonal and annual variations in death rates; suggested that "populousness" may influence the death rate, that fertility is influenced by sex and age composition, the health of the population and other social and physiological factors and that rural natural increase contributes to urban growth; observed that male mortality exceeds female mortality; considered population as an index of national wealth; and stressed the need for a complete census. He viewed some occupations as "unproductive" and differentiated between the "intrinsic" and the exchange value of land. With one minor exception Graunt's *Observations* were remarkably free from theological interpretation. His work greatly influenced Petty, William Derham, Halley and Süßmilch.

JOSEPH J. SPENGLER

*Consult:* *The Economic Writings of Sir William Petty Together with Observations upon the Bills of Mortality More Probably by Captain John Graunt*, ed. by C. H. Hull, 2 vols. (Cambridge, Eng. 1899); Hull, C. H., "Graunt or Petty" in *Political Science Quarterly*, vol. xi (1896) 105-32; Greenwood, M., "Graunt and Petty" in *Royal Statistical Society, Journal*, vol. xci (1928) 79-85; John, V., *Geschichte der Statistik* (Stuttgart 1884) p. 161-78.

GRAVINA, GIANVINCENZO (1664-1718), Italian jurist and man of letters. Gravina was one of the founders of the Academy of Arcadians and the author of a number of tragedies and of a famous book on aesthetics, *Della ragion poetica* (Rome 1708). His principal juridical works, *Originum iuris civilis* (3 vols., Naples 1701-08) and *De romano imperio* (Naples 1713), were written after he had begun the teaching of law in the college of the Sapienza in Rome in 1699. In opposition to Grotius, who deduced natural law only from the principles inherent in man, Gravina maintained that these principles in turn derive objective value only from divine reason, which has given man his own law of reason superior to the law of physical desires common to all creatures. Reason guarantees justice and liberty for the individual as well as for society. The latter founded on agreement and cooperation between men tends toward the social good, uniting individual with general welfare and the will of all with the general will. Laws restrain the irrational will but embrace and conserve in themselves the rights and powers of each individual; he who obeys them is governed not by an external force but by his own share in sovereignty. The existence of the irrational will makes

it necessary that public power should protect the common good and the sacred liberty of all. In these ideas Gravina is a precursor of Rousseau as of the historical school of law in the assertion that law can be understood only from its history. The latter canon he applied in his study of Roman law. He justified the Roman Empire as a government of reason; but he recognized no right of war unless founded on the necessities of peace, which he considered the essential principle of *jus gentium*. Gravina's views exerted considerable influence outside his own country, particularly upon Montesquieu. His works went through various editions in Italy and Germany, and a French summary of the *Originum* was prepared by J. B. Requier in 1766.

RODOLFO MONDOLFO

*Works: Opera*, ed. by G. Mascovius, 2 vols. (Leipzig 1737); *Opere italiane e latine*, ed. by G. A. Sergio, 4 vols. (Naples 1756-58); *Opere scelte*, ed. by G. B. Passeri (Milan 1819; 2nd ed. by G. Boccanera de Maccrati, 1827).

*Consult: Natali, Giulio, Gian Vincenzo Gravina letterato* (Rome 1919), with bibliography; Balsano, F., "Delle dottrine civili di Giovan Vincenzo Gravina" in *Rivista bolognese di scienze e lettere*, vol. II (1868) 741-62; Casetti, A. C., "La vita e le opere di G. V. Gravina" in *Nuova antologia di scienze, lettere ed arti*, vol. xxv (1874) 339-61, 600-33 and 850-67; Bertoldi, A., *Studio su Gian Vinc. Gravina* (Bologna 1885).

GRAY, JOHN (1790-1850?), British radical reformer. In the critical years following the Napoleonic wars Gray was stimulated by the anti-capitalist ideas of Ravenstone, Sismondi and others. His first publication, *A Lecture on Human Happiness* (London 1825, reprinted 1931), was a vigorous broadside in which he endeavored to prove on the basis of Colquhoun's figures as given in *Treatise on the . . . Resources of the British Empire* (London 1814) that labor is robbed of four fifths of its produce and that the unequal exchanges in favor of capital, aggravated by severe and universal competition, cannot but result in a restriction of effective demand, which in its turn limits and dislocates production. Inclined at first to seek a solution in communistic organization, he finally ranged himself with those reformers who believed that the source of social misery lay not in private control of production but in the competitive individualistic mode of marketing and the assumption of intrinsic value of gold or any other medium of exchange. In his *Social System* (Edinburgh 1831) he therefore advocated a nationalization of marketing by which all goods would be delivered to national warehouses by the producers, who in return for paper

money issued by a national bank to accredited agents would receive other goods at a price fixed by chambers of commerce. In Gray's scheme, as in labor exchanges proposed later by Owen, Bray and Proudhon, exchanges would always be equal, labor would get its reward and, since the amount of money would always be in proportion to the goods, their circulation would not encounter any obstacles on the side of currency.

MAX BEER

*Consult: Beer, Max, History of British Socialism*, 2 vols. (London 1919-20) vol. I, p. 211-18; Foxwell, H. S., Introduction to the English translation of A. Menger's *Das Recht auf den vollen Arbeitsertrag* (London 1899) p. xlvii-lv; Lowenthal, E., *The Ricardian Socialists* (New York 1911) ch. iii.

GRAY, JOHN CHIPMAN (1839-1915), American jurist. Gray, lawyer, teacher and writer, is preeminent as a connecting link between present day ways of thinking and teaching and the older ways that derived from Blackstone, Austin and Story. He began to teach in the Harvard Law School in 1869. One year later Langdell came to inaugurate his new system; Gray, perceiving its merits, adopted it before its wider public acceptance. Already well established in practise, Gray's undertaking to deliver lectures for law students was in accord with the tradition that law teaching should be an incident of professional life; but in Gray's case it became his major activity. For his students he published a collection of *Select Cases . . . on the Law of Property* (6 vols., Cambridge, Mass. 1888-92; 2nd ed. 1905-08), which substantially fixed the scope and content of instruction in the field. His zest in teaching the law of property also resulted in his greatest work, *The Rule against Perpetuities* (Boston 1886, 3rd ed. 1915), a treatise often cited by English as well as American courts. A smaller and earlier treatise, *Restraints on the Alienation of Property* (Boston 1883, 2nd ed. 1895), had been published in opposition to the federal Supreme Court's decision [*Nichols v. Eaton*, 91 U. S. 716 (1876)] recognizing the validity of spendthrift trusts, which Gray denounced as contrary not only to legal precedents but moral principles.

Gray's eager and curious mind brought him to an early interest in the philosophy of law and in his seventieth year he published *The Nature and Sources of Law* (New York 1909, 2nd ed. 1921), a work which exhibits his characteristic virtues, sound learning, crisp style and subtly whimsical humor, but does not rival his achievements in property law. Gray was too much the man of

affairs and above all too much the Puritan moralist to be happy or even comfortable with the legal philosophers. To him much of the refined speculation of the Germans was but "barren scholasticism." His analysis of legal relationships was often lacking in precision; and while he vindicated triumphantly his conviction that judges make the law, yet his Puritan zeal for righteousness led him to assume the independent existence of moral principles that guide the judge in his lawmaking, just as it had caused him to condemn spendthrift trusts for their dishonesty.

W. R. VANCE

*Consult: John Chipman Gray* (Boston 1917), a memorial volume containing articles on Gray's career and a bibliography of his writings.

**GREAT POWERS.** The great power concept is essentially a modern one. The hegemonies of ancient empire builders and the *pax romana*, the unities of the Holy Roman Empire and the papacy, left no room for other and independent sovereignties. The modern idea of the state, of which Bodin was the earliest exponent, was the indispensable basis of the great power system. Toynbee has defined a great power as "a political force exerting an effect co-extensive with the widest range of the society in which it operates." With the expansion of international society modern great powers are in consequence world powers.

The factors which at different periods have determined the status of the great powers indicate the continuing significance of physical power. Perhaps the earliest determinant was man power. Additions to man power were secured by conquest or alliance. Territorial accretions were originally chiefly valuable as potential recruiting grounds. Later, prestige and trade values became important; these were obtainable more advantageously through alliances, first of the reigning houses by marriage—a policy not altogether without significance today—and more recently of the governments by treaty.

A second factor of importance has been the character of the ruling classes together with the stability of the political system. States relatively inferior in man power and other apparent prerequisites for first rank have under rulers of outstanding ability achieved at least temporary recognition as great powers. Such was the position of Sweden under Gustavus Adolphus and again under Charles XII. The unification of Germany and of Italy under capable leaders and

with an efficient governmental organization insured their recognition as great powers. The effect upon a great power of the absence of capable leadership is illustrated by the history of Spain.

A third influence, of increasing importance since the industrial revolution, is the possession of adequate or surplus supplies of natural resources and power reserves. The concentration of available supplies in relatively few districts and the necessary prerequisite of a developed industrial technique to utilize them insured the primacy of those powers in which the integration of resources and technique was farthest advanced, thus further increasing the inferiority of the smaller powers. Closely allied to this factor of industrial supremacy are two others—geography and climate. The former is important chiefly in terms of communications and strategic defensibility. The influence of the latter upon the character and activities of peoples has been analyzed by Ellsworth Huntington in *Civilization and Climate* (3rd ed. New Haven 1924) and *World-Power and Evolution* (New Haven 1919).

All these factors may perhaps be epitomized in the race for colonies which has marked the expansion of Europe during the last four centuries. Originally prized for the gold or tribute they yielded directly to the mother country, the colonies soon became important sources of raw materials and no less important markets for expanding home industry. In more recent times, while these advantages have increased, others have become apparent; colonies have acquired a new significance as profitable fields for the investment of surplus capital, as areas for exploitation by surplus population and as potential reservoirs of man power; for example, in the case of the French B mandates in Africa. Colonies alone do not, however, bring great power rank, as is evidenced by the absence of Holland, one of the leading colonial powers, from the present list of great powers.

For four centuries, as a result of comparative advantages—military and political, territorial and economic—a group of great powers has dominated international diplomacy. But the membership of the group has changed with the shifting fortunes of the individual nations. By the end of the Napoleonic wars Turkey, Spain, Portugal, Holland and Sweden had at one time or another won and lost the rank of great power. At the Congress of Vienna, five great powers—France, Great Britain, Austria, Russia and Prussia—were recognized; by 1914 the group had

increased to eight, of which two, the United States and Japan, were non-European. The World War resulted in the dissolution of one, Austria-Hungary, and in the temporary exclusion from the great power group of two others; one of which, Germany, has already been officially readmitted, and the other, Russia, tacitly. In 1926, when Germany was admitted to the League of Nations, three states, Brazil, Poland and Spain, put forward claims to permanent seats on the Council as evidence of equality with the great powers. Despite strong political support, however, their claims were not accepted. The two countries with the largest populations, China and India, are not great powers because other prerequisites to such rank are lacking.

This changing group of great powers has increasingly controlled international diplomacy and adjusted international relations, primarily in terms of advantage to the powers themselves. At the Congress of Vienna the four victorious great powers dictated the terms of peace alike to weaker allied nations and neutrals and to the vanquished. The Treaty of Versailles was presented to the Allied and Associated Powers by the five principal allied powers, and most of its provisions were drawn in secret conference of the representatives only of Great Britain, France, Italy and the United States. In the distribution of spheres of influence in the late nineteenth and the early twentieth century the great powers alone shared, as they did in the main in the distribution of mandates after the World War. The mandates system in a measure carried out the implications of another feature of the great power privileges—that certain areas were recognized as the "special interest" of particular great powers, which had to be consulted in the settlement of any questions concerning those areas. The Monroe Doctrine asserted such a claim; more recent examples are the Japanese rights in Manchuria, the American paramountcy in the Caribbean and the British interests in the area of the Suez Canal.

The balance of power (*q.v.*), more or less haphazardly maintained by a varying system of alliances until the Congress of Vienna, was regularized during the nineteenth century by what came to be known as the Concert of Powers (*q.v.*). The great power group settled the destinies of the rest of the world by a series of conferences and congresses at which attempts were made to forecast and lessen the tension of impending crises or to liquidate their effects. The pre-war administrative unions represented the

sum of positive cooperative activity among the powers, while the two Hague conferences were perhaps tentative forerunners of what might ultimately have become a more or less periodic international legislative assembly. But for the most part the ends sought by the concert were negative—the prevention of war or its settlement. Nor did the concert develop procedures adequate even for this task; the very absence of available consultative machinery retarded if it did not prevent its evolution toward a more stable international system.

The methods by which the great powers have exercised their control have been modified by changing legal theory and actual international organization. Even while force was the accepted mode for the settlement of international disputes and right therefore seemed synonymous with might, the concept of the equality of states, persuasively championed by Grotius and his successors, became the accepted legal basis of international society. Such a theory if it was to be honored in practise required that it be treated as a formality in some situations and as inapplicable in others. Thus in international conferences, while the fiction of equality is maintained, it is evaded in fact by various devices—by the allocation of committee chairmanships to the great powers, by the admission of colonies as separate voting units under their control and by the relative overweighting of countries and colonies through the device of graduated contributions and voting power. The United States employs the latter two methods in the International Institute of Agriculture, in which it has placed the Philippine Islands, Hawaii, Porto Rico and the Virgin Islands in Class II as of equal rank with such an important agricultural country, for example, as Canada. In some cases the great powers simply omit to include interested small powers at certain conferences. Thus Holland, although the second Pacific colonial power, was not invited to sign or adhere to the Four-Power Pacific Treaty of December 13, 1921.

The World War fundamentally modified the status of the great powers. The existence and activities of the League of Nations have affected the pre-war diplomatic system both explicitly and implicitly. Formally, the structure of the League itself indicates the changing position of the great powers. On the Council the original majority of states permanently represented was converted into a minority within two years, and in 1926 the small power majority was still fur-

ther increased to nine of the fourteen seats. Again, by article 393 of the Treaty of Versailles eight of the twelve government representatives on the Governing Body of the International Labor Organization represent permanently the eight states of chief industrial importance; the amendment proposed in 1922 to increase the size of the Governing Body to sixteen left the "government" representatives of these powers at eight. In the Assembly of the League moreover the rule of unanimity is subject to several minor but prophetic exceptions.

But the implicit changes are perhaps even more significant. For the first time the small powers are finding themselves in a position to play an influential if not a decisive role in major diplomatic negotiations. Through cooperation among themselves, in such formal and informal arrangements as the Little Entente, the Baltic Conference, the Balkan Confederation, the Latin American bloc (especially *vis-à-vis* the League), they have succeeded within and without the penumbra of League activities in exerting a far greater influence than in pre-war negotiations. In the Council and Assembly of the League moreover some of the outstanding leaders have been representatives of the smaller states, whose influence on the formulation and execution of League policy has not only far outweighed the diplomatic prestige of their countries but has often enhanced it. Thus the democratic nature of League machinery, its positive cooperative functions and continuous contact between individual leaders from different countries, which it facilitates, without repudiating the pre-war great power system, is molding the organization of world politics into forms through which the smaller powers share more than ever before in ultimate decisions of policy. Finally, the post-war network of arbitration and conciliation treaties, most highly developed in the Optional Clause of the Permanent Court of International Justice and the General Act of 1928, has linked the majority of the great powers with most of their neighbors by pledges of pacific settlement of all disputes. Earlier opportunism and disregard of the interests of smaller powers, justified by the ancient rubrics of national honor and vital interests, are thereby becoming inconsistent with contemporary canons of international conduct—and with binding treaty stipulations.

Nevertheless, the practical functioning of the League machinery in any important crisis still depends primarily upon the attitude taken by

the individual great powers. This was particularly evident in the League attempts to cope with the Sino-Japanese conflict in Manchuria in 1931 and the ensuing Shanghai difficulties in 1932. While this situation may be partly a result of the fact that two great powers are not members of the League, it is nevertheless true that the maintenance of world peace and the settlement of international difficulties still depend primarily upon the great powers.

PHILLIPS BRADLEY

*See:* INTERNATIONAL RELATIONS; DIPLOMACY; INTERNATIONAL ORGANIZATION; LEAGUE OF NATIONS; BALANCE OF POWER; CONCERT OF POWERS; EQUALITY OF STATES; COLONIES; IMPERIALISM; MANDATE.

*Consult:* Kjellén, Rudolf, *Die Grossmächte vor und nach dem Weltkriege*, ed. by Karl Haushofer (2nd ed. Leipsic 1930); Spahn, Martin, *Die Grossmächte* (Berlin 1918); Toynebee, A. J., *The World after the Peace Conference* (London 1925); Gibbons, H. A., *An Introduction to World Politics* (New York 1922) ch. iii.

GREELEY, HORACE (1811–72), American journalist and political leader. After a varied experience as printer, editor and publisher, mainly of Whig journals, Greeley saw the opportunity in New York City for a low priced Whig daily to stand midway in character between Bennett's sensational *Herald* and Bryant's scholarly *Evening Post*. Accordingly on April 10, 1841, he founded the *New York Tribune*, which was an almost instantaneous success and which by 1846 possessed the best newspaper staff in the country. In Greeley's thirty-one years as editor of the *Tribune* he impressed his doctrines, tastes and personality upon the northern reading public as no other editor has ever done, and in many communities his paper became a "political Bible." For the first dozen years he remained a loyal Whig, although he wished the *Tribune* to be "removed alike from servile partisanship on the one hand, and from gagged, nincing neutrality on the other." His working class contacts and his reading of the English Chartists, of William Leggett and of Robert Dale Owen led him to form a set of decided and radical views on social questions. He fervently detested all forms of monopoly and landlordism; he insistently struggled against the growth of class dominance, the unequal distribution of wealth and the aggressive, heedless industrialism of the day. Influenced by Albert Brisbane, he thought for a time that Fourierism offered the best remedy for current maladies, and he supported the formation of phalanxes. He was keenly interested in promoting agriculture and westward emigration as

safeguards against capitalist tyranny; serving briefly in Congress in 1848-49 he introduced a homestead bill, while he led the attack on railway land grants. Old style classical education provoked his scorn, but he gave unflinching support to new educational ideas and advocated a "people's university" for mechanics and farmers. He favored a protective tariff but only as a means toward ultimate free trade. He worked also for the abolition of capital punishment, for temperance, the formation of labor unions, freedom of speech and the mails and the woman's rights movement.

In the decade before the Civil War Greeley and the *Tribune* gradually centered their attention upon sectional issues. Objecting to slavery for both moral and economic reasons Greeley was aroused to anger by the efforts to expand it and vigorously opposed the Mexican War, the compromises of 1850 and the Kansas-Nebraska bill. His editorials counted for as much as any speeches made in Congress. Gradually deserting the Whigs, in 1856 he attended the national organization meeting of the Republicans in Pittsburgh and that autumn supported Frémont for the presidency. He vigorously urged armed action by the antislavery forces in Kansas and refused to recognize the Dred Scott decision as valid. Having dissolved the long famous political alliance with Seward and Weed, he attended the Republican convention of 1860 as a supporter of Edward Bates but swung to Lincoln. When war was threatened he showed less vacillation than is commonly supposed. Although he declared that if a real majority of southerners wished to secede they should be allowed to depart in peace he asserted that the seceders were actually a minority and should hence be coerced.

During and after the war Greeley's influence rapidly declined. His alignment with the Chase-Sumner radicals led him to make indiscreet attacks on Lincoln. On reconstruction issues he satisfied neither side. Becoming convinced that the Grant administration was corrupt, hostile to civil service reform, illiberal toward the South and mistaken in its Santo Domingo scheme, he encouraged the movement for a new party. But his acceptance of the Liberal Republican nomination for the presidency in 1872 was a tragic error, for it insured the defeat of his cause, and the strain of the campaign hastened his death. His best work had been done in the years from 1841 to 1861, when he impregnated the public mind with new social ideas, lent powerful assistance to the restraint of industrialism and con-

verted a good part of the North to the Free Soil cause.

ALLAN NEVINS

*Consult:* Greeley, Horace, *Recollections of a Busy Life* (New York 1868); Parton, James, *The Life of Horace Greeley, Editor of the New York Tribune* (rev. ed. New York 1877); Linn, W. A., *Horace Greeley, Founder and Editor of the New York Tribune* (New York 1903); Seitz, Don C., *Horace Greeley, Founder of the New York Tribune* (Indianapolis 1926); Sotheran, Charles, *Horace Greeley and Other Pioneers of American Socialism* (New York 1892); Commons, J. R., "Horace Greeley and the Working Class Origins of the Republican Party" in *Political Science Quarterly*, vol. xxiv (1909) 468-88; Ross, E. D., *The Liberal Republican Movement* (New York 1919); Parrington, Vernon L., *Main Currents in American Thought*, 3 vols. (New York 1927-30) vol. ii, p. 247-58.

GREEN, FREDERICK ERNEST (1867-1922), English rural reformer. Green left London to become a small farmer in Surrey, where he threw himself into local life and politics, serving on his parish council and making a study of rural problems. He came to the conclusion that the machinery for democratic local government and provisions which had been created in the nineties for encouraging small holdings were thwarted by the power of the squires and the large farmers. Anxious to learn how far social conditions in the neighboring counties resembled those in Surrey, he traveled about the south of England. The results of his researches he published in *The Awakening of England* (London 1912, 2nd ed. 1918) and *The Tyranny of the Countryside* (London 1913). The latter appeared when a campaign for agrarian reform launched by Lloyd George was in full swing and it gave a great impetus to this movement. The Liberal party prepared a program which would have occupied the attention of Parliament in 1914 and 1915 but for the outbreak of the World War. In 1918 Green stood unsuccessfully for Parliament as a Labour candidate. In the following year his reputation as an expert led to his appointment to the Royal Commission which the government set up to study the position of agriculture. His last book, *A History of the English Agricultural Labourer, 1870-1920* (London 1920), brought together valuable material which had not hitherto been accessible. Green was a vigorous writer with a feeling for landscape and country life, a large store of first hand knowledge and a passion for liberty. His books are essential to the study of the agrarian conditions in the south of England before the World War.

JOHN LAWRENCE HAMMOND

**GREEN, JOHN RICHARD** (1837-83), English historian. Green, who never held a university appointment, turned to history from another profession in the ripeness of his powers. He was the son of an Oxford tradesman and as an undergraduate attended Jesus College. He found no teacher, however, who shared his deeply ingrained enthusiasm for the study of English social life in the remote past. Ordained to a London curacy in 1860, he was soon led by his democratic sympathies into parish work among the lower classes of the city. Nevertheless, in 1869 he was prompted by reasons of health as well as by a growing liberalism of thought to embark upon a different career. The librarianship of Lambeth Palace gave him a position if not a salary, and meanwhile he supported himself mainly by writing for the *Saturday Review*. His real learning and originality had brought him into contact with historians like Freeman, Stubbs and Bryce and, even more important, with Alexander Macmillan, the publisher, who at the end of 1869 decided to back Green's projected *Short History of the English People*. The book when it came out five years later had a success unequalled since Macaulay; scores of thousands sold in several languages even during Green's lifetime, and it still retains great historical value. For Green was the first man who attempted a complete survey of the history of the English people. His work embraced every factor in national life; but here at last kings and battles and party politics were subordinated to social history and the progress of thought. His sympathies were everywhere with the people at large: in every clash between ruler and population he sided with the latter. His early theological orthodoxy had been transformed into hopes for and belief in the progress of man. His struggles to rewrite the entire work on a large scale (*History of the English People*, 4 vols., London 1877-86) were cut short by his premature death. Green's *Letters* were edited, with commentaries, by Leslie Stephen (London 1901).

G. G. COULTON

*Consult:* Gooch, C. P., *History and Historians in the Nineteenth Century* (2nd ed. London 1913) p. 352-58.

**GREEN, THOMAS HILL** (1836-82), English philosopher and reformer. Green's adult life was spent almost wholly at Oxford, where he was one of the great figures of Jowett's Balliol. His *Lectures on the Principles of Political Obligation* (*Works*, vol. ii; edited after Green's death by

R. L. Nettleship, 3 vols., 2nd ed. London 1889-90), one of the major works of formal political theory in England, gave philosophical foundation to the newer liberalism of the later nineteenth century, which abandoned *laissez faire* for state intervention in social and economic matters. In 1870 philosophical idealism was identified by the English with Toryism. The German thinkers were known primarily through Coleridge and Carlyle, who were regarded as un-English extremists. On the other hand, liberalism was bound up with empiricism, with a kind of atomic individualism from which even J. S. Mill's practical sympathies for the poor did not allow him to escape. When Green appeared as both idealist and liberal, Mark Pattison regarded the fact as an indication of a "certain puzzle-headedness" in Green.

At the base of Green's system is an idealistic acceptance of the state as an organic society superior to its component individuals. Man is a political animal, and the crude antithesis of the individual and the state is as false as that of a whole and its parts. The state is the consequence of morality and is usually right because it draws on the whole inheritance of past wisdom. Will, not force, is its foundation and the will of the individual must freely acquiesce. Even where the individual judges an act of the state immoral he should in a parliamentary state conform in practise. Overt disobedience is justifiable only in those states where the individual has no channels of peaceful agitation against the act which he considers immoral. Green consistently repudiated the generally accepted ethics of the utilitarian school, particularly as applied to actual problems involving the relations between the state and the individual. To limit state interference to policing individual selfishness represented to him a denial of moral value to the acts of the state; that is, a denial of moral value to the common life of society. True ethics—and these are substantially traditional Christian ethics—demand that the state interfere to insure the possibility of a good life to all its members. The way is thus open to old age pensions, accident and sickness insurance, factory regulation, temperance legislation—to the complicated social work of the modern state. Green's practical influence in England was the greater because he stopped well short of the Hegelian identification of the state with absolute right. His masters were less the German idealists than the Greeks. In education his interests and purposes were much like Matthew Arnold's—the bringing to bear

of the civilizing influence of classical learning in its best sense on the lower middle classes by a reform of secondary education and the initiation of elementary education for the working classes. He wanted all of England to share the virtues and manners of the ruling classes. He convinced many young Oxford men that this was possible and sent them forth to make England better, not through *laissez faire* but through state action. He himself was a member of the Oxford Town Council, an active temperance worker and an important figure in Liberal politics.

CRANE BRINTON

*Consult:* Biography by R. L. Nettleship, *Works*, vol. iii; Fairbrother, W. H., *The Philosophy of T. H. Green* (2nd ed. London 1900); Ritchie, D. G., *The Principles of State Interference* (London 1891) ch. iv; Muirhead, J. H., *The Service of the State; Four Lectures on the Political Teaching of T. H. Green* (London 1908); Leland, A. P., *The Educational Theory and Practice of T. H. Green* (New York 1911); MacCunn, J., *Six Radical Thinkers* (London 1907) ch. vi; Chin, Y. L., *The Political Theory of Thomas Hill Green* (New York 1920); Sabine, G. H., "The Social Origin of Absolute Idealism" in *Journal of Philosophy, Psychology and Scientific Methods*, vol. xii (1915) 169-77; Parodi, D., *Du positivisme à l'idéalisme* (Paris 1931) ch. i.

#### GREENBACK PARTY, UNITED STATES.

See PARTIES, POLITICAL; FREE SILVER.

GREENING, EDWARD OWEN (1836-1923), English cooperative leader and social reformer. It is perhaps characteristic of this son of a Lancashire factory owner that during the Civil War in the United States, despite the stake which Lancashire had in the success of the Confederate forces, he was prominent in founding the Union and Emancipation Society of Manchester and financially assisted in the maintenance of "underground railroads" in the United States.

His greatest prominence was in the cooperative movement. So far as the consumers' societies were concerned he stood firmly against a working class bias and was a continual agitator against the dangers of the cash profit. On the other hand, in 1874 he introduced for a short time employees' profit sharing into the Cooperative Wholesale Society. He also endeavored unsuccessfully to make public information as to the allocation of capital acquired by the society. To him was largely due the passing of the Industrial and Provident Societies Act of 1852, which legalized and safeguarded cooperative enterprise. He made the movement national in

scope by bringing in London and the south, whereas it had previously been confined to the industrial midlands and the north; and he played an important part in the founding of the International Cooperative Alliance. Through his organization of the Agricultural and Horticultural Association in 1868 he laid the foundation for a method of reconciliation of agricultural producers' and industrial consumers' societies. As a former Christian Socialist he never quite relinquished the concept of labor copartnership and producers' cooperation. He was a brilliant speaker, an excellent organizer and a tireless pamphleteer and perhaps the main influence in liberalizing the industrial cooperative movement in Great Britain.

F. J. PERREWÉ

*Consult:* Crimes, Tom, *Edward Owen Greening* (Manchester 1923).

GREGG, WILLIAM (1800-67), American cotton manufacturer and pioneer industrialist in the south. Gregg was born in what is now Monongalia county, West Virginia, of pioneering Scotch-Irish and German ancestry. During the War of 1812 he had his first experience with cotton manufacturing at his uncle's small mill in Georgia. Later he served an apprenticeship in silversmithing, established himself in business in Columbia, South Carolina, in 1824, soon accumulated a fortune and retired to the Edgefield district. Here he amused himself by reviving the fortunes of the Vauchuse cotton factory. In 1838 he moved to Charleston, where he became convinced that the south's single devotion to a staple agriculture was responsible for economic stagnation and abortive partisan politics. Having determined to establish cotton manufacture in the south, he visited the northern textile districts and wrote *Essays on Domestic Industry* (Charleston, S. C. 1845). Gregg was undoubtedly influenced by Mathew and Henry C. Carey of Philadelphia and presented in his *Essays* the same argument for diversification of economic development. He was one of the few representatives in the southern states of this nationalist school of thought, although at this stage his advocacy of manufactures did not embrace a protective tariff. As an object lesson he established a large cotton factory at Graniteville, South Carolina. Around this factory he built a tasteful village for 900 "poor whites," whom he hoped to elevate by industrial employment. The enterprise was notably successful, and the south in its textile development since the Civil War



nas returned to many of the precepts which were advocated by Gregg.

BROADUS MITCHELL.

*Consult:* Mitchell, Broadus, *William Gregg, Factory Master of the Old South* (Chapel Hill, N. C. 1928).

GRÉGOIRE, HENRI (1750-1831), French ecclesiastic, parliamentarian and publicist. Grégoire, a curé of Embermesnil, Lorraine, was elected to the Estates General in 1789 and later served in the Convention, in the Council of the Five Hundred, in the Corps Législatif and finally in the Senate. Under the Restoration he was elected to the Chamber of Deputies in 1819 but was refused admittance. Of Richerco-Jansenist sympathies, he believed that the lower clergy should be accorded a share in the administration of the church and accepted the civil constitution as well as the oath. He became bishop of Blois and was the real leader of the constitutional church during the period of the separation. Strongly opposed to the concordat, he retired after its adoption to a simple priesthood. The son of a poor tailor, Grégoire consistently championed equality and liberty, supporting the third estate and helping in the destruction of the *ancien régime* and the monarchy. He was a staunch republican, an adversary of personal dictatorship and of the empire. Like Condorcet he attacked ignorance as the chief enemy of the people and labored, especially in the Convention, to extend education and further the use of the French language. He was active in opening up new libraries, schools and scientific and technical institutions, such as the Institut National and the Conservatoire des Arts et Métiers. His broad humanitarianism, which prompted him in 1787 to dedicate a stirring pamphlet to the Jews, was directed particularly to agitation against the slave trade and slavery and to denunciation of the prejudices of white people against the colored races. Pacifist as well as patriot, Grégoire foresaw that Europe, divided by hatreds, would exhaust itself to the advantage of the New World. As a preventive he advocated the development of a spirit of universal cooperation, with the intelligentsia of the various countries taking the lead; and, more specifically, the creation of a universal language.

LÉON CAHEN

*Important works:* *Essai historique sur les libertés de l'église gallicane et des autres églises de la catholicité* (Paris 1818, 2nd ed. 1820); *Histoire des sectes religieuses*, 2 vols. (Paris 1810); *Essai sur la régénération physique, morale et politique des juifs* (Metz 1789); *Mémoire*

*en faveur des gens de couleur ou sang-mêlés de St. Domingue et des autres îles françaises de l'Amérique* (Paris 1789); *De la littérature des nègres, ou Recherches sur leurs facultés intellectuelles* (Paris 1808), tr. by J. B. Warden as *An Enquiry concerning the Intellectual and Moral Faculties and Literature of Negroes* (Brooklyn 1810); *De la noblesse de la peau ou du préjugé des blancs contre la couleur des africains* (Paris 1826), tr. by C. Nioth (Paris 1826); *Essai sur la solidarité littéraire entre les savants de tous les pays* (Paris 1824); *Plan d'association générale entre les savants, gens de lettres et artistes* (n.p., n.d.); *Mémoires*, ed. by H. Carnot, 2 vols. (Paris 1837).

*Consult:* Allermann, T., *Die völkerrrechtlichen Ideen des Abbé Grégoire* (Bonn 1916), with bibliography; Chevalley, L., *La déclaration du droit des gens de l'abbé Grégoire, 1793-1795* (Caen 1912); Lyon-Caen, C., "Notice sur la vie et les travaux de l'abbé Grégoire" in *Académie des Sciences Morales et Politiques, Séances et travaux . . . Compte rendu* (1923) pt. i, p. 24-59; Gazier, A., *Histoire générale du mouvement janséniste*, 3 vols. (Paris 1922) vol. ii, p. 147-52; Brunot, F., *Histoire de la langue française*, 10 vols. (Paris 1905-30, vol. ix, ch. ii.

GREGORY I (c. 540-604), pope from 590. Gregory came of a prominent patrician and Christian family and while still young rose to the prefecture, the highest civil office of Rome. Shortly afterward he turned monk, converting his Caelian palace into a monastery and with the proceeds of the sale of his Sicilian estates founding six other monasteries. From about 579 to 586 he served as papal ambassador at Constantinople and in 590 was elected to succeed Pope Pelagius II. He was the first monk to become pope. The tradition that grew up during the Middle Ages around Gregory, or Gregory the Great as he came to be called, had a firm basis in his achievements. As Fourth Doctor of the Latin church he consolidated the doctrines of the fathers and in so doing established the uniform teaching and practise which became the heritage of the mediaeval church. In his *Regulae pastoralis libri* (*De cura pastoralis*), which became the manual of the episcopate for his own and subsequent times, he condensed the duties of the priest into three categories; these he designated as obligations of conscience, professional obligations and methods of preaching. His homilies on the Gospels and his *Moralium libri*, or commentary on the book of *Job*, resolved the whole Christian life, to use the words of Pierre Batiffol, "into clear, complete and effective formulae." His *Dialogorum libri*, especially the second book, settled the destinies of Benedictine monasticism by elevating St. Benedict above all other founders of monasteries. On one side of his nature Gregory was a pessimist: a patri-

man who saw himself hemmed in by barbarians, he had a premonition of the imminent fall of Rome, as his eloquent homilies on *Ezekiel* show; and he believed the end of the world to be at hand. But the man of action was brought to the surface by the papal office. While solicitous to respect the privileges of other metropolitans he nevertheless upheld the superiority of the bishop of Rome with a combined tact and consistency which contributed greatly to the development of the Roman primacy. In the relations between Rome and neighboring peoples, particularly the Lombards, and in matters of the internal administration of Rome he assumed the authority legally vested in the secular government, thus making the first organized attempt on the part of the papacy to exert temporal power 150 years before Pippin the Short established this power on a firm footing. When he sought to create a *societas* (what the Middle Ages called the *pax christiana*) between the Lombards and Byzantine Italy, when he arrogated to himself the right to mediate between the Frankish kingdoms and Byzantium, he originated the idea that the papacy was the guardian of a Christian peace between secular powers. At his direction St. Augustine and forty monks undertook a missionary expedition to England, achieving a success which led Gibbon to declare that "the conquest of Britain reflects less glory on the name of Caesar than on that of Gregory the First." By this enterprise Gregory inaugurated the period of systematic evangelization of the western world under the guidance of the Holy See and through the agency of monks. His letters on the administration of the Patrimony of St. Peter throw much light on the ideas of his time concerning the obligations of the ecclesiastical landlord and indicate his feeling of social responsibility in such matters as the care of the poor.

GEORGES GOYAU

*Works:* Gregory's writings are published in Migne, J. P., *Patrologia latina*, 221 vols. (Paris 1844-80) vols. lxxv-lxxix. An excellent edition of his letters is *Gregorii i papae registorum epistolarum*, ed. by P. Ewald and L. M. Hartmann, *Monumenta Germaniae historicae, Epistolarum*, vols. i-ii (Berlin 1891-99). The *Regulae pastoralis liber* and a selection of the letters have been translated by James Barnby in *A Select Library of the Nicene and Post-Nicene Fathers of the Christian Church*, 14 vols. (New York 1886-90) vols. xii-xiii. *Moralium libri* has been translated by J. Bliss as *The Books of Morals, A Library of Fathers of the Holy Catholic Church*, vols. xviii, xxi, xxiii and xxxi, 3 vols. (Oxford 1845-52).

*Consult:* Dudden, F. H., *Gregory the Great, His Place*

*in History and Thought*, 2 vols. (London 1905); Girsar, Hartmann, *San Gregorio Magno* (Rome 1904); Batiffol, Pierre, *Saint Grégoire le Grand* (Paris 1928), tr. by J. L. Stoddard (London 1929); Howorth, H. H., *Saint Gregory the Great* (London 1912).

GREGORY VII (c. 1020-85), pope from 1073. When the cardinals, seconding the choice of the masses, elected Hildebrand pope, he had already held a dominant position under the pontificates of Nicholas II (1059-61) and Alexander II (1061-73). He assumed the tiara not only with a consummate experience in ecclesiastical affairs but with a well worked out program of church reform. In his earliest bulls he announced his intention to exercise the Roman primacy in its plenitude and through this power to uproot the two major evils of the church, simony and Nicolaitanism, or moral corruption, which in spite of the brave but insufficiently coordinated efforts of earlier popes and reformers were still rampant. A council which he summoned in 1074 vigorously condemned both of these practices, but its decrees had little effect and in Germany provoked active resistance. In February of the following year Gregory called a second council. Besides reissuing the regulations of 1074 and pronouncing severe penalties for rebellious prelates this council promulgated the famous decree on lay investiture forbidding bishops to receive their offices from laymen. As had previously been suggested by the Lorraine reformers, Wazo of Liège and Humbert of Moyenmoutier, Gregory thus prepared to attack the problems of simony and of Nicolaitanism, which clearly grew out of simony, at their roots: corrupt practices could be abolished if corrupt men could be excluded from the episcopal body. He proposed to enforce his views by centralizing the administration of the church in the Holy See and to this end he drew up and published while the council of 1075 was in session his great *Dictatus papae*. With incisive clarity and compelling brevity the twenty-seven articles of this document asserted the exaltation of the papal office; its divine origin; its infallibility; its absolute, unlimited and universal authority not only over the church but over Christian society as a whole. As sovereign of the church the pope could depose bishops at will; as sovereign of society he could depose emperors and kings and absolve their subjects from allegiance.

Gregory's importance lies not so much in his enactments as in the uncompromising and fearless spirit in which he attempted to make them a matter of daily reality. As means of subjugating

the bishops he summoned an annual synod at Rome to pass reform legislation and inflict penalties on the refractory. He dispatched a constant stream of legates into various countries and in addition assigned permanent bodies of plenipotentiary legates to definite territories. Since the legates under Gregory exercised the mounting power of the Holy See with uniform moderation and justice, a notable reform was achieved. In his energetic efforts to impose the *Dictatus papae* upon the secular princes Gregory became involved in one of the most famous church and state controversies of the Middle Ages. In overt defiance of the decree of 1075 the German king Henry IV continued to follow the traditional imperial custom of making ecclesiastical appointments. When Gregory protested, Henry deposed him through an assembly of German prelates which he summoned at Worms in 1076. Gregory responded by excommunicating and deposing Henry. Shortly afterward the German princes revolted against Henry's despotism, solicited Gregory's pardon and invited the pope to try the king in their presence at Augsburg. In order to evade the dangers of such a trial Henry proceeded to Canossa, where he intercepted the pope on January 28, 1077. After the abject king had waited for three days barefooted in the costume of a penitent, Gregory overwhelmed by his "perseverance" finally admitted and absolved him. Although politically Canossa was a victory for the king, Gregory had nevertheless achieved all that he desired in demonstrating the papal power to "bind and loose" in accordance with the dictates of the Christian religion. But the controversy was not yet ended. Upon repeated proofs of Henry's knavery Gregory once more excommunicated him in 1080 and recognized as King Henry's rival Rudolph of Swabia. In 1081, after having set up an antipope, Henry descended into Italy and began a three years' siege of Rome, which ended with Gregory's flight to Salerno, where he died.

Gregory's imperviousness to threat and peril is well evidenced by his epistle to Hermann, bishop of Metz, written on March 15, 1081. Crystallizing his ideas on the relations of church and state, this epistle demonstrated the superiority of the spiritual power to the royal in both nature and origin and concluded by reducing secular princes to the rank of papal auxiliaries, whose supreme function was to assist in the salvation of souls. But whether in his relations with Henry IV, the Spanish princes, the kings of Denmark, the duke of Bohemia or with papal vassals like the king

of Croatia-Dalmatia and the king of Kiev, Gregory's purpose was entirely religious, involving no encroachment upon the purely temporal authority. His whole pontificate, one of decisive importance in the history of the church, was illumined by his single minded aim to assure the triumph of the Christian spirit and morality, of which he was one of the ablest as well as the most ardent guardians.

#### AUGUSTIN FLICHE

*Works:* Gregory's *Register* has been edited by E. Caspar in *Monumenta Germaniae historica, Epistolae selectae*, vol. ii, pts. i-ii. The *Dictatus papae* appears in this edition in pt. i, p. 201-08, and the epistle to Hermann in pt. ii, p. 544-63.

*Consult:* Fliche, A., *Saint Grégoire VII* (Paris 1920), *La réforme grégorienne*, 2 vols. (Louvain 1924-25), and *Études sur la polémique religieuse à l'époque de Grégoire VII; les prégrégoriens* (Paris 1916); Martens, W., *Gregor VII, sein Leben und Wirken* 2 vols. (Leipzig 1894); Delarc, O., *Saint Grégoire VII et la réforme de l'église au XI<sup>e</sup> siècle*, 3 vols. (Paris 1889-90); Haller, J., "Gregor VII und Innocenz III" in *Meister der Politik*, ed. by E. Marcks and K. A. Müller, 3 vols. (Stuttgart 1922-23) vol. i, p. 323-401; Oestreich, T., "The Personality and Character of Gregory VII in Recent Historical Research" in *Catholic Historical Review*, n.s., vol. i (1921-22) 35-43; Caspar, E., "Gregor VII in seinen Briefen" in *Historische Zeitschrift*, vol. cxxx (1924) 1-30; Voosen, É., *Papauté et pouvoir civil à l'époque de Grégoire VII* (Grenbloux 1927); Bernheim, E., *Mittelalterliche Zeitanfassungen in ihrem Einfluss auf Politik und Geschichtsschreibung* (Tübingen 1918); Mirlis, C., *Die Politik im Zeitalter Gregors VII* (Leipzig 1894); Fournier, P., "Les collections canoniques romaines de l'époque de Grégoire VII" in *Académie des Inscriptions et Belles-Lettres, Mémoires*, vol. xli (1920) 271-397; Carlyle, R. W. and A. J., *A History of Mediaeval Political Theory in the West*, vols. i-v (Edinburgh 1903-28) vol. iv.

GRENVILLE, GEORGE (1712-70), British statesman. In 1741 Grenville entered the House of Commons as member for the borough of Buckingham and retained the seat until his death. He was secretary of state for the northern department in Bute's ministry and on Bute's resignation in 1763 became first lord of the Treasury and chancellor of the Exchequer. The Seven Years' War had added some £60,000,000 to the national debt and half the yield of the staple taxes was required to meet its annual charge. There were prospects of incalculable additional liabilities across the Atlantic. Grenville, whose official experience had been gained at the Admiralty and Treasury, had been impressed during the war by the amount of illicit trade carried on by the American colonists. He also realized that some new sources of revenue would have to be found. So he decided to en-

force the acts of trade and to renew and make effective the Molasses Act of 1733, which had never been more than a dead letter. In the Sugar Bill [4 Geo. III, c. 15 (1764)] the principle was laid down that a revenue ought to be raised in America for the defense of the colonies, and in the following year Parliament tried to realize this end by imposing an internal tax under the Stamp Act. Grenville's name will always be associated with this ill fated measure because it inspired a united opposition in the colonies, and although it was repealed by the Rockingham administration it proved to be the first step toward secession. Several pamphlets have been ascribed to Grenville and it is known that he assisted William Knox in the composition of *The Present State of the Nation; Particularly with Respect to Its Trade, Finances, etc.* (London 1768), a pamphlet which drew a retort from Burke and a brief comment from Adam Smith. In the year of his death Grenville successfully sponsored a significant reforming measure, known as the Grenville Act, which as a remedy against the prevalent evils arising from the trial of election petitions provided that such trials should be in the hands of a select committee, authorized to examine witnesses under oath, rather than of the entire House of Commons. His character is sketched in a well known passage in Edmund Burke's *Speech on American Taxation*; and contemporary letters in such collections as the *Grenville Papers* (ed. by W. J. Smith, 4 vols., London 1852-53), the *Chatham Correspondence* (ed. by W. S. Taylor and J. H. Pringle, 4 vols., London 1838-40) and the *Correspondence of the Duke of Bedford* (3 vols., London 1842-46) throw much light on his character and influence.

J. F. REES

GRESHAM, SIR THOMAS (1519?-79), English merchant and financier. Gresham was educated at Gonville Hall, Cambridge, and apprenticed to his uncle Sir John Gresham. He was admitted a member of the Mercers' Company in 1543. In 1551 he was appointed royal agent, or factor, and his main duty was to manage the king's debt abroad. This involved his frequent residence in Antwerp, where he had immediately to face a very difficult problem. Royal creditors had to be paid large sums at a moment when the exchange rate was unfavorable to England. The steps he took are described by himself in a letter to Elizabeth. The account is not very lucid, which may be due partly to the fact that he

naturally wanted to impress on the young queen the importance of the service he had performed and partly to his own misconceptions as to the actual working of the exchanges. It is clear, however, that he contrived to pay an instalment of the royal debt by preventing the Merchant Adventurers from exporting their cargoes of cloth until they had engaged to meet the demands of the king's creditors in Antwerp out of the yield of their sales there. In this way he really exacted a forced loan, which was subsequently to be repaid with interest in London. In return the Merchant Adventurers were given the virtual monopoly of the export of cloth. Gresham recommended this method of meeting obligations in the Low Countries on several occasions and expounded it in a letter to William Cecil in some detail in March, 1559. In 1554 he was dispatched to Spain to collect in bullion loans which he had negotiated with merchants in Antwerp and to arrange for its shipment to England. Gresham advised Elizabeth to undertake a restoration of the currency, explaining how Henry VIII's debasement had driven fine gold out of the country. On the strength of his exposition of the fact that "bad money drives out good" this principle has been called Gresham's law since H. D. MacLeod introduced the usage in 1858. The fact, however, was known long before Gresham's time and there is nothing to show that Gresham offered any theoretical exposition of this principle. Gresham was concerned that the London merchants had no definite place of resort such as was provided by the Bourse in Antwerp, and he offered in 1564 to erect one at his own expense if the city would provide a site. This is the origin of the Royal Exchange, which was opened by Elizabeth in January, 1571.

J. F. REES

Consult: Burgon, J. W., *The Life and Times of Sir Thomas Gresham*, 2 vols (London 1839); Unwin, George, *Studies in Economic History*, ed. by R. H. Tawney (London 1927).

GREY, SECOND EARL, CHARLES GREY (1764-1845), English statesman. Grey was educated at Eton and Cambridge for a parliamentary career and when only twenty-two years old was returned for Northumberland. His interest in parliamentary reform led him to take part in the organization and activities of the Friends of the People, a venture which he regretted later in life. Grey participated with other Foxites in the secession of 1797. He was from the first a close

follower of Fox and on Fox' death succeeded him as foreign secretary under Grenville and as leader of the more liberal Whigs. After 1807 his removal to the Lords and his long absences from Parliament left the championship of reform to others; in the troubled years after 1816 he was eager to oppose the government but refused to combine with the radicals. At length in 1830 he formed a ministry of wide political range, pledged to parliamentary reform. Convinced that only an extensive measure would satisfy public opinion but that the established institutions of the country need not thereby be endangered nor the influence of the aristocracy impaired, he entrusted the drafting of the ministerial reform bill to a committee headed by his son-in-law, Lord Durham, an advanced reformer. Grey showed extreme skill in handling king, cabinet, Parliament and outside critics, and the passing of the bill in 1832 without a special creation of peers was his crowning triumph. In foreign affairs he worked successfully as Palmerston's chief for the enlargement of the frontiers of Greece and for the establishment of Belgian independence without a breach with France.

Grey's main achievements were the maintenance for a generation of the Foxite tradition of an aristocratic party which supported popular principles and to which the democratic forces could and would rally, and the enactment by constitutional means of a measure of parliamentary reform moderate enough for king and aristocracy to swallow and extensive enough to satisfy the middle classes and to enlist the popular support required for carrying it.

J. R. M. BUTLER

*Consult:* Trevelyan, G. M., *Lord Grey of the Reform Bill* (London 1920); Davis, H. W. C., *The Age of Grey and Peel* (Oxford 1929).

GREY, THIRD EARL, HENRY GEORGE (1802-94), British statesman. Grey's chief claim to fame is his work as colonial secretary in Lord John Russell's Whig ministry from 1846 to 1852. As undersecretary from 1830 to 1833 he had become interested in the problems of the abolition of slavery and the government of Canada as well as in the theories and colonizing projects of Gibbon Wakefield. He also came to believe that the new policy of free trade would strengthen rather than break up the British Empire, making it clear that the only enduring ties were those of enlightened self-interest and mutual good will. He was anxious as colonial secretary not only to transfer the empire to a free trade basis but to

concede to the colonies the fullest self-government compatible with their social condition and with the maintenance of imperial unity. During his regime Canada and other North American colonies received responsible government, with the proviso that they adhere to the free trade policy of Great Britain. He liberalized the institutions of other colonies also, although he believed the Australian colonies to be too thinly peopled and too inexperienced politically for full responsible government and thought it essential in New Zealand and Cape Colony that the imperial government should remain responsible for relations between the colonists and the native races. While sharing the public dislike of financial commitments he stood for a more positive native policy than previous colonial secretaries and was fertile in suggestions as to aims and methods. He was wrong, however, in thinking that New Zealand and Cape Colony would long rest content with imperial control of native policy, just as he was wrong in thinking that the colonies could be denied autonomy in tariff matters. After 1852 Grey confined himself to independent criticism in the House of Lords. Although not as extreme a pacifist as Bright or Cobden, Grey attached great importance to international peace and like them attacked the Crimean War as unnecessary and unjustifiable.

W. P. MORRELL

*Important works:* *Colonial Policy of Lord John Russell's Administration*, 2 vols. (London 1853, 2nd ed. 1853).

*Consult:* Morison, J. I., *British Supremacy and Canadian Self-Government, 1839-1851* (Toronto 1919) p. 267-90; Morrell, W. P., *British Colonial Policy in the Age of Peel and Russell* (Oxford 1930).

GREY, SIR GEORGE (1812-98), British colonial administrator and New Zealand politician. Grey, the son of an army officer, was educated at Sandhurst and entered the British army in 1830. He explored the northern coast of Western Australia from 1837 to 1839 and was governor resident at King George's Sound the following year. From 1840 to 1861 he served successively as governor of South Australia, New Zealand and Cape Colony. On the outbreak of the second Maori war in 1861 he was again made governor of New Zealand and served until 1868. He entered the New Zealand Assembly as representative for Auckland in 1874 and became premier in 1877. His ministry, which lasted for two years, passed the law providing free compulsory secular education in 1877 and the first land tax in 1878. Grey sat as a private member

until 1890 and again in 1893-94, when he returned to England.

Service in Ireland as a young officer had given Grey strong views in favor of freehold as the basis for land settlement. He put these into practise in South Australia and New Zealand, where he reduced the price of land to foster closer settlement. In the latter colony he thereby unwittingly made possible large scale holdings of land repugnant to his theory of land tenure.

Except for his failure to settle the second Maori war Grey was highly successful in his treatment of natives. He gained Kaffir and Maori confidence through his marked interest in their welfare, education and folk customs. His *Polynesian Mythology* (London 1855) is one of the earliest and best accounts of Maori legends. The libraries which he left to Cape Town and Auckland contain valuable collections dealing with the aboriginal tribes.

During his first governorship of New Zealand, Grey gave to self-government, established in 1852, a definite bias toward provincial decentralization. He entered New Zealand politics in 1874 to wage an unsuccessful fight against the abolition of the provincial system. He contributed to New Zealand political life many of the Liberal ideas, such as manhood suffrage, closer settlement and land taxation, which were later put into practise by the Liberal-Labour party, most of whose leaders were as young men associated with him during his premiership. He was the pioneer of New Zealand's colonial ambitions in the South Sea Islands as he had been in the South African federation as early as 1858. Grey's services to New Zealand, Australia and South Africa mark him as one of the great imperialists.

J. B. CONDLIFFE

*Consult:* Rees, W. L., *Life and Times of Sir George Grey* (Auckland 1892); Henderson, G. C., *Sir George Grey: Pioneer of Empire in Southern Lands* (London 1907); Collier, J., *Sir George Grey: an Historical Biography* (Christchurch 1909).

**GRIESINGER, WILHELM** (1817-68), German psychiatrist. Griesinger was born in Stuttgart in 1817, the son of a hospital administrator. He entered the *Gymnasium* as a precocious boy of eight years and at seventeen entered the University of Tübingen, where he soon became interested in medical studies. He took his medical degree at Zurich in 1838. After studying in Paris and Vienna and acting for two years as second assistant to Zeller at the Winnenthal mental

hospital at Bodensee he started general practise in Stuttgart in 1842 but during the next year became assistant to Wunderlich in Tübingen in internal medicine. Here he began a series of physiological researches upon pain, psychical reflexes and brain disturbances which he published in the *Archiv für physiologische Heilkunde*, of which he later became editor for two years. Three years later he published his textbook of psychiatry, *Pathologie und Therapie der psychischen Krankheiten* (Stuttgart 1845, 5th ed. by W. Levinstein-Schlegel, Berlin 1892; tr. by C. I. Robertson and J. Rutherford, 2nd ed. New York 1882). He then served successively as associate professor in general pathology, materia medica and the history of medicine at Tübingen, as professor of pathology at Kiel, as director of the medical school in Cairo and as director of the medical clinics at Tübingen and Zurich. From Zurich, where his psychiatric studies had begun to take more definite shape, he went to Berlin as professor of psychiatry and established a clinic for psychiatry and neurology after visiting Paris and England to study methods of investigating and teaching these subjects. In 1867 Griesinger founded the *Archiv für Psychiatric und Nervenkrankheiten*.

Griesinger's chief work was in psychiatry, to which he gave a general philosophical orientation. There was much of Herbart's influence in his early writings and his psychiatry, modeled after Zeller, was marked by a much more thorough grasp of the entire personality of the sick individual than was that of many of his contemporaries. He considered psychiatry and internal medicine closely interrelated, as is shown by his physiological studies on psychical reflexes and his very penetrating researches in brain structure and functioning, in which one finds much that is distinctly modern on the subject of mental participation in reflex action and bodily tonus.

SMITH ELY JELLIFFE

*Consult:* *Deutsche Irrenärzte*, ed. by Theodor Kirchhoff, vols. i-ii (Berlin 1921-24) vol. ii, p. 1-14; Westphal, C., and Lazarus, M., in *Archiv für Psychiatric und Nervenkrankheiten*, vol. i (1868-69) 760-82.

**GRIFFITH, ARTHUR** (1872-1922), Irish national leader. Son of a printer and himself a printer by trade, Griffith lived in Dublin except for two lonely years in the diamond mines of South Africa, from 1896 to 1898, and several terms of fruitful association with other Irishmen in English prisons, from 1916 to 1918. For over a

decade he was one of the "isolated cranks" who formed the national conception in the depressed period caused by the fall of Parnell and the bickerings of the Irish parliamentary party. Freed from clericalism by the Parnell split, well versed in Wolfe Tone and John Mitchel, he turned first to the non-political Gaelic revival and then to trenchant political journalism. The *United Irishman*, which he edited from 1900, expounded nationalism as a doctrine of unbending self-reliance against the suppliance of the parliamentary party. In 1904 he published *The Resurrection of Hungary: a Parallel for Ireland* (Dublin) and the next year at a convention in Dublin enunciated the Sinn Féin policy. Sinn Féin means "ourselves." Without advocating an armed rebellion Griffith urged a dual monarchy to be secured by Ferencz Deák's methods: non-cooperation at Westminster, a voluntary national assembly, voluntary people's courts, boycott of English goods and of recruiting for the army, war on Anglicization and emigration and every emphasis on national distinctiveness in art, literature, clothes, games, education. The German economist Friedrich List inspired Griffith's economics and he frowned on the English liberal tradition and international trade unionism. Carson's volunteer movement against home rule gave actuality to Griffith's "somewhat puerile proposals." Left behind by the republicans and socialists who led the Easter rising of 1916, his was the administrative plan that fitted the country when Sinn Féin superseded the parliamentarians at the 1918 elections. He headed the delegation that negotiated the treaty in 1921, and he and Michael Collins secured its ratification in the June elections of 1922. His broad belief in a "common nation," once legislative independence was secure, guaranteed the former Unionists their place in the Dail. Griffith's pungent nationalism, based on a doctrine of stubborn self-reliance and maintained during two Spartan decades, proved far from intransigent when it came to the negotiations in London. Once he accepted the treaty, Griffith was severe on dissentients.

FRANCIS HACKETT

*Consult:* Clarkson, J. D., *Labour and Nationalism in Ireland* (New York 1925) ch. ix; Phillips, W. A., *The Revolution in Ireland* (London 1923); Garnier, C. M., "Arthur Griffith, théoricien du Sinn Féin" in *Vie des peuples*, vol. viii (1922) 345-63; McDara, "Arthur Griffith and Michael Collins" in *Fortnightly Review*, vol. cxviii (1922) 744-57; "La situation en Irlande—la mort de Griffith et de Collins" in *Correspondant*, vol. cclxxxviii (1922) 769-800.

GRIFFITH, SIR SAMUEL WALKER (1845-1920), Australian statesman and judge. Griffith came from Wales to Queensland in 1854; he entered the legislative assembly in 1871, served as attorney general in 1874, as premier from 1883 to 1888 and from 1890 to 1893, as chief justice from 1893 to 1903 and as the first chief justice of Australia from 1903 to 1919. Griffith, like Deakin, was the radical leader of a Liberal party far removed from the laissez faire tradition, and he set Queensland well on its path of advanced social experiment and state action. Perhaps his most enduring political achievements were to check the use of Pacific island labor in the sugar industry and to prevent the northern districts from seceding to form a society like that of the West Indies, based on colored labor. As chief justice of Queensland Griffith, drawing largely on Italian sources, prepared the first criminal code to be adopted in a common law country.

Griffith was an ardent federalist in the eighties and the chief draftsman of the constitution bill of 1891, which transformed federation from a hope to a practical program. A keen student of American federalism, he would have sacrificed even the British system of responsible government to make a strong senate.

He dominated the High Court of Australia during its first sixteen years. In constitutional matters he took John Marshall as his guide, adopting principles of interpretation familiar in the United States, to preserve the federal nature of the constitution and especially to maintain the powers of the states. Three weeks after his death the High Court, much changed in personnel, abandoned the principles of interpretation which he had maintained and facilitated a great extension of the central government's powers.

K. H. BAILEY

*Consult:* *Australian Encyclopaedia*, ed. by A. W. Jose and H. J. Carter, 2 vols. (Sydney 1925-26) vol. i, p. 585-86; Bernays, C. A., *Queensland Politics during Sixty (1859-1919) Years* (Brisbane 1919); Shann, Edward, *An Economic History of Australia* (Cambridge, Eng. 1930) p. 247-59; Hunt, E. M., *American Precedents in Australian Federation* (New York 1930). See also memoir in the *Brisbane Daily Mail* (August 10, 1920).

GRIFFUELHES, VICTOR (1875-1922), French syndicalist. Griffuelhes played an important role in the development of revolutionary syndicalism. The presence of a socialist, Millebrand, in the Waldeck-Rousseau ministry (?1899-

1902) resulted in divisions in the ranks of both the socialists and the syndicalists; among the latter there took place a long polemic between the reformists and the revolutionaries. Griffuelhes, who had first belonged to the anarchist group, was one of the most ardent of the revolutionaries; he was elected secretary of the Confédération Générale du Travail and his ideas of non-political syndicalism triumphed at the syndicalist congresses of Bourges in 1904 and Amiens in 1906. According to Griffuelhes the working class should act independently of governments and political parties; it should struggle against all forms of oppression, material and moral, by its own means of action. These means were: the strike—not the mere stoppage of work, but the militant strike and general strike inspired by the idea of conflict; antimilitarist propaganda to weaken the army, the principal support of capitalism; direct action, peaceful or violent according to necessity, for the final overthrow of capitalism. He also insisted that syndicalism be distinct from and independent of the Socialist party; a resolution to this effect was adopted under his influence by the congress of Amiens. The resolution has remained celebrated among French workmen, who call it the Charte d'Amiens. When the Clemenceau ministry took repressive measures against the syndicalist movement, Griffuelhes called on the workmen to resist. But internal quarrels in the Confédération Générale du Travail forced him to resign as secretary in 1908, and this marked the end of his active participation in the syndicalist movement.

GEORGES WEILL

*Consult:* Pawlowski, Auguste, *La Confédération Générale du Travail* (Paris 1910); Weill, Georges, *Histoire du mouvement social en France, 1852-1924* (3rd ed. Paris 1924); Lorwin, L. L. (Louis Levine), *Syndicalism in France* (2nd ed. New York 1914).

GRIMM, JACOB LUDWIG KARL and WILHELM KARL, German philologists. These founders of scientific Germanistics worked so much together that they signed many of their books simply "Die Brüder Grimm." Jacob (1785-1863) was unquestionably the more scientific, Wilhelm (1786-1859) the richer in poetic sensibility. Born in Hanau, they had a penurious youth. They studied law in Marburg and were deeply influenced by Savigny. Both became librarians in Cassel and devoted themselves to the publication of Old High German, Middle High German and Scandinavian poems. The brothers were called to Göttingen in 1830 but, forced to

leave in 1837 because they opposed the king of Hanover's breach of the constitution, took up residence in Berlin as members of the academy. From the outset Jacob took the romantic position in a long feud with contemporary literary scholars. Like Hamann and Herder he venerated national, indigenous, anonymous folk poetry, not merely on aesthetic grounds but because it contains relics of the mythos, i.e. the primitive folk wisdom. Not a narrow nationalism but the philosophic romanticism of Schelling, Görres, Creuzer and Kanne, the view that the mythos glimpsed more of truth than reason, impelled the brothers Grimm to make such great collections of folk poetry as the *Kinder- und Hausmärchen* (3 vols., Berlin 1812-22; new ed. by R. Steig, Stuttgart 1912; tr. by A. Lucas, L. Crane, and M. Edwards, Philadelphia 1916), written down from the mouths of the people; the *Deutsche Sagen* (2 vols., Berlin 1816-18; new ed. by H. Floerke, 1911); and the *Irische Elfenmärchen* (Leipzig 1826). The *Hausmärchen* has been called the most widely used German home book after the Bible and along with Arnim's collection is the ideal of the younger romantic poets. Jacob wrote standard works of four new sciences: the history of the Germanic languages, of German law, of folklore and of comparative mythology. His *Deutsche Grammatik* (4 vols., Göttingen 1819-37; new ed. by W. Scherer, G. Roethe, and E. Schröder, Berlin 1870-98) and his *Geschichte der deutschen Sprache* (2 vols., Leipzig 1848; 4th ed. 1880) determined the laws of sound changes in Germanic languages and developed the idea that every language has a particular spirit standing in a mysterious relationship to the national character. Scientific comparative linguistics and scientific etymology as well as speculations regarding ethnic relationships on the basis of common language forms now became possible for the first time. In the *Deutsches Wörterbuch* undertaken by the Grimms and continued by M. Heyne and others (vols. i-xvi, Leipzig 1845-1931), Jacob revealed the richness and historical suggestiveness of the German language. His *Deutsche Rechtsalterthümer* (2 vols., Göttingen 1828; 4th ed. by A. Heusler and R. Hübner, Leipzig 1899) and the supplementary *Weisthümer* (7 vols., Göttingen 1840-78; finished by Richard Schroeder), collections of village laws as drawn up by peasants in the later Middle Ages for their own use, were for him a sort of grammar of law. His basic thought was that the older imaginative, vital, legal conception was thickly overlaid by Roman and French logical law. This idea, a



fine intuition for the other romanticists, became with Grimm the basis of scientific scholarship. His investigation of legal symbols revealed hidden meanings in many old usages that the *Aufklärung* had declared meaningless. Similarities to ancient, oriental, Celtic legal customs Grimm believed must be explained by primitive race kinship. This theory has met with much opposition, especially in the field of the history of religion, and the *Deutsche Mythologie* (Göttingen 1835; 4th ed., Berlin 1875-78; tr. by J. S. Stallybrass, 4 vols., London 1880-88) is in fact the most out of date of his works. It glorifies German heathendom somewhat uncritically, forgets the difference between the north Germanic and German, does not put clearly the questions of remote inheritance, psychological consensus or borrowings and ignores temporal stages. This work is remarkable not for its profound grasp of principles but for its perfection of observation. Grimm based all these works on national linguistic sources, for he was of the opinion that "knowledge of the indigenous" was to be preferred to all foreign lore, both because we can grasp nothing else as surely with our innate powers and because "Nature herself guides us toward the fatherland." Thus he directed German scientific interest, which in the age of Winkelmann and Goethe was fixed on the ancient world, to Germany's own past. The brothers Grimm had, however, no thought of breeding an overweening nationalism, but rather that of paving the way for a profounder comprehension of German character, a national self-knowledge.

RUDOLF STADELMANN

*Consult:* Rothacker, E., "Savigny, Grimm, Ranke" in *Historische Zeitschrift*, vol. cxxviii (1923) p. 415-45; Scherer, Wilhelm, *Jacob Grimm* (2nd ed. Berlin 1885); Francke, K., *Die Brüder Grimm* (Dresden 1890); Schönbach, A. E., *Die Brüder Grimm* (Berlin 1885); Duncker, Albert, *Die Brüder Grimm* (Cassel 1884); Raumer, R. H. G. von, *Geschichte der germanischen Philologie*, *Geschichte der Wissenschaften in Deutschland*, n.s., vol. ix (Munich 1870).

GROCERY TRADE. *See* FOOD INDUSTRIES.

GROLMAN, KARL VON (1775-1829), German jurist. Grolman was one of the chief figures in the great movement of reform which at the end of the eighteenth century and the beginning of the nineteenth freed Germany from the mediaeval criminal law. As in the case of most of his contemporaries, he was impelled by the forces of natural law, the Enlightenment and the Kantian critical spirit. His work on the fundamental

principles of the science of criminal law, published at the age of twenty-three, was in his time widely read and influential. In agreement with the general tendency of his rationalistic epoch, Grolman made the attempt to reconstruct the whole of the criminal law upon a unifying general principle—the principle of "special prevention." In the imposition of punishment the character of the evildoer was to be considered decisive. The deeper a man's criminal tendencies were rooted, the greater was the danger that he would lapse again into crime and the more unmistakable and incisive should be the reaction of the criminal law. Grolman's teaching that the extent of punishment should depend upon the personality of the perpetrator of a crime has much in common with modern tendencies in criminological science but it held no promise of lasting effect in his own time. The first edition of his chief work involved him in a ten-year controversy with Anselm von Feuerbach, the chief exponent of the principle of "general prevention," who in the end emerged the victor and the founder of a new German school of criminal law.

ERICH SCHWINGH

*Important works:* *Grundsätze der Criminalrechtswissenschaft nach einer Darstellung des Geistes der deutschen Criminalgesetze* (Giessen 1798, 4th ed. 1825); *Über die Begründung des Strafrechts und der Strafgesetzgebung nebst einer Entwicklung der Lehre von dem Massstabe der Strafen und der juristischen Imputation* (Giessen 1799).

*Consult:* Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880-1910) vol. iii, pt. ii, p. 139-44; Grünhut, Max, *Ansehn von Feuerbach und das Problem der strafrechtlichen Zurechnung* (Hamburg 1922) p. 31-59.

GROSS, CHARLES (1857-1909), American historian. Gross' special field of interest was English constitutional history in the Middle Ages, particularly guilds and towns from the eleventh to the fourteenth century. After receiving his doctor's degree at Göttingen in 1883 Gross continued his researches in English archives and in 1888 joined the department of history at Harvard University, where he remained until his death. His course on English constitutional history came to be regarded as almost indispensable for students of history. Under his influence several students, who were later to occupy prominent places in historical scholarship, concentrated on narrow fields of research, sought and minutely examined manuscript sources and exercised caution in historical

statement. He was the first to give international distinction to historical work at Harvard.

Gross' reputation as a historian rests primarily upon the *Gild Merchant* (2 vols., Oxford 1890), which was his doctoral thesis (*Gilda mercatoria*, Göttingen 1883) amplified and documented. He was not a pioneer but a constructively critical worker in the field of guild history. He corrected a number of writers on the subject, chief of whom was Lajo Brentano. To be sure, both Stubbs in England and Ochenskowski on the continent had challenged Brentano, but Gross supported his own position by minute research and careful statement. According to him guilds arose along with sundry other institutions to take the place of the old undivided family group. Although guilds in general are referred to in continental sources earlier than in English, the merchant guild, which was somewhat like the modern local chamber of commerce, appeared in England before it did on the continent and played an important part not in the origin but in the development of the mediaeval borough. His book displays great skill in presenting a clear argument and in massing facts, some pertinent to his theme and others not less valuable, by means of text, footnotes, appendices and index. Arising out of his guild studies and by way of preparation for his further municipal researches came his *A Bibliography of British Municipal History* (Harvard Historical Studies, vol. v, New York 1897). Gross' interest in the history of the Jews, which was doubtless partially due to his own ancestry, is indicated by his *The Exchequer of the Jews in England in the Middle Ages* (London 1887). His *Select Cases from the Coroners' Rolls A.D. 1265-1413* (Selden Society Publications, vol. ix, London 1896) and *Select Cases concerning the Law Merchant—Local Courts A.D. 1270-1638* (Selden Society Publications, vol. xxiii, London 1908) are examples of careful scholarly editing. His *The Sources and Literature of English History . . . to about 1485* (London 1900, 2nd ed. 1915) is a model of accuracy, clarity and critical judgment as well as a monument of industry and learning. Not long before his death he began a comparative study of mediaeval municipal institutions.

N. S. B. GRAS

GROSS, HANS (1847-1915), Austrian criminologist. After serving as a judge in Graz and teaching in the universities of Czernowitz and Prague, Gross was appointed professor of criminal law in the University of Graz. There he

organized the first institute of criminalistics, a field of investigation in which he was the pioneer. He sought to apply the research methods of the natural sciences to the administration of justice. The first notable fruit of these efforts was the *Handbuch für Untersuchungsrichter als System der Kriminalistik* (Graz 1893, 6th ed. Munich 1914), which contained discussions of fields auxiliary to criminal law, such as detective services, thieves' cant and thieves' sign language and the study of weapons and of clues. In his later larger works, *Encyklopädie der Kriminalistik* (Leipzig 1901), *Raritätenbetrug* (Berlin 1901) and *Kriminalistische Tätigkeit und Stellung des Arztes* (Vienna 1908; tr. by H. M. Kallen, Boston 1911), Gross extended the scope of the field of criminalistics. He also grasped the importance of psychological processes in the administration of criminal law, as is shown by his book *Kriminalpsychologie* (Graz 1898, 2nd ed. Leipzig 1905). In 1898 he founded the *Archiv für Kriminal-Anthropologie und Kriminalistik* (published quarterly in Leipzig), which is indispensable for every worker in this field.

GUSTAV ASCHAFFENBURG

Consult: Straßmann, F. G., and Zafra, H., in *Archiv für Kriminal-Anthropologie und Kriminalistik*, vol. lxx (1916) i-v; Gault, R. H., in *American Institute of Criminal Law and Criminology, Journal*, vol. vi (1915-16) 641-42.

GROSSE, ERNST (1862-1927), German art historian and sociologist. Grosse, who was a professor at the University of Freiburg, contended in his pioneer work, *Die Anfänge der Kunst* (Freiburg i.Br. 1894; English translation, New York 1897), that a close interrelation exists between the economic organization of a society and its spiritual life, especially its art. Marx and Engels had given logical form to this concept in their materialistic interpretation of history, but Grosse was the first to collect evidence from the field of art to support it. He discussed the psychological and economic bases of changes in primitive art and attempted to discover the determinants of naturalistic and conventionalized art styles. His conclusion that primitive gatherers and hunters developed a naturalistic art whereas agriculturalists of a later economic age arrived at conventionalization in art has influenced the more detailed researches of Hoernes, Verworn, Kühn and others. Grosse also drew attention to the fact that a knowledge of a people's art facilitates an understanding of its culture; it was not a mere coincidence that he

published studies in sociology simultaneously with his work on the history of art.

In his *Die Formen der Familie* (Freiburg i.Br. 1896) Grosse discussed the sociological basis of the family, attempted to correlate types of family organization with forms of economic life and showed the significance of the family in the cultural history of mankind. He also published studies in the history of mediaeval and modern art and was a specialist in East Indian art.

HERBERT KÜHN

Consult: Vonwiller, O., in *Artibus Asiae*, vol. ii (1927) 300-05.

GROSSETESTE, ROBERT (c. 1175-1253), English scholar and churchman. Grosseteste was born at Stradbroke, Suffolk. At Oxford he pursued an academic career in arts, law, medicine and theology. Soon after 1208 he was appointed master of the Oxford schools (the office later being given the title of chancellor). In 1224, yielding to the persuasion of the Franciscans, he became although himself not a friar the first regent of their Oxford school of theology. The distinguishing characteristics of the intellectual movement which emanated from this school during the thirteenth century and culminated in the work of Roger Bacon may be traced to Grosseteste. In the realm of science, or natural philosophy, he laid great emphasis on the use of mathematics and recognized, although less keenly than Bacon, the necessity of verifying conclusions by experiment. Skilled in Hebrew and Greek, he seems also to have initiated the movement for the study of languages which is associated with the Oxford school. To his contemporaries he was famous for his Latin translations of the apocryphal *Testament of the Twelve Patriarchs*, of pseudo-Dionysian writings and of the epistles of St. Ignatius, as well as of the *Nichomachean Ethics*. Among his numerous manuscripts, which disclose an original mind embracing an encyclopaedic variety of subjects—philosophy, theology, ethics, physics, optics, astronomy, geography, calendar reform—is a shrewd pamphlet on estate management, *Les règles Seynt Roberd* (ed. and tr. by E. Lamond in *Walter of Henley's Husbandry*, London 1890), attesting his interest in scientific agriculture. He also caused Walter of Henley's famous treatise on husbandry to be translated into English.

In 1235 Grosseteste resigned the regency of the Franciscan school to become bishop of Lincoln. To this office he brought a conception of the spiritual and humanitarian role of the church

which in many ways reflects the Franciscan ideal and which inspired him to attempt a severe reform. Building upon an exalted idea of episcopal authority he was brought into litigations with his dean and chapter as well as with the monks in his diocese and into disputes with the king, the archbishop of Canterbury and finally, to his disappointment, with Pope Innocent IV. The multitude of his controversies has tended to obscure his essential role in the church and state problem. Grosseteste was the most distinguished spokesman of his time of the ideas of Christian unity and papal authority. Unity he believed to be expressed through the intimate bond between the bishops and the first bishop of Rome; it was to the pope that the bishop must look for his chief support in uprooting the abuses which impeded his Christian mission. While Grosseteste firmly opposed the intrusion of secular authority into ecclesiastical affairs, he was far from indifferent to political matters. Through his friend Simon de Montfort, whom he frequently advised in that statesman's formative years, he exercised some influence upon English constitutional development.

BIDE JARRETT, O.P.

*Works:* Grosseteste's philosophical works have been edited by L. Baur (Münster 1912). His letters have been published in the Rolls series, ed. by H. R. Luard (Great Britain, Public Record Office, *Rerum britannicarum medii aevi scriptores*, no. xxv (1861)).

Consult: Stevenson, F. S., *Robert Grosseteste, Bishop of Lincoln* (London 1899); Smith, A. L., *Church and State in the Middle Ages* (Oxford 1913) ch. iii; Creighton, M., *Historical Lectures and Addresses* (2nd ed. London 1904) p. 116-48; Little, A. G., *Studies in English Franciscan History* (Manchester 1917) ch. vi; Thorndike, L., *A History of Magic and Experimental Science*, 2 vols. (New York 1923) vol. ii, ch. iv; Sharp, D. E., *Franciscan Philosophy at Oxford in the XIIIth Century* (Oxford 1930).

GROTE, GEORGE (1794-1871), English historian. Grote was the son of a well-to-do banker. He left Charterhouse at the age of sixteen with but the rudiments of a classical education and entered his father's business. While practising his inherited profession he devoted his spare time to widening his acquaintance with Greek and Latin literature and studying philosophy and political economy. At a decisive moment in his life (1817-18) he became an intimate friend of Ricardo and James Mill and through them of their master Bentham. He thus joined the group of philosophical radicals and for ten years after the Reform Bill of 1832 he represented them and the city of London in Parlia-

ment. Thereafter his chief public interest was in the new University of London.

Grote's project of writing the history of Greece was prompted by dissatisfaction with the antidemocratic bias of Mitford and was thus political in its inception. On retiring from Parliament he found for the first time leisure to proceed systematically with its execution. Rationalist in his religious outlook, utilitarian in his philosophical creed, liberal in his political and economic conceptions, convinced that "with all governments to do evil is easy—to effect beneficial change difficult," he escaped being a mere propagandist by his disinterested love of truth, his Thucydidean sense of the extraordinary difficulty of ascertaining what actually happened and his rare ability to sink himself in the mind and spirit of the age he recorded. It is to be recognized that Grote worked with a strong prejudice in favor of "liberty," that he included in his leisurely argumentative narrative everything which could be said in extenuation of Athenian democracy; it is to be recognized also that his interest flagged when this democracy had run its course and that he lacked understanding for the sweep of Greek cultural development during the Hellenistic age then little investigated. Yet it must be insisted that his sound practical sense, his fairness in presenting opposing views and his untiring energy in amassing and assessing evidence enabled him to do such justice to the real experience of the Greeks that for fifty years his history formed the acknowledged basis for all further scholarly work in this field. His later years were devoted to studies of Plato and Aristotle.

WILLIAM SCOTT FERGUSON

*Important works:* *A History of Greece*, 12 vols. (London 1846–56; new ed., 10 vols., 1888); *Plato, and the Other Companions of Sokrates*, 3 vols. (London 1865; new ed., 4 vols., 1888); *Aristotle*, ed. by A. Bain and G. C. Robertson, 2 vols. (London 1872; 3rd ed., 1 vol., London 1883).

*Consult:* Grote, H. L., *The Personal Life of George Grote* (2nd ed. London 1873); Gough, G. P., *History and Historians in the Nineteenth Century* (2nd ed. London 1913) p. 312–18.

GROTIUS, HUGO (Huigh de Groot) (1583–1645), Dutch jurist. Grotius studied at the University of Leyden and became a lawyer at the age of fifteen. In 1613 he was induced by the lord advocate of Holland, John of Oldenbarneveldt, to enter politics; and he thereby became involved in the fervent controversies between Calvinists and non-Calvinists. After Maurice of

Orange's coup d'état of 1618 he was imprisoned for life in the castle of Loevestein but succeeded in escaping in 1621 and fled to Paris. During the ten years that he passed in France Grotius wrote the most famous of his books, the *De jure belli ac pacis*, a systematic treatise on the whole of positive law which governs mankind and its political organizations excepting national or municipal law. Between 1625 and 1631 Grotius revised and enlarged the book and shortly after the end of his stay in France he published a second edition in Amsterdam in 1631, which should be considered as constituting its definitive text. The three later editions prepared by Grotius in 1632, 1642 and 1646 did not change the book further; except that the edition of 1642 added a large number of additional quotations in notes, reprinted in 1646.

The book has four main characteristics. First, it subjects the conduct of sovereign states to the same all embracing set of rules which governs the conduct of private men, and thereby set up, in accordance with the older Spanish moralists and with Grotius' own lawyer's argument of 1604–05 in his *De jure praedae*, a high standard for their mutual behavior; waging war in violation of these rules, he held, was a crime liable to punishment. Second, he took his elaborate set of rules, found in book ii, chapters i–ix, from Biblical and ancient history, from Scripture and from the classics. This important part of Grotius' book—"the law of peace"—had no parallel in the work of any predecessor; it was a marvel of inductive juridical composition and formed the foundation of the whole system. Third, Grotius pleaded in contradistinction to Vitoria and Suárez that not only superiors but also equals are authorized to inflict punishments and by this theorem construed war as a punitive sanction against state crimes parallel to municipal sanctions against crimes of individuals. The law of war discussed in book iii was meant only for states maintaining interstate law by force—not for every national war. Its contents were partly borrowed from Ayala, Gentili and others. Fourth, Grotius based the binding force of this imposing system on a theory of natural law which was upheld for nearly two centuries. The natural law theory of Grotius coincided with that developed by Suárez in his *Tractatus de legibus ac Deo legislatore* (Antwerp 1612) and in his *Opus de triplici virtute theologica* (Lyons 1621). Grotius, however, seems to have known the first work but superficially, while he was apparently ignorant of the second.

Grotius' work was held in high respect until the later part of the eighteenth century, when Vattel's works with their adulation of state sovereignty temporarily superseded it. In the next century, however, Grotius regained his old renown, thanks to Wheaton, Hallam and others.

In the autumn of 1631 Grotius risked a return to Holland. For three months he practised law in Amsterdam. The states of Holland, however, renewed his proscription of 1619, and in 1632 he escaped to Hamburg. This disappointment proved to be the great breakdown in Grotius' life. His three years' stay at Hamburg was the most melancholy period of his life. An appointment as Swedish ambassador at Paris from 1635 to 1645 proved merely a temporary relief from sorrow. After having resigned in 1645 Grotius traveled to Sweden to see Queen Christina and died on the return journey.

The last ten years of Grotius' life, although filled by numerous valuable publications on philology, theology and history, were devoted to the cause of reuniting the hopelessly divided Christian nations. This desire had become a real obsession with Grotius. In his view the reformers might have preserved much more than they did of the traditions of the Roman Catholic church, but there is no proof that he would ever have acquiesced in the dominating position of the clergy. Neither Grotius' hope for international law nor that for Christian unity was fulfilled.

Although Grotius' chief renown lies in the field of law, his personal taste was more in the direction of classical and theological studies. He was also an eminent historian and well versed in philosophy.

Grotius' critical studies on classic texts are still admired as highly as those of Scaliger and Salmassius. His philosophy was of the Aristotelian stamp. To Descartes he paid no attention, and in the field of international state duties Hobbes was his antipode. His historical books mainly relate to the history of the Netherlands and to the early history of the Goths. His commentaries on the Bible contain views confirmed by the critical studies of the nineteenth century and his exegesis is exemplary. Grotius himself saw his contribution to constitutional law in a few Aristotelian chapters of his *De jure belli ac pacis*, but according to modern views it is rather contained in his controversies on the positive state powers in the Dutch Republic. His *Inleiding tot de hollandsche rechts-geleertheit* (The Hague 1631; ed. by S. J. F. Andreae and L. J. van

Apeldoorn, 2 vols., 3rd ed. Arnheim 1926; tr. by C. Herbert, London 1845), a work on Roman Dutch law, is a famous textbook to this day.

CORNELIUS VAN VOLLENHOVEN

*Consult:* Knight, W. S. M., *The Life and Works of Hugo Grotius* (London 1925); Vreeland, H., *Hugo Grotius* (New York 1917); *Hugo Grotius, opinions sur sa vie et ses oeuvres*, ed. by A. Lysen (Leyden 1925); Vollenhoven, C. van, "Grotius and Geneva" in *Bibliotheca visseriana*, vol. vi (Leyden 1926) 1-81; Basdevant, Jules, in *Les fondateurs du droit international*, ed. by A. Pillet (Paris 1904) p. 125-267; Potter, P. B., *The Freedom of the Seas* (New York 1924) p. 57-80; White, A. D., *Seven Great Statesmen* (New York 1910) p. 55-110; a complete bibliography of works by and about Grotius may be found in Ter Meulen, Jacob, *Concise Bibliography of Hugo Grotius* (Leyden 1925), and *Vereniging voor de uitgave van Grotius, Grotiana*, nos. i-iii (The Hague 1928-30).

GROUP. There is a wide variety of meanings attached to the term group; different kinds of reality are imputed to the concept by psychologists and sociologists of different schools. To some the group is a primary concept in the study of human behavior; many sociologists say that the individual has no reality, aside from his biologically defined body, except as a carrier or crystallizer of meanings that are derivative of group action and interaction. To others, however, the individual remains as the sociologically primary entity and groups are the more or less artificial constructs which result when individuals, viewed as essentially complete physical and psychological entities, come into contact with each other. For the former sociologists a child can hardly be said to have social reality except in so far as there is in prior existence a supporting family or social agency substituting for the family and a fairly well defined set of rules of behavior defining the relation between the child and such a family. In much the same sense there would be no such individual as a musician except in so far as there are such groups as conservatories, historically determined lines of musicians and musical critics, dancing, singing and playing associations of varying degrees of formal organization and many other types of groups whose prior definition is needed to make the term musician actual. For the latter sociologists the child and the musician exist as given types of individuals, whether they are so born or so conditioned; and the groups which the sociologist discovers as operative in the behavior which actualizes such individual terms as child or musician are merely ad hoc constructions due to the specific experiences of individuals either

within a given lifetime or over many generations. The difficulty of deciding whether the group or the individual is to be looked upon as the primary concept in a general theory of society is enhanced by fatal ambiguities in the meaning of the term group.

Any group is constituted by the fact that there is some interest which holds its members together. The community of interest may range from a passing event which assembles people into a momentary aggregate to a relatively permanent functional interest which creates and maintains a cohesive unit. The crowd which forms when there is an automobile accident, drawn together in the first place by a common curiosity, soon develops certain understandings. Its members may feel themselves to be informally delegated by society to observe and eventually report or to help with advice or action or, if there has been an infraction of the traffic rules, to constitute a silent or audible image of criticism. Such a group cannot be despised by the sociologist for all its casualness of form and function. At the other extreme is such a body as the United States Senate, which is fixed as to numbers, principle of selection, time of meeting, function and symbolic importance in a representative capacity. The former consists of individuals who do not feel that they are assuming a known or imputed role when they become members of the group; the latter is constituted by political and legal theory and exists in a sense in advance of the appearance of specific members, so that those who actually take part in deliberations of the Senate are something other than or beyond themselves as individuals. There is in reality no definite line of division anywhere along the gamut of group forms which connect these extremes. If the automobile accident is serious and one of the members of the crowd is a doctor, the informal group may with comparatively little difficulty resolve itself into something like a medical squad with an implicitly elected leader. On the other hand, if the government is passing through a great political crisis, if there is little confidence in the representative character or honesty of the senators or if an enemy is besieging the capital and likely at any moment to substitute entirely new forms of corporate authority for those legally recognized by the citizens of the country, the Senate may easily become an unimportant aggregation of individuals who suddenly and with unexpected poignancy feel their helplessness as mere individuals.

Sociological theory can hardly analyze the

group concept into its various forms unless it

primary principle of classification may rest on the distinction between physical proximity on the one hand and the adoption of a symbolic role on the other. Between the two extremes comes a large class of group forms in which the emphasis is on definite, realistic purpose rather than on symbolism. The three major classes of groups are therefore those physically defined, those defined by specific purposes and those symbolically defined. Examples of simple physical groups are a bread line, a little crowd milling in the lobby of a theater between the acts of a play, the totality of individuals who look on at a football game, a handful of people going up in an elevator and a Saturday afternoon crowd on Fifth Avenue. Groups possessed of a relatively firm organization and of a real or imputed specific purpose are, for example, the employees of a factory, the administrative personnel of a bank or stock company, a board of education, a society for the prevention of cruelty to animals, the taxpayers of a municipality, a trade union viewed as an agency for securing certain economic advantages to its members and a state legislature viewed simply as an agency of government. Groups of the third type differ from those of the second in that to external organization and one or more well defined functions there is added the general symbolic function of securing for the individual an integrated status in society. Examples of such symbolically defined groups are the family; the membership of a particular church or of a religious denomination; a political party in so far as it is not merely a mechanism for the election of political officers; a social club in so far as it means more than a convenience for luncheon or an occasional game of billiards; a university group looked at as something over and above an instrumentality for specific types of education; the United States Senate as a responsible spokesman of the American government; a state as the legalized representative of the nation; a nation as a large aggregate of human beings who feel themselves to be held together by many ties of sentiment and which believes itself, rightly or wrongly, to be a self-sufficient social entity in the world of physical necessity and of human relationships.

The examples have been purposely chosen to suggest doubts and multiple interpretations. Some degree of physical proximity is either required or fancied in order to make for group cohesiveness; some degree of purpose or func-

tion can be found in or rationalized for any conceivable group of human beings that has meaning at all; and there is no group which does not reach out symbolically beyond its actual composition and assigned function. Even so wide a group as a political party needs from time to time to give itself the face to face psychology of a mere physical gathering, lest the loyalty and enthusiasm which spring from handshakes, greetings, demonstrations, speeches and other tokens of immediate vitality seep away into a colorless feeling of merely belonging. The members of a church, standing obviously as a symbol of the relation between God and man, carry definite purposes of a practical sort, such as the securing of burial rights. Symbolisms of a potent sort may be illustrated in groups which are most readily classified under the first and second rubrics. Thus, a passer by may be attracted to the casual crowd brought together by an automobile accident not because he thinks he can be of any particular assistance nor because he is devoured by curiosity but merely because he wishes half unconsciously to register his membership in the human universe of potential suffering and mutual good will. For such an individual the non-descript group in question becomes the mystic symbol of humanity itself. Thus defined it may be more potent in a symbolic sense than the nation itself. So clearly defined a functional group as a board of education has or may have a symbolic significance for its community that far transcends its avowed purposes. Nevertheless, there are few groups of human beings that cannot be readily classified as coming primarily under one or the other of the three indicated heads. This tripartite classification is easiest to apply in the modern civilized world. In less sophisticated folk cultures and to an even greater extent in primitive societies the possibility of allocating groups to one rather than another of the three types becomes more difficult. Physical contact, a bundle of common purposes and heavy saturation with symbolism tend to be typical of all groups on these more primitive levels.

The suggested classification is based on an analysis of groups from an objective standpoint; that is, from the standpoint of an observing non-participant or the standpoint of humanity or the nation or any other large aggregate in which the significance of the individual as such tends to be lost. The interpretation of the various types of groups from the standpoint of individual participation offers new difficulties, and new principles

of classification may be ventured. Individuals differ in the degree to which they can successfully identify themselves with the other members of the group in which they are included and in the nature of that identification. Such identification may be direct, selective or referential. Direct participation implies that the individual is or feels himself to be in a significant personal relation to all or most of the fellow members of the group with whom he comes in contact. For such an individual the reality of a committee, for instance, is not given by its external organization and assigned duties but rather by his ability to work with or fail to work with particular members of the committee and to get his own purposes accomplished with or in defiance of their help. A selective type of participation implies that the individual is able to identify himself with the group only in so far as he can identify himself with one or more selected members of the group who stand as its representatives and who tend to exhaust for the individual the psychological significance of the group itself. Or the selection may act negatively, so that the significance of the group is damaged for the individual because of feelings of hostility toward particular members of the group. This type of group identification is common in the workaday world. Referential participation implies that the individual makes no serious attempt to identify himself with some or all of the actual membership of a group but feels these fellow members to be the more or less impersonal carriers of an idea or purpose. This is essentially the legalistic type of approach.

The type of individual participation in the group and its purposes has something to do with its unconscious classification, so that the objective and subjective points of view are not in reality distinct. It is well to keep them apart, however, and to look upon them as intercrossing classifications. The least significant type of group psychologically would be the mere physical group with referential participation of the individual. The group so defined is little more than a statistical entity in the field of population. At the other extreme is the symbolically defined group with direct individual participation. Great art brings to the interpretation of symbolically defined groups, which tend to be somewhat colorless as human entities because of their indefinite membership, the touchstone of direct participation. In Hauptmann's *Die Weber* (Berlin 1892; tr. by M. Morison as *The Weavers*, London 1899), for instance, German labor, a symbolically defined group as conceived by the

dramatist, is made doubly significant because of the illusion of direct participation in its membership.

The nature of the interest which lies at the basis of the formation of the group varies indefinitely. It may be economic, political, vocational, meliorative, propagandist, racial, territorial, religious or expressive of general attitudes or minor purposes, such as the use of leisure. To go into the details of the organization and purpose of such specifically defined groups would be tantamount to a description of the institutions of society. A popular classification of groups has been into primary or face to face groups and secondary groups. This is a convenient descriptive contrast but it does not take sufficient account of the nature of individual participation in the group. The distinction becomes of greater value if it is interpreted genetically as a contrast between those types of participation which are defined early in life and those which come later as symbolic amplifications or transfers of the earlier participations. From this point of view membership in a labor union with a dominant leader may have the value of an unconscious psychological recall of one's childhood participation in the family. Still another type of classification of groups which can readily be made is that based on the degree to which groups are self-consciously formed and group membership is voluntary. From this point of view the trade union or political party contrasts with the family or the state. The individual enters into the latter type of group through biological or social necessity, while he is believed to align himself with a trade union or political party without such necessity. This distinction is misleading, for the implicit social forces which lead to membership in a given political party, for instance, may for many individuals be quite as compulsive as those which identify him with the state or even the family. To make too much of the distinction is to confuse the psychological realities of various forms of participation with the roles which society imputes to the individual. The plurality of groupings for any one individual is a point that sociologists have emphasized. If one looks beyond the groups which are institutionally defined—in other words, beyond associations in the narrow sense of the word—any society, above all the complex society of modern times, has many more groups of more or less psychological significance than it possesses individuals who participate in these groups.

The changes in social groupings, studied partly

through historical evidence, partly through the direct observation of contemporary trends, constitute a large part of the history of society. There are changes in the actual personnel of groups resulting from realignments brought about by such factors as economic change and changes in the means of communication, changes in the deepening or the impoverishment of the symbolic significance of the group and changes in the tendency to a more or to a less direct participation of the individual in his group. These types of change necessarily condition each other in a great variety of ways. An example of the first type is the gradual increase in the total potential membership of the political parties of England and the United States. The fact that individuals without property and women now share in the activities of the parties means that their present symbolic significance is different from what it originally was. Examples of the second type of change are provided by the universal tendency for groups which have a well defined function to lose their original function but to linger on as symbolically reinterpreted groups. Thus a political club may lose its significance in the realistic world of politics but may nevertheless survive significantly as a social club in which membership is eagerly sought by those who wish to acquire a valuable symbol of status. The third type of change is illustrated by the recent history of the American family, in which on account of many disintegrating influences direct and intense participation has become less pronounced. As far as the relation of brothers and sisters is concerned, for instance, the participation frequently amounts to hardly more than a colorless awareness of the fact of such kinship. Developments in the family illustrate the general tendency in modern life of secondary and voluntary groupings to assume the dominant role as against the primary and involuntary ones. Closely connected with this is the greater mobility of group membership due to a variety of factors, among which are increased facilities of transportation, the gradual breakdown of the earlier symbolic sanctions and an increasing tendency to conceive of a group as fundamentally defined by one or more specific purposes. Groups that are relatively permanent because they are needed to carry out important purposes tend to become more and more institutionalized. Hiking clubs, for instance, have replaced the more casual association of three or four men for the purpose of walking together in the country.

In the discussion of the fundamental psy-



chology of the group such terms as gregariousness, consciousness of kind and group mind do little more than give names to problems to which they are in no sense a solution. The psychology of the group cannot be fruitfully discussed except on the basis of a profounder understanding of the way in which different sorts of personalities enter into significant relations with each other and on the basis of a more complete knowledge of the importance to be attached to directly purposive as contrasted with symbolic motives in human interaction. The psychological basis of the group must rest on the psychology of specific personal relations; no matter how impersonally one may conceive the behavior which is characteristic of a given group, it must either illustrate direct interaction or it must be a petrified "as if" of such interaction. The latter attribute is, however, not the peculiar property of group psychology but is also illustrated in the relations of single human beings toward one another. It is only an apparent contradiction of this point of view if the individual, as he so frequently does, allows himself to be controlled not by what this man or that man says or thinks, but by what he mystically imputes to the group as a whole. Group loyalty and group ethics do not mean that the direct relationship between individual and individual has been completely transcended. They mean only that what was in its origin a relation of individual dominance has been successively transferred until it is now attributed to the group as a whole.

The psychological realities of group participation will be understood only when theorizing about the general question of the relation of the individual to the group gives way to detailed studies of the actual kinds of understanding, explicit and implicit, that grow up between two or three or more human beings when they are brought into significant contact. It is important to know not only how one person feels with reference to another but how the former feels with reference to the latter when a third party is present. A latent hostility between two persons may be remedied by the presence of the third party, because for one reason or another he is an apt target for the conscious or unconscious hostility of both. His presence may serve to sharpen hostility between the persons because of his attractiveness for both and the consequent injection of a conscious or unconscious jealousy into the relations that obtain between them. Precise studies in the psychology of personal relations are by no means immaterial for the profounder

psychological understanding of the group, for this psychology can hardly be other than the complex resultant of the pooling, heightening, canceling, transfer and symbolic reinterpretation of just such specific processes. As psychology recognizes more and more clearly the futility of studying the individual as a self-contained entity, the sociologist will be set free to study the rationale of group form, group function, group changes and group interrelationships from a formal or cultural point of view.

EDWARD SAPIR

*See:* ASSOCIATION; VOLUNTARY ASSOCIATIONS; SOCIAL ORGANIZATION; SOCIAL PSYCHOLOGY; INTERESTS; ETHNOCENTRISM; FAMILY; CLUBS; CROWD; MOB; GANGS; TRADE UNIONS; PARTIES, POLITICAL; SECRET SOCIETIES; FRATERNAL ORDERS; GUILDS.

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## GROUP BUYING. *See* RETAIL TRADE.

GROUP INSURANCE is a form of insurance contract which grants protection to a group of individuals as distinct from the ordinary insurance contract with a coverage for one individual only. The typical form of group insurance is that contracted for by a business concern on behalf of all or most of its employees; but the benefits of this type of insurance have also been available under certain conditions to various other groups such as trade unions, consumers' cooperative societies, employees of large educational institutions, units of the National Guard and state police, borrowers from financial corporations, subscribers to periodical publications

and many associations which were not formed for insurance purposes. The term group insurance first came into use in the United States in 1911 as the technical designation of a form of life insurance provided by an insurance carrier for a group of employees on behalf of their employer. In this narrower sense group insurance is still largely limited to a coverage against the death hazard, although at present group insurance contracts are written to include also total and permanent disability, the general hazard of illness and accidental injury and retirement annuities. It should be observed, however, that workmen's collective insurance, limited largely to industrial accidents, which may be regarded as an older form of group insurance, has been written by casualty companies since 1896, fifteen years before compulsory workmen's compensation was introduced in any American state.

Group life insurance in the United States is of fairly recent origin. The first important contract, covering 3000 employees and calling for about \$6,000,000 in insurance, was issued in 1912 by the Equitable Life Assurance Society. Since then the volume of group life insurance has increased very rapidly, the rate of its growth being much greater than that of ordinary life insurance. Regarded from the start as one of the means of reducing labor turnover, it received a vigorous stimulus during the war and the first prosperous years of peace; thus by the end of 1920, 6118 group policies were reported with over \$1,600,000,000 of insurance. Its decline in 1921, a year of acute depression, was much smaller than that of workmen's compensation insurance. By the end of 1922 it exceeded by about \$250,000,000 its 1920 volume and in the following period, being accepted as one of the features of the employee welfare policy adopted by many large corporations, it grew almost as rapidly as in the early years of its history. According to the latest data available, by December 31, 1930, the amount of insurance had increased to about \$10,000,000,000. The total number of persons covered is not definitely known, but as the average amount of insurance coverage per person has been reported as approximately \$1200, it appears likely that some 8,000,000 employees were receiving the benefits of this form of protection.

There are about fifty companies in the United States writing group life insurance; the six largest companies, including the Equitable, Travelers, Aetna, Metropolitan and Prudential, carry over 90 percent of the total. The hesitancy of most insurance companies except those of

first magnitude to enter this field is explained by the size of the average risk, which may include thousands of lives and millions of dollars of insurance and is not altogether free of the possibility of catastrophe hazard. Moreover, as the average life insurance agent does not possess the requisite knowledge and experience to interpret group insurance to prospective purchasers, a special selling organization is necessary, which can be profitably maintained only by a large carrier.

The conditions of group life insurance are largely governed by legislation adopted in 1918 by the state of New York and followed by many other states. This legislation allowed group insurance to be written by contract between an insurance carrier and an employer covering the lives of his employees, the minimum number of the latter being placed at fifty, and required that the premium be paid entirely by the employer, i.e. on the non-contributory plan; or that it be shared by employer and employee, i.e. on the contributory plan; and that the insurance benefits shall not be payable to the employer. Under the non-contributory plan all the employees who had passed the probation period or all of them in definitely described classes must be covered. Under the contributory plan, which requires the acceptance of the plan by the employees, at least 75 percent of the latter must be insured. The law was amended in 1925 to permit the issue of group insurance to labor unions and in 1929 to allow financial institutions to obtain group insurance for borrowers to the extent of their indebtedness but not to exceed \$10,000.

Under these limitations any standard form of life insurance—whole life, level premium or even endowment insurance—may be written. But in actual practice the one-year renewable term plan, under which no reserves need to be carried over the end of the year, is used almost exclusively. Under this plan the net cost of insurance, depending upon the expected mortality at each age, necessarily increases for each insured life every year. In actual industrial experience, however, the age distribution of the employees varies but little from year to year; the average age of the labor force is kept fairly stationary by the separation of older persons and the addition of younger employees. The cost of group life insurance remains therefore stable; and ordinarily insurance carriers would not hesitate to guarantee the employer against an increase in premium rates for a period of five years. The net cost of insurance is computed on the basis of the age of

each employee and the amount of his coverage; the latter may be uniform or vary according to length of service, salary or position. After the usual or necessary expense loadings are added, the total is divided into the aggregate amount of insurance to obtain the quotable premium rate per \$1000 of insurance. When the contributory system is used the payment by the employee is based on this premium rate rather than on age, health or other risk factors. The employee, however, does not benefit as a rule from the minor adjustments in the rate due to changes in the labor force during the year and, under the participating plan, to the profits of the carrier from this type of business.

Although in the early years of the business there has been considerable variation in the procedure by which premium rates were computed, the premium quoted at present is fairly uniform except for a few extrahazardous industries. Actuaries may at present rely upon experience relating specifically to group life coverage as distinct from ordinary life insurance. Moreover since 1926 the minimum basic rate has been regulated in the state of New York as to a number of factors which enter into its composition, such as mortality experience, interest rate and certain expense loadings. The usual premium has been about \$10 a year for every \$1000 of insurance. Even when entirely paid by the employer the cost is thus only a very insignificant addition to the pay roll, somewhat less than 1 percent on the average. When distributed between the employer and employee the burden becomes even lighter.

While the earlier contracts were largely of the non-contributory kind, there has been a decided tendency in recent years toward the contributory form of policy, with an increasing proportion of the premium coming from the employees. In 1921 one large company reported 85 percent of the new business written on the non-contributory plan, but by 1925 this had been reduced to only 10 percent. Although employees cannot be charged more than 60 cents monthly per \$1000 of insurance, it was estimated in 1927 that employees in the United States and Canada pay from two thirds to three quarters of the cost of group protection. To a large extent this has been due to the efforts of the insurance companies to increase their business, employers being more easily convinced when the cost to them is substantially reduced or almost entirely eliminated. Since the contributory plans seldom apply to the entire labor force and in absence of

medical examination may permit or some adverse selection, actuaries have viewed this tendency with some apprehension; but so far no disastrous results have been discovered.

Paralleling the growth of the standard form of group life insurance there were evolved certain supplementary forms serving the same purpose. So-called wholesale insurance covers groups including from ten to fifty employees and therefore ineligible for a group policy. The rates charged are considerably higher than in the straight group form, satisfactory health statements are required and no single policy is issued for the group as a whole, each insured person obtaining an individual policy. More closely resembling the standard form is the so-called salary allotment or pay roll deduction insurance usually taken out in addition to a non-contributory group life policy. While no medical examination is required, the premium rate for it is somewhat higher than for the standard form and the entire cost is charged to the insured employees by the concern which acts as a collecting agency.

Another development in the group life field is the gradual extension of this form to cover also permanent and total disability. In a sense this duplicates the addition of a similar protection to ordinary life insurance policies, which involves only a small extra cost because of the infrequency of the hazard. Although the addition of a disability clause calls merely for the payment of an amount equal to the death benefit, this provision aroused the apprehension of actuaries because total and permanent disability might be expected to be more frequent among industrial groups than with ordinary life insurance policyholders. Past experience, however, has not justified these fears; while disability claims have been gradually rising they have amounted to only 10 percent of the total and have not exceeded 75 percent of the expectation.

A much more recent and also rapidly growing form of group insurance is specifically limited to temporary disability and is known as group health insurance. It was given a strong stimulus by the agitation for social health insurance in 1916 and 1917. The leading life insurance companies, which were largely instrumental in resisting the social insurance movement, found after some experimentation that it is a profitable addition to their own business. In many cases they have induced employers to change from independent sick benefit funds to a group health insurance policy by pointing to their greater ex-

perience in handling all insurance claims and to the desirability of eliminating the employer as a factor in the frequently arising cases of dispute between the claimant and the insurance carrier. In view of the fact that workmen's compensation has practically become universal throughout the country disability policies cover illness and disability from non-industrial accidents. These two are written either on a contributory or non-contributory plan. They usually offer a weekly disability benefit not exceeding two thirds of the wage and also specific sums for covering cost of medical aid; the period for which such benefits are paid is generally limited to twenty-six weeks, although some policies extend this period to one year. A "waiting period" from three to seven days during which no benefits are paid is quite common; experience has demonstrated that even a slight increase in the waiting period substantially reduces the cost of insurance because most cases of illness are of a comparatively short duration.

Even more recent than group health insurance is the group pension, or group annuity, contract which has been experimented with since 1921. It is not very practicable as a separate coverage, particularly in the case of younger employees, since its benefits accrue only if the insured remain with the same employer until he reaches the retirement age, although a provision may be made for the refund of the surrender value to the employee when he quits employment. Its appeal to the employer is also limited; he often insists on restricting this type of insurance to a small group whose continued loyalty is particularly valuable. Therefore this type of coverage is written mostly in conjunction with other forms of group insurance.

That the insurance companies have found group insurance a desirable and profitable form of business is demonstrated by the very sensational growth in volume, which would have been impossible without very active selling campaigns. Its advantages to the carrier are quite obvious. Group insurance is large scale business, the average coverage of a life policy having increased from some \$250,000 in 1920 to \$500,000 in 1930. This mass selling requires very little effort and expense per \$1000 of insurance. Similarly mass collection of premiums has eliminated a very heavy cost, particularly when compared with industrial life insurance with its tremendous overhead for weekly collections of small amounts. Moreover there is a very low lapse ratio as compared not only with industrial but even with

ordinary life insurance, in which the high lapse ratio has always remained a very costly and difficult problem. As a rule companies refuse to accept groups previously covered by other carriers, and the business therefore is stable and increasing almost automatically. Finally, records are extremely simple: practically no reserves are required and dividend computations and payments are made on whole policies rather than on individual risks. All these factors aid materially in reducing the cost and enable insurance companies to quote very low rates and still write the insurance on a profitable basis.

From the employer's point of view the advantages of group insurance are virtually the same as those responsible for all other forms of voluntary welfare work in industry. Group insurance is expected to improve relations between capital and labor. It is supposed to create a feeling of loyalty to the employer—not only on the part of the employee but to an even greater extent on the part of the latter's family—to reduce labor turnover and both directly and indirectly to increase efficiency of labor. How far these expected results have actually materialized it is of course very difficult to show. But at any rate the cost to the employer is comparatively insignificant, and it grows smaller as the contributory plans gain in popularity. In participating policies with dividends payable to the employer the cost to the employer in many cases is almost nil.

The problem of the advantages accruing to the insured employees is somewhat more complicated. Undoubtedly group insurance has offered to millions of wage earners an amount of insurance which ordinarily they would not and could not have provided for themselves because of excessive cost. The one-year renewable term policy, particularly when averaged up in a large group, is the cheapest form of insurance possible. The fact that most of this insurance is written without medical examination enables an appreciable proportion of employees, estimated at something like 20 percent, to obtain insurance from which otherwise they would have been disqualified as a result of some physical impairment. In addition, the very fact of group action facilitates consent to purchase insurance which individual initiative might not have provided. Group insurance, the average amount of which has been gradually increasing to some \$1200 per insured life, offers protection to dependents approximately to the extent of a year's wages, which is a much larger sum than the average face of an industrial policy. It has been reported

that some two thirds of the employees upon whose deaths group insurance benefits were paid had left no assets whatever or less than \$500 in value. In over 40 percent of the cases no other insurance was available, not even a small industrial policy. Where other insurance was carried it amounted on the average to some \$2000, but this high figure is largely due to the fact that group insurance includes the higher paid employee as well.

While protection at low cost is an indubitable advantage, group insurance has been opposed by organized labor in the United States because of a number of disadvantages inherent in it from the points of view of the insured employee and the labor movement. Group insurance depends upon employment and therefore does not offer the permanency of coverage provided by an individual policy. If very strictly constructed this limitation might almost nullify the entire value of group life insurance unless the employee dies "with his boots on," because in most cases discontinuance of employment due to illness does not automatically retain the employment contract in force. To meet this difficulty the insurance contracts usually provide for a limited period of coverage extending beyond actual and active employment so long as the employer is willing to pay the premium; thus a short period of illness would not destroy the life insurance coverage. Moreover, as it is customary to require a certain period of employment before inclusion under the group insurance plan in order to safeguard the insurance plan from the effect of inclusion by floaters, insurance coverage would not have the continuity of protection which is usually considered necessary. And of course it may leave the employee unprotected when he reaches the age of compulsory retirement with his death and sickness hazard at its greatest and his opportunity for purchasing insurance practically gone. Some adjustment for discontinuity of coverage is provided by improved group contracts which allow for conversion of the one-year term policy into some other standard form of insurance if the employee so desires at the time of his separation from the insured employer, such conversion to be granted without medical examination. As the cost of converted protection is much higher than under the group policy and the opportunity is presented to the employee at the time when he is least able to avail himself of it, the actual number of such conversions has as yet not exceeded 2 percent of the total covered by group life policies. It is doubtful whether insurance car-

riers would continue to grant this privilege were it utilized more extensively, since the amount of claims under converted policies is much greater than it should be on the basis of ordinary actuarial experience. Finally, since group insurance is written on an annual plan it offers no guaranty of permanency to the insured group of employees. It may be arbitrarily withdrawn, its continuance being obviously dependent upon the good will of the employer and the success of the business. Actual experience, however, has not shown this to be of common occurrence, even though there was an increase of cancellations during the depression of 1920-21.

Other disadvantages of a broader social character have also been brought forth. It has been claimed by representatives of organized labor that since the cost of insurance on a one-year term plan increases with age, group insurance might create a serious motive for discrimination against older employees. While there is an unmistakable tendency among large employers so to discriminate, it is impossible to evaluate the importance of group life insurance in this connection; this contention is undoubtedly of greater weight in dealing with sickness and annuity insurance. It has also been argued that group insurance interferes with the free mobility of labor. How far the accumulated interest of participation in a group policy would interfere with the freedom of the employee's choice is problematic, but obviously reduction of labor turnover cannot be accomplished without actual reduction in mobility of labor. Perhaps the most important argument of organized labor is that at an insignificant cost, much smaller than the differential between union and non-union wages, and for a promise of protection, the uncertainty of which the employees may not realize, the employer tends to obtain increased loyalty on the part of his employees. Loyalty, potential or actual, to the labor union is thus undermined, particularly when the benefit of group insurance is conditional upon membership in a company mutual benefit association.

As a result of this feeling organized labor did accomplish modification of the law so that labor unions may also obtain group policies to cover their membership. In addition the American Federation of Labor sponsored the organization of the Union Labor Life Insurance Company to write individual insurance at reduced prices and to provide group insurance for labor unions. Union group insurance, however, has developed but slightly because it lacks many of the techni-

cal advantages offered by an establishment policy. The consent of individual members scattered among different employers cannot be so readily obtained. The question of collection of dues becomes more complicated for the insurance company unless the union serves as an intermediary in attaching the insurance premium to the union dues. Nor do insurance companies favor this form of insurance because of fear of adverse selection, and when they write it they charge higher premiums.

While group life insurance and to a lesser extent other forms of group insurance have offered a certain degree of security to an increasing number of employees in the United States, they cannot be advanced as an American substitute for the European equivalent, compulsory state social insurance. One need only compare the average amount of insurance carried by the worker under a group policy with the death benefits provided for by even the less liberal compensation laws to realize the limitations of group insurance. At best group insurance depends to a large extent upon the free will of the employer. Frequently it places upon the employee a much larger proportion of the cost than does social insurance and it never offers that complete and guaranteed security which is the very fundamental principle of the latter. While it has done a great deal to demonstrate the comparative cheapness of mass insurance it has not met and cannot be expected to meet in full the real problems created by numerous hazards confronting the wage worker's life.

Group insurance is in the experimental stage in application to groups other than those of wage earners and salaried people employed by private concerns. While the insurance carrier must be constantly on guard against an adverse selection of risks—and for this reason reinsurance is consistently refused, for instance, to fraternal societies—there are a number of groups in which the principles of mass sales, comparative ease of collection and low cost of premium come into play almost as forcefully as in the standard forms of group insurance. Thus there has recently been a great deal of discussion regarding group policies for teachers and a few policies for large amounts have been written. Similarly the lives of real estate mortgagees or of purchasers on the installment plan may be insured as a group. The benefit in such cases is the waiving of all future payments due in case of death, the purchaser thus offering to his family the assurance that the property only partly paid for will not be lost.

Outside of the United States group insurance is a phenomenon of relatively minor importance and interest. It is less clearly restricted to groups of employees and when so used it serves merely as an addition to compulsory social insurance. In England, for example, group insurance begun after the World War is written by only seven companies, and carriers specializing in life and annuity business refrain from issuing group contracts. It is still the subject of controversy among actuaries. As the labor contract is settled by collective bargaining and as workmen's compensation and health insurance is compulsory, the employer does not stand to gain much by introducing group insurance, particularly since the exigencies of insurance law favor the non-contributory plan. Employee group insurance is therefore limited in scope, but consumers' co-operative societies sometimes insure their members in proportion to the amount of their purchases. In Germany group insurance comparable to the American form is still in its initial stages. It began to develop after November, 1925, when the legal ban caused by the abuse of the group form was modified to allow the charging of rates on the basis of reduced tables and reduced cost factors. Group policies are issued not only to private employers but also to public bodies employing labor, to trade unions and other occupational associations. Disability protection is often combined with life insurance. Before the World War what might be regarded as a special form of group insurance was provided by newspapers and magazines for their subscribers; it covered the public accident hazard and in some cases also the professional liability hazard. It is reported that in 1911 there were in Germany 297 periodical publications providing such insurance, of which only slightly more than a half reinsured with regular insurance carriers. In other European countries, such as Norway, Spain and Switzerland, group insurance is used mainly in connection with pension plans; under it pensions are provided to cover old age and invalidity as well as the needs of widows and orphans upon the death of the breadwinner.

I. M. RUBINOW

*See:* LIFE INSURANCE; HEALTH INSURANCE; OLD AGE; COMPENSATION AND LIABILITY INSURANCE; SOCIAL INSURANCE; WELFARE WORK; INDUSTRIAL; FRATERNAL ORDERS.

*Consult:* National Industrial Conference Board, *Industrial Group Insurance* (2nd ed. New York 1920); "Group Insurance Experience of Various Establishments" in *Monthly Labor Review*, vol. xxiv (1927) 1228-38; Morris, E. B., "Group Life Insurance and

Its Possible Development" in *Casualty Actuarial Society, Proceedings*, vol. iii (1917) 149-74; Woods, E. A., *The Sociology of Life Insurance* (New York 1928) p. 112-31; Knight, C. K., *Advanced Life Insurance* (New York 1926) ch. xvii; Maclean, J. B., *Life Insurance* (2nd ed. New York 1929) ch. xv; Cammack, E. E., and Morris, E. B., "Joint Mortality Experience of the Aetna Life and Travelers Insurance Companies on Group Policies" and discussion, Morris, E. B., "A Comparison of Mortality Elements between Group and Regular Life Insurance," Cammack, E. E., "Some Remarks upon Recent Developments in Group Insurance and upon the Mortality Experience under Group Policies," and "Combined Group Mortality Investigation" in *Actuarial Society of America, Transactions*, vol. xix (1918) 29-52 and 306-18, vol. xxiv (1923) 325-72, and vol. xxvi (1925) 332-74; Craig, J. D., "Group Health Insurance" in *Casualty Actuarial Society, Proceedings*, vol. vii (1920-21) 78-103; Keffler, R., "Group Sickness and Accident Insurance" in *Actuarial Society of America, Transactions*, vol. xxviii (1927) 5-34; Hohns, R. A., "Group Annuities" and discussion in *American Institute of Actuaries, Record*, vol. xviii (1929) 51-72 and 236-74; International Congress of Actuaries, Eighth, *Transactions*, vol. i (London 1927) p. 87-141; Pariser, A. L., *Die rechtliche und wirtschaftliche Natur der Abonnement-Versicherung* (Leipzig 1916).

GROSSAC, PAUL (1848-1929), Franco-Argentine historian and critic. Grossac resided in Argentina from his eighteenth year. As director of the National Library from 1885 to 1929 he was able to lead the developing intellect of Argentina toward worthy objectives. His versatile mind was unquestionably the chief influence in bringing the culture of the nation into the stream of modern European intellectual life. The work that he accomplished in this direction is contained in a large journalistic output, in his books and particularly in his reviews, *La biblioteca* (8 vols., Buenos Aires 1896-98) and the *Anales de la biblioteca* (10 vols., Buenos Aires 1900-15). His implacable criticism swept aside improvisation and dilettantism and corrected widely diffused errors in thought; and his painstaking scholarship subjected large sections of Argentine history to revision, opposing the truth, whatever it might be, to patriotic conventions. He cleared up difficulties and threw light upon obscure points. His concept of historiography has been expressed in contradictory forms. In 1907 he held the objects of the writing of history to be scientific, philosophic and aesthetic, involving no contradictions. Accepting Taine as his model he considered that reflection upon history is unnecessary and that the philosophy of history, extensively cultivated in Latin America, is to be found in the narrative itself. In 1916, however, he proclaimed the object of

historiography to be aesthetic, while only its method could be scientific. Thus Grossac differs from the new school of Argentine historians, which follows him in the critical aspects of his work but does not consider the aim of historiography to be primarily literary and which instead of explaining national history largely in terms of personality seeks to find the underlying processes determining events and to place Argentine history in its proper setting in world history.

RÓMULO D. CARBIA

*Important works:* *Ensayo histórico sobre el Tucumán* (Buenos Aires 1882); *Santiago de Liniers* (Buenos Aires 1907); *Mendoza y Garay* (Buenos Aires 1916); *Los que pasaban* (Buenos Aires 1919); *Estudios de historia argentina* (Buenos Aires 1918).

*Consult:* *Nosotros*, vol. lxx (1929) 5-218, commemorative issue devoted to Grossac; Canter, J., Bibliography of Grossac's works in Instituto de investigaciones históricas, *Boletín*, vol. viii (1929) 484-710; Carbia, R. D., "El Señor Grossac Historiógrafo" in *Nosotros*, vol. xvi (1914) 240-49, and *Historia de la historiografía argentina*, vol. i- (La Plata 1925- ) p. 73-81.

GRUBER, JOSEF (1865-1925), Czech economist. From 1893 to 1907 Gruber was active in the Prague Chamber of Commerce and Trade and wrote a history of that organization, a work which contains valuable material on the economic history of Bohemia in the second half of the nineteenth century. From 1895 to 1925 he edited the *Obzor národohospodářský* (Economic review). In 1901 he was appointed lecturer and in 1909 professor of political economy at the University of Prague, and from 1907 to 1919 he was general secretary of the Economic Institute of the Czech Academy. After the establishment of the new republic he occupied several official positions and from 1921 to 1922 was minister of social welfare.

Gruber's importance lay in the field of applied economics, where he is to be counted among the liberals, although not of the Manchester school. Thus, while he tried through organized self-help and technical education to save the small entrepreneur in his competition with the large manufacturer, Gruber fought and derided the policy of legal restrictions, such as the certificate of competency, on trade and industry. Moreover, he advocated modern social legislation and during his administration of the Ministry of Social Welfare worked assiduously for the passage of legislation on unemployment relief and other forms of social insurance. He wrote extensively on various economic problems and phases of economic life of his country—the agrarian prob-

lem, population and industrial, commercial and transportation policies.

JOSEF MACEK

*Consult:* Czechoslovakia, Sociální ústav, "Professor Josef Gruber, 1865-1925," *Publikace*, no. 19 (Prague 1925), containing articles by J. Macek, E. Štern, B. Živanský, J. Janku, and a bibliography; Hanousek, B., in Institut International de Statistique, *Bulletin*, vol. xxii, pt. i (1926) 321-22.

GRUEV, DAMIAN (1871-1906), Macedonian revolutionist. Grucev attended the University of Sofia but was expelled because of his socialist activities. He then became a village school teacher in Macedonia, a position which gave him an opportunity to organize secret revolutionary societies in the villages; his opportunities for this work were greatly increased by his appointment as traveling inspector. In 1893, while a member of the faculty of the Bulgarian *gymnasium* in Salonika, Grucev together with his associates federated the local village clubs into the Interior Macedonian Revolutionary Organization, which succeeded in effectively welding together the nationalist groups and in building up a powerful administrative system and a secret militia.

Grucev was the chief organizer and the intellectual leader of the Internal Organization. His keen although limited intellectual qualities and his cold, self-possessed personality made him a powerful influence in shaping its policies. He opposed the pro-Bulgarian movement and helped keep the organization from becoming an instrument of Bulgarian propaganda. He stood above partisan quarrels and although at first a socialist soon realized that Macedonia was not adapted to socialism. During the uprising of 1903 he was elected chief of the general staff in command of military operation. From this time onward he lived as a guerrilla leader in the mountains; when he was killed in a chance skirmish with Turkish soldiers, he was one of the three members of the Central Committee.

ALBERT SONNICHSEN

GRÜN, KARL THEODOR FERDINAND (1817-87), German journalist and philosopher. Grün wrote books on Schiller, Goethe and Feuerbach, histories of sixteenth and seventeenth century culture, a study of contemporary philosophy and two works on social problems. He belonged to the group of young Hegelians converted to socialism by Feuerbach's contention that God is man's projection of himself and that every idea of something transcendental is

an auto-alienation of the human, something which can be reconquered only through a social commonwealth and the medium of love. From religion Grün, like Marx and Engels, passed on to the social problem. Loyal to Feuerbach, he belonged with Hess and Kriege to the school of "true," or "German," socialism.

According to Grün the social problem could be solved by doing with the God of practical life what Feuerbach did with the religious idea of God; namely, by recognizing in private property something which has been alienated from the community. The nature of property, like that of man, is social and cannot be isolated from the social whole. Grün combined Feuerbach's doctrines with those of Proudhon and, finding throughout history a continuous struggle between dominant and oppressed classes, believed that philosophy might ultimately solve the social problem. He thought that by "true" philosophy and religion a truly human existence might be achieved for all in which mass production by machines would operate in a way to satisfy the aesthetic as well as all practical human needs. Because of such illusions the true socialists scorned liberal bourgeois political struggles against absolutism and nationalism and were antagonistic to the development of large scale capitalism, which they regarded as a cause of increased misery. Consequently they were criticized by Marx and Engels, who attacked their basic ideas in the *Deutsche Ideologie*, the *Communist Manifesto* and elsewhere and accused them of lending aid to reactionary feudalism by prescribing as a sufficient remedy for the healing of social ills empty protestations of love instead of the concerted action of a proletariat conscious of its sufferings and needs.

RODOLFO MONDOLFO

*Consult:* Struve, Peter von, "Zwei bisher unbekannte Aufsätze von Karl Marx aus den vierziger Jahren" in *Neue Zeit*, vol. xiv, pt. ii (1895-96) 48-55; Koigen, David, *Zur Vorgeschichte des modernen philosophischen Sozialismus in Deutschland* (Bern 1901); Mehring, Franz, *Geschichte der deutschen Sozialdemokratie*, 4 vols. (12th ed. Stuttgart 1922) vol. i; Andler, Charles, *Le manifeste communiste de Karl Marx et F. Engels: introduction historique et commentaire* (Paris 1901) p. 32-49, 169-85; Lévy, Albert, *La philosophie de Feuerbach et son influence sur la littérature allemande* (Paris 1904) ch. iii; Reinhardt, F. W., *K. T. F. Grün* (Gießen 1924).

GRUNDTVIG, NICOLAI FREDERIK SEVERIN (1783-1872), Danish churchman, educator, poet, patriot. Grundtvig, the son of a clergyman, was educated for the ministry and



maintained through life an irregular, controversial connection with the Lutheran establishment, eventually becoming titular bishop. He protested in turn against the rationalism and the dogmatic literalism of the church; he demanded a simpler creed, a more abundant life and greater religious freedom for laity and clergy. His governing tenet came to be an insistence upon the "living" word as against the "dead"; the Bible in general is a dead word, merely a record of sacred events; the ritual of baptism, including the apostolic confession, and the ritual of the Lord's Supper are the living word, through which Christ still speaks effectually to the church. These views formed the kernel of Grundtvigianism, a liberal movement which has had a considerable influence not only in Denmark but also in other parts of the Scandinavian north and even in America.

Grundtvig believed that church and state alike might best be served by an instructed people. To lessen the cleavage between the classes and the masses he argued for a popular education which should be less intellectual and more practical: less concerned with the dead languages and more with the mother tongue and with history, less dependent upon books and examinations and more upon the living voice of the teacher, less intent upon daily bread and more upon the claims of life as a whole. His ideals are exemplified in numerous folk high schools functioning successfully under state recognition and supervision in the more rural communities of Denmark. Similar schools have taken root in the other Scandinavian countries and to some extent in the United States.

Grundtvig's church was to be a singing church and the school a singing school. He revised older hymns and became popular as a writer of original hymns, secular lyrics and patriotic songs. His pioneering studies in the *Beowulf*, his writings on Norse myth and saga and on the history of his country brought the past into a vitalizing relation with the present. Through all his thought and work ran the aim of making Denmark a unified nation, strong in its sense of historical continuity and confident of its own spiritual resources. His significant influence on the cooperative movement and on the triumph of liberal principles in government has been due not to economic genius or political skill but rather to his singular power as a revivalist patriot. Phases of his literary and nationalistic enterprises were carried forward by his son Svend, the editor of the monumental collection of Danish popular

ballads in which the whole people finds a source of cohesion and inspiration.

S. B. HUSTVEDT

*Consult:* Horn, Frederik Winkel, *N. F. S. Grundtvigs liv og gerning* (Copenhagen 1883); Schröder, Ludwig, *N. F. S. Grundtvig, den nordiska folkehøgskolans fader en lefnadsskildring* (Stockholm 1900); Campbell, Olive D., *The Danish Folk School* (New York 1928) ch. iv-v; Paul-Dubois, L., "Grundtvig et le relèvement du Danemark au XIX<sup>e</sup> siècle" in *Revue des deux mondes*, 5th ser., vol. lii (1909) 657-76; Cooley, E. G., "Bishop Grundtvig and the People's High Schools" in National Education Association, *Journal of Proceedings and Addresses*, vol. lii (1914) 451-59.

**GUARANTIES, INTERNATIONAL.** International guaranties are agreements between states to maintain specified conditions or rights. Among their objectives has been the preservation of the status quo with respect to boundaries, internal political conditions and the independence of a state or a group of states. In a number of agreements, illustrated by article 10 of the Covenant of the League of Nations and by the treaty of March 26, 1926, between Poland and Rumania, the guaranty clause was intended to prevent disturbances of the status quo through the use of force without prohibiting peaceful adjustments satisfactory to the states immediately concerned. In several recent European alliances mutual assistance has been pledged for all cases of aggression by third states whether the purpose of the aggressor is to disturb the status quo or to achieve other ends. A common objective of guaranties has been to insure the enforcement of treaties either in their entirety or with regard to designated articles. The latter objective was specified in the treaty of January 25, 1924, between France and Czechoslovakia, which arranged for the enforcement of the principles contained in article 88 of the Treaty of St. Germain of September 10, 1919, and in the Protocols of Geneva of October 4, 1922. It is evident that behind the stated objectives of international guaranties there may be a desire to secure the maintenance of peace either by the provision of joint action against an aggressor or by perpetuating a balance of power.

Guaranty pacts may be classified on two main bases. In the first place, they may be either unilateral or mutual in the obligations created. Under the treaty of November 18, 1903, the United States guaranteed the independence of Panama without a reciprocal obligation of a like nature being assumed by the latter signatory. Similarly, two or more nations may undertake to preserve a defined status with respect to

another without reciprocity. By a treaty signed on July 13, 1863, Great Britain, France and Russia pledged their support to maintain the independence of Greece. An example of reciprocal guaranties is provided in article 10 of the Covenant of the League of Nations, by which the "members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League." In the second place, guaranty pacts may be classified according to their method of enforcement, which may be either collective or individual or both. Collective guaranties exist only when expressly so stated, with the understanding that in other instances the action defined may be taken separately. While there is no consensus of opinion on the subject, much doubt has been expressed as to the legality of guarantors acting separately where only collective action is called for.

Multipartite agreements defining international guaranties were concluded in considerable numbers before the World War. In addition to treaties providing for the neutralization of designated states, such as Belgium and Switzerland, others were drawn up in order to maintain dynasties and to insure the integrity of countries. Since the World War multipartite guaranty pacts have been given several new applications. The Treaty of Mutual Guarantee, initiated at Locarno on October 16, 1925, is significant for several reasons. The contracting parties, binding themselves collectively and severally to the maintenance of the territorial status quo along the frontier between Germany and Belgium and between Germany and France, included among others the states most advantageously located to threaten that frontier. Moreover, coupled with the pact were agreements creating and defining for Germany on the one side, and France, Belgium, Poland and Czechoslovakia on the other, obligations to use peaceful methods of settling disputes.

Another departure with respect to multipartite guaranty pacts was the role given to the League of Nations as a collective guarantor of international agreements. The Treaty of Versailles of June 28, 1919, placed the constitution of the Free City of Danzig under the guaranty of the League of Nations. Ten minority treaties concluded in 1919-20 between the five principal allied and associated powers on the one hand, and Poland, Czechoslovakia, Yugoslavia, Rumania, Greece, Armenia, Austria, Bulgaria,

Hungary and Turkey on the other, provided for the protection of racial, religious and linguistic groups also under the guaranty of the League of Nations.

The most important undertaking of the League of Nations in the way of guaranties, however, is that provided by article 10 of the Covenant, to which reference has already been made. While there has been no official ruling as to whether the obligation to preserve the territorial integrity of all members of the League against "external aggression" necessitates joint action to prevent the mere invasion of territory, the opinion is widely held that the sanctions of the League should not be applied unless it is evident that the invasion may carry with it annexation. An effort was made in 1923 at the Fourth Assembly of the League to obtain an official interpretation of article 10 which would permit members of the League to decide for themselves to what degree they are bound to insure the execution of the article when requested by the Council. The unanimous vote of the Assembly required for an interpretation of the Covenant was not obtained, but a considerable majority in favor of the proposal indicated that it had wide support.

There are international agreements containing statements of policy with respect to the maintenance of the status quo which should be distinguished from guaranty pacts. In identical notes exchanged between France and Spain and between Great Britain and Spain on May 16, 1907, it was stated that the general policy of those states was to maintain the territorial status quo along the Mediterranean and along that part of the Atlantic Ocean which washes the shores of Africa and Europe, but no commitments for the purpose of enforcing that policy were made. The treaty of December 13, 1921, between the United States, the British Empire, France and Japan did not guarantee the security of the insular possessions of the respective signatories in the Pacific Ocean but merely provided for a conference to consider adjustments in the event that a controversy occurred regarding those areas.

With respect to all international guaranties the problem of effective sanctions has been of great importance. Of the several types of sanctions that have been provided military action has been the most common. Defensive alliances frequently specify this method of action. Other treaties, such as that of November 2, 1907, regarding the integrity of Norway, have stated

more broadly that the guaranty may be effected "by such means as may be deemed the most appropriate." The sanctions of the League available for the enforcement of the guaranties of article 10 include both military action and economic measures. In both instances the League is bound to rely upon the efforts of member states, made at the request of the Council. It is recognized that the application of either sanction must involve a decision as to what state is the aggressor. The practical value of the economic boycott under the League of Nations is questionable because of the harm it may do to the states enforcing it and on account of the ability of more prosperous states to withstand it. An attempt has been made within the League to add to the usefulness of the economic sanction by arranging that positive financial assistance be given to an attacked state. The guaranty of the League of Nations with respect to the constitution of the Free City of Danzig and to the provisions of minority treaties may be made effective through the exercise of certain powers of control that have been delegated to the Council. For instance, this organ acting through a high commissioner deals with disputes arising between Poland and Danzig over the Treaty of Versailles or any arrangement made under it and also hears complaints relating to the operation of the minority treaties.

Finally, it may be noted that public opinion operates as a sanction to obtain compliance with international obligations. While it does not provide a guaranty in the strict sense of the word it is an active force encouraging if not coercing enforcement. There is disagreement as to whether the efforts of public opinion or actual guaranties should receive the greater stress in arrangements for the maintenance of international peace.

NORMAN L. HILL.

See: INTERNATIONAL RELATIONS; AGREEMENTS, INTERNATIONAL; TREATIES; LEAGUE OF NATIONS; OUTLAWRY OF WAR; SANCTION; DISARMAMENT; LIMITATION OF ARMAMENTS; NEUTRALIZATION.

Consult: Milovanovitch, M., *Les traités de garantie au XIX<sup>e</sup> siècle* (Paris 1888); Idman, K. G., *Le traité de garantie en droit international* (Helsingfors 1913); Quabbe, Georg, *Die völkerrechtliche Garantie* (Breslau 1911); Bussmann, O., *Der völkerrechtliche Garantievertrag insbesondere seit der Entstehung des Genfer Völkerbundes* (Leipzig 1927); Oppenheim, L. F., *International Law*, 2 vols. (4th ed. by A. D. McNair, London 1926) vol. i, p. 769-77; Hill, N. L., "Post-War Treaties of Security and Mutual Guarantee" in *International Conciliation*, no. 244 (1928); Komarnicki, T., *La question de l'intégrité territoriale dans le pacte*

*de la Société des Nations* (Paris 1923); Williams, B. S., *State Security and the League of Nations* (Baltimore 1927); Mitrany, D., *The Problem of International Sanctions* (London 1925).

**GUARDIANSHIP.** Under the modern conception guardianship is a trust of a dual nature involving two distinct and separate functions: the control of the person of the ward and the care of his estate. The law of guardianship of infants in the Roman law, the civil law and the common law has developed to some extent along similar lines. In its origin the power of a guardian over a person of tender years was the continuation of a form of family power which can no longer be exercised. At first a profitable right of the guardian, it has in time been converted into a duty to be discharged for the benefit of the ward. The state assumes an ever greater degree of control.

Thus the law of guardianship in Rome grew out of the family organization, and its connection with the law of inheritance was close. From the outset conceptions of property have played a large part in determining its character. The Roman idea of guardianship was originally but an extension of the patria potestas, the power of the head of the family over his descendants. It is necessary to distinguish two kinds of guardianship under the Roman law, the *tutela impuberum* and the *cura minorum*. Every person who was *sui juris* and below the age of puberty, that is, fourteen for boys and twelve for girls, had to have a tutor for his or her protection. The essence of tutela consisted in the assistance which the tutor had to give to enable juristic acts to be performed. In general the ward had capacity to act with the *auctoritas* of the guardian. There was statutory guardianship, or *tutela legitima*, which under the law of the Twelve Tables devolved on the nearest agnates and, if there were none of these, on the nearest cognates. The persons who would succeed on intestacy to the ward's property became his guardians. Because of the reform in the law of inheritance under the later empire the law of statutory guardianship was changed. Under the law of Justinian it devolved on the nearest cognate capable of serving as guardian. Testamentary guardianship, *tutela testamentaria*, existed where under certain circumstances the paterfamilias excluded the statutory guardianship by testamentary appointment. Limitations were placed on the right of testamentary appointment and in some cases magisterial confirmation was necessary. Magisterial guardianship, or *tutela*

*dativa*, arose in cases where in default of the above types of guardianship one was appointed by certain Roman magistrates. A special *praetor tutelaris* was established at Rome. Detailed provisions existed as to who could be appointed guardians. Security had to be given for the faithful performance of the duties of a guardian; an inventory had to be made of the property of the ward; the guardian was personally liable for fraud, neglect or waste of the property and he had to render a final accounting of his administration—rules that clearly show that guardianship in Roman law had gradually come to be considered as a public burden or duty. Unless relieved by certain exemptions which were known as *excusationes* no one could refuse to act; in some instances guardians could be removed by the state.

In the theory of the Roman law a person came into the full enjoyment of his personal and proprietary rights on the attainment of puberty. Tutela ended at such an early age in order to allow the establishment of a new *patria potestas*. *Cura minorum* was established when it was recognized that persons over the age of puberty and below twenty-five needed protection. An early statute allowed such persons to be placed under the temporary control of curators. The effect of the appointment of a curator was to help the minor in the management of his affairs, since he could not alienate property or incur liabilities without the curator's consent. In later times the general tendency was to assimilate the law of tutela and *cura*.

Under the English common law particularly, the theory of guardianship for a long time remained disjointed and incomplete. As Pollock and Maitland have pointed out, the early law knew some ten kinds of guardianship and "yet it never laid down any such rule as that there is or ought to be a guardian for every infant" (vol. ii, p. 444). There was the father's guardianship by nature over the person of his heir apparent and his guardianship by nurture over the person of the younger children. On the death of the father the type of guardianship depended very largely on the nature of the property held by the infant. The law dealt almost exclusively with infant heirs and left other minors to get guardians as best they could—mostly for the purpose of litigation, the so-called guardian *ad litem*. It is clear that the classical common law of guardianship was also an institution existing in regard to the propertied classes. The guardianship in chivalry, originating in the incidents

of the feudal system, had attached to it the important right of wardship and was a source of great profit to the king and the mesne lords. It existed with respect to tenures by knight service and grand serjeanty and gave custody of the ward's person—if a male until twenty-one, and if a female until fourteen—and the right to take the profits of the land, in lieu of the performance of military service. The law looked upon this as a valuable right which could be sold for the profit of the lord. This lasted until the abolition of military tenures after the middle of the seventeenth century. There was also a guardian for the heir under the age of fourteen who inherited land held in socage tenure, and the guardian chosen was the nearest kin to the heir who could not possibly inherit the estate. A statute of the reign of Charles II [12 Car. II, c. 24 (1660)] passed after the abolition of feudal wardship allowed testamentary guardians for minors to be appointed.

In the thirteenth century the idea began to develop, slowly at first, that wardship imposed certain duties. The Statute of Marlborough in 1267 (52 Henry III, c. 17) in effect converted the rights of a guardian in socage into a trust to be exercised for the benefit of the infant. Little was really accomplished, however, because of the many defects of the common law action of account which this statute gave against guardians in socage. The same conception began to appear in certain borough courts at the end of the thirteenth century and much was done therein in the control of guardians. Under the custom of London the mayor and aldermen had guardianship of orphans in the city, and the Court of Orphans which lasted until late in the seventeenth century was the administrative unit with power to take guardianship itself or to commit it to a competent person. There seems to have been some similar provision in the province of York. As time went on the ecclesiastical courts endeavored to enforce as far as possible certain parts of the Roman law about tutela and *cura*, but they could not interfere with the right of wardship.

Pollock and Maitland have suggested that the failure of English law to provide a comprehensive law of guardianship may have been due to the fact that the guardian was not looked upon as a curator, as one "whose consent will enable the infant to do acts which he otherwise could not have done" (vol. ii, p. 445). There was thus no representation of the ward by the guardian, such as existed under the Roman conception of

tutela. The guardian could merely maintain the status quo. He could neither bind the infant nor make it possible for the infant to bind himself, for although the acts of an infant were not void under the common law they were voidable. The common law courts must have relied especially upon this rule because they felt themselves strong enough to protect the rights of infant heirs in the ordinary course of litigation through the device of the guardian *ad litem*.

The king was looked upon as a guardian above all other guardians, but seldom did he assert his authority except when his interests were involved. This theory was, however, to prove of great importance at a later time. Holdsworth has attributed the defectiveness of the English law of guardianship to the fact that it halted between two opinions; the old one, that it was a valuable right existing for the benefit of the guardian; and the newer conception, that it involved responsibilities to the infant. It remained for the chancellor through the exercise of his equitable jurisdiction to give a more modern and adequate conception to the law of guardianship. He began to do so at the end of the seventeenth century after the Court of Wards had been abolished (1660), and he rested the jurisdiction in the supposed revival of the prerogatives of the crown which resulted from the abolition of that court. It was not until equity had dealt with the problem that the equitable conception of trusteeship was extended to the guardian and that he was enabled in any way to supplement the infant's imperfect capacity. Even this was unsatisfactory and statutory aid was necessary to give the guardian sufficient powers. Guardians in Chancery are the most important class of guardians in England today.

At present in the United States the natural guardian of a minor is the father; if he is dead, the mother; if both are dead, the next of kin. This is the equivalent of the old common law guardianship by nature and by nurture. The mother of illegitimate children is their natural guardian, although in this case again the state has done much to guard the interests of the child. The old English statute in regard to testamentary guardians has been reenacted in most of the states. In some an appointment can be made by deed. Guardianship in socage is obsolete at the present day. Courts of chancery, in the absence of statutory limitations, have jurisdiction to appoint guardians; but in most states statutes have delegated the appointment of guardians to probate or surrogate courts, the

most important type of guardianship in the country.

At common law the rights of the father were absolute in regard to guardianship, but equity looked first to the welfare of the child and waived the rights of the father when it was clearly for the interest of the child. The mother, in equity, was regarded as a stranger; but the aim of legislation has been to enlarge her rights in view of the paramount interest in the welfare of the child. Beginning in England in 1839 a series of statutes has gradually increased the rights of the mother in regard to the guardianship of her children. In England by the Guardianship of Infants Act of 1925 the parents were placed on an absolute equality and the welfare of the child was made the primary consideration. Such statutes exist in some American states today.

Frequently, because of the necessity to use the capital of the ward's estate for the education and support of the minor, great pressure had been brought to bear on the common law courts to sell land and apply the proceeds in the interest of the ward. At common law, however, there was no such power, but statutes exist in England and all of the states of the United States allowing such sale on court order; the sale is generally voidable if to the guardian.

In continental countries the state came to be recognized as guardian at the close of the Middle Ages, and the conception was also first effectively realized in the cities. In Germany the idea of the state as guardian in chief was carried to an extreme, the guardianship becoming a mere agent of the Guardian's Board. There was, however, a reaction in the nineteenth century. Because of the very inclusive reception of the later Roman law, guardianship in continental countries has tended to be a unified institute. For various special purposes, however, the Roman law curatorship has been maintained in the guardianship of minors under the leading continental codes. On the whole there has been recognition of the natural rights of the family even where not obligatory. Under both the German and French civil codes the guardianship in default of parental appointment must be offered to one of the grandparents in a certain order of preference.

The control of guardians in continental countries is exercised through various agencies. In Germany the Court of Wards installs even testamentary guardians. Without such installation they have no power and only proper persons will be installed. Every regional unit has a Court of

Wards which in cooperation with the orphans' councils of the communes appoints all guardians and takes children away from improper parents, appointing guardians for them. This court has control of all except illegitimate children, who are taken care of by the Youth Office. In practise the Court of Wards controls the Youth Office. In France the Family Council plays the preponderant role in the exercise of guardianship. It has a part in the selection of the guardian in default of parental appointment or statutory qualification, and the guardian has to secure its consent before he can act in important legal transactions. Since the direct interference of public authority is relatively small in France, the French code has established the institute of supervisory guardianship. An assistant guardian is appointed in addition to the ordinary guardian to oversee the latter and to collaborate with him under certain circumstances. Under a law of 1907 the French tribunals of the first instance supervise the guardianship of illegitimate children. The German civil code has taken over the institute of supervisory guardianship to a limited extent. It has also introduced the Family Council as an optional institute. When the parents prefer, the ordinary functions of the supervisory authorities are taken over by the Family Council.

Most modern states have passed laws relating to the care of dependent and delinquent children. They generally provide for the commitment of such children to persons, societies or institutions where they will receive the proper care. Their object is remedial and they do not attempt to infringe the rights of parents. Under the Children Act of 1908 in England the court may take from the parents and give to an artificial guardian any child who is a victim of maltreatment or whose guardian or parents are convicted of a certain class of felonies.

Thus the modern state has interfered directly to protect the welfare of the child. The child labor laws and the compulsory education laws are but examples of the increasing interest that the state, as the guardian in chief of all minors, is taking in their welfare.

A. C. JACOBS

See: FAMILY LAW; CHILD; MAJORITY, LEGAL; ADOPTION, MODERN; INSANITY, LEGAL.

Consult: Buckland, W. W., *A Textbook of Roman Law from Augustus to Justinian* (Cambridge, Eng. 1921) p. 143-74; Pollock, F., and Maitland, F. W., *The History of English Law before the Time of Edward I*, 2 vols. (2nd ed. Cambridge, Eng. 1899) vol. i, p. 318-29, vol. ii, p. 436-47; Holdsworth, W. S., *A History of English Law*, 9 vols. (3rd ed. London 1922-26)

vol. iii, p. 61-66, 510-20, vol. vi, p. 648-60; Schouler, James, *A Treatise on the Law of Marriage, Divorce, Separation, and Domestic Relations*, 3 vols. (6th ed. Albany 1921) vol. i, p. 907-1140; Brissaud, Jean, *Manuel d'histoire du droit français*, 2 vols. (2nd ed. Paris 1908), partly tr. by R. Howell, *Continental Legal History series*, vol. iii (Boston 1912) p. 232-66; Colin, A., and Capitant, H., *Cours élémentaire de droit civil français*, 3 vols. (4th ed. Paris 1923-25) vol. i, p. 475-557; Huebner, R., *Grundzüge des deutschen Privatrechts* (4th ed. Leipzig 1922), tr. by F. S. Philbrick (Boston 1918) ch. xiii; Lehmann, Heinrich, *Familienrecht des bürgerlichen Gesetzbuches* (Berlin 1926) p. 267-321; Rittmeyer, O., *Die Schutztendenzen des schweizerischen Vormundschaftsrechts* (Berne 1925); Solazzi, S., *Studi sulla tutela*, 2 vols. (Modena 1925-26).

GÜDEMANN, MORITZ (1835-1918), Jewish historian. Güdemann studied for the rabbinate at the Jewish Theological Seminary of Breslau and served congregations in Magdeburg and Vienna. In 1890 he became chief rabbi of Vienna. His religious views were conservative and he strongly opposed the Jewish nationalism of Theodor Herzl.

Güdemann's most important work was in the history of Jewish education, in which he was a pioneer. His *Jüdisches Unterrichtswesen während der spanisch-arabischen Periode* (Vienna 1873) was the first systematic treatment of this subject. His *Geschichte des Erziehungswesens und der Cultur der abendländischen Juden* (3 vols., Vienna 1880-88) deals with French and German Jewry prior to the fourteenth century, the Italian (including Sicilian) Jewry to the Renaissance and German Jewry through the sixteenth century. In 1891 he issued his *Quellenschriften zur Geschichte des Unterrichts und der Erziehung bei den deutschen Juden* (Berlin), a collection of original printed and manuscript documents. Güdemann treated not only educational forms and content but also the social relations of Jews and their Christian neighbors, religious and social customs, superstitions, linguistics and economic life. Although frequently apologetic in tone Güdemann rarely permitted national bias to influence his conclusions. Most instructive are his comparative studies of Jewish and Christian customs and habits of thought. His works have been translated into Hebrew, are still frequently quoted by Jewish scholars and have been the basis of many popular volumes.

JULIUS H. GREENSTONE

Consult: Feuchtwang, D., "Moritz Güdemann's Anteil an der Wissenschaft des Judentums" in *Monatsschrift für die Geschichte und Wissenschaft des Judentums*, n.s., vol. xxvi (1918) 161-77.

GÜELL Y FERRER, JUAN (1800-72), Spanish industrialist and economist. Güell was one of the principal promoters of the Catalan cotton industry and introduced the manufacture of velvet into Spain. He was a man of culture and intelligence and became known through his polemical writings in which he attacked the principles of free trade.

About the middle of the nineteenth century liberal theories found a fertile soil in Spain, where they were adopted by outstanding political thinkers. In Catalonia, however, and especially in Barcelona a strong protectionist movement arose because of the fact that industrial development in that region had been founded upon the restrictions of mercantilism. The driving forces behind the movement were the manufacturers' association called the Junta de Fábricas and the Instituto Industrial de Cataluña, both of which followed the leadership of Güell, the "father of Spanish protectionism." Güell was not an economist or scholar in the strict sense of the term; he was rather an indefatigable propagandist and the popularizer of protectionism. Carey, with whom he corresponded, obviously influenced him. He fought to maintain protective measures which contributed to the development of the nation's industries.

In Güell's time Catalanism was not a political but merely a literary and romantic movement, and he believed that neither Cadiz nor Catalonia could achieve a stable prosperity which was not based upon that of the entire country. His program called therefore for equality and likewise for full protection for all social and territorial groups.

ENRIQUE RODRIGUEZ MATA

*Works:* *Escritos económicos* (Barcelona 1880), with an introduction by D. Adolfo Blanch.

*Consult:* Masriera, A., *De la Cataluña ochocentista* D. Juan Güell y Ferrer (Barcelona 1924); Graell, C., *Historia del fomento del trabajo nacional* (Barcelona 1911).

GUÉRARD, BENJAMIN (1797-1854), French historian. Guérard was student, professor and then director of the École des Chartes and custodian of the manuscripts in the Bibliothèque Nationale in Paris. He prepared for publication several chartularies of primary importance, the famous *Polyptique* of Abbé Irminon (2 vols., Paris 1844) and the *Polyptique de l'abbaye de Saint-Remi de Reims* (Paris 1853). Each of these collections is preceded by extensive and scholarly introductions, or prolegomena, which in

themselves represent the contents of several ordinary volumes.

In these works as well as in his "Explication du capitulaire *De villis*" (in *Bibliothèque de l'École des Chartes*, vol. xiv, 1852-53, p. 201-47, 313-50, 546-72) he laid the foundation for the history of landed property, of rural society and of French agriculture in the Middle Ages. The Carolingian period especially long occupied his attention. He was one of the first to set himself the problem of discovering what regulations of property were in force during this period in Gaul; he was also the first to attempt, by minute study of prices and of the value of money, to establish on a scientific basis the economic history of the Middle Ages, which up to that time had been reduced to crude generalities; he was the first to determine with accuracy the various modes of tenure of rural lands and their methods of cultivation, nor did he omit to study the social conditions of men of all classes who were engaged in improving these lands.

The prefaces to his chartularies extend his analysis of social life, especially rural society, back into the eleventh, twelfth and thirteenth centuries, particularly the life of the serfs and of a class of squatters, the *hôtes*, on whom he was the first to shed some light. He also studied with the same precision the condition of the clergy in the rural districts as well as in the cities and the condition of the lands which were set apart for their support. He contributed finally a host of new details, admirably put together, on the history of the administrative organization of both lay and ecclesiastical domains.

With an amazingly lucid intellect, stating nothing without immediately providing a proof, Guérard was truly an initiator. He was occasionally led on a little too far by excessive logic, but all that he wrote rests upon such firm foundations that even today whoever studies the history of mediæval society cannot afford to neglect his works.

LOUIS HALPHEN

*Consult:* Naudet, Joseph, in *Académie des Inscriptions et Belles-Lettres, Comptes rendus des séances*, vol. i (1857) 179-200; Wailly, Natalis de, "Notice sur M. Guérard" in Guérard, B., *Notice sur M. Daumou* (Paris 1855) 191-255.

GUERRAZZI, FRANCESCO DOMENICO (1804-73), Italian nationalist. Guerrazzi, a native Tuscan and from his youth a diligent patriot, was a dominant figure among the more democratic elements engaged in the Risorgi-

mento. The profound and widespread influence exerted by his historical novels in arousing patriotic fervor against foreign oppression established his prestige in nationalist circles and brought him into association with Mazzini. During the insurrections of 1848 he served as leader of the Tuscan democratic movement which sought by popular agitation to force the grand duke of Tuscany both to participate vigorously in the uprisings instigated against Austrian domination in Lombardy-Venetia and to grant a democratic constitution to his subjects. In the early part of 1849, following the flight of the alarmed ruler, Guerrazzi took the helm and inaugurated a thoroughgoing democratic government similar in ideology and in program to those set up by Mazzini in Rome and Manin in Venice. But the growing ascendancy of the democratic forces within the Risorgimento movement was soon halted. The defection of the Tuscan moderates in the crisis brought about by Austria's occupation of Tuscany and the return of the grand duke undermined Guerrazzi's social and political program and thwarted his leadership. His eloquent and able self-defense against the charges brought by the restored grand ducal government was futile, and in the period following his conviction his influence began to wane. Even after the enduring accomplishments of Italian nationalism from 1859 to 1861 Guerrazzi continued to play a secondary role. His intransigence in refusing to compromise with his democratic ideals involved him in a vain policy of opposition to Cavour and to the moderate constitutional party which had risen to power in the new kingdom.

PIETRO SILVA

*Works:* *La battaglia di Benevento*, 4 vols. (Leghorn 1827; new ed. Florence 1852); *L'assedio di Firenze*, 5 vols. (Paris 1836); *Isabella Orsini* (Florence 1844), tr. by L. Monti (New York n.d.); *Scritti storici e letterari*, 2 vols. (Milan 1862); *Apologia della vita politica di F. D. Guerrazzi* (Florence 1857); *Appendice all' Apologia della vita politica di F. D. Guerrazzi*, ed. by T. Corsi (Florence 1852); *Beatrice Cenci*, 2 vols. (Pisa 1851), tr. by C. A. Scott (London 1858); *Paquale Pauli* (Milan 1860); *L'assedio di Roma*, 2 vols. (Leghorn 1863-65).

*Consult:* Michel, E., *Fr. Dom. Guerrazzi e le cospirazioni politiche in Toscana dal 1830 al 1835* (Rome 1904); Guastalla, R., *La vita e le opere di Fr. Dom. Guerrazzi* (Rocca San Casciano 1903); Miniati, P., *F. D. Guerrazzi* (Rome 1927).

GUERRILLA WARFARE often accompanies struggles for national independence, partisan conflicts in civil wars, peasant revolts, race struggles and the invasion by armed forces of

backward regions. Brigandage, which springs up in response to conquest, weak political control or social injustices and has for its object robbery and plunder, is often a preliminary to guerrilla warfare with a broad program expressed in conscious principles of national independence, class liberty, territorial expansion or race emancipation. Guerrilla warfare is usually resorted to by the weaker side, unable to present organized army opposition, but it may be an adjunct of regular army warfare and under certain conditions guerrilla bands are recognized as legitimate belligerent forces. It is facilitated by extreme climatic conditions; by difficult mountain, swamp, desert or jungle terrain; by a sympathetic populace; by existing lawless conditions; by traditionally low standards of living, especially unsanitary conditions and the prevalence of diseases to which the *guerrilleros* are immune.

Guerrilla warfare was frequent during the Napoleonic wars. The fame of Minas, Empecinado, El Medico and other chiefs who harassed the French in Spain from 1808 to 1812 is perpetuated in popular operettas, or zarzuelas. When the French entered Moscow in 1812 Russian bands under Davidoff (author of the most famous textbook on this method of fighting) and others cut lines of communications, intercepted supplies, annihilated foraging parties and held small detachments close to barracks. Cossack guerrillas pursued Napoleon almost to Paris. The guerrilla operations of Hofer and the Tyrolese assisted materially in forcing Napoleon to evacuate Vienna after the occupations of 1805 and 1809. In 1806 Schill assembled irregular bands to harass Napoleon on his entry into Berlin. The Tugendbund and the Black Brunswickers continued guerrilla fighting until the tide turned against the French in 1813.

During the Franco-Prussian War of 1870 the francs-tireurs maintained guerrilla operations even after the Prussians entered Paris. The Mexicans carried on such activities after the Texans declared their independence and against the Americans during the invasion of 1847. Russian expansion into central Asia faced this sort of resistance constantly and from 1824 to 1859 serious guerrilla warfare raged in the Caucasus.

Wars for national independence have usually begun with guerrilla fighting or have included it as an important adjunct. The fighting of the minutemen of the American Revolution is an



instance. Free lance bands of nationalist Poles opposed Austrians and Russians, particularly in 1831, 1846, 1861 and 1863. Prior to the break up of the Ottoman and Austrian empires guerrilla warfare was almost endemic in the Balkans; the ultimate independence of Greece, Bulgaria, Rumania and Montenegro had been achieved in great part through this sort of fighting. The wars of the Italian Risorgimento likewise involved guerrilla fighting. Irish nationalists have often used guerrilla tactics.

Imperialistic enterprise is almost invariably confronted by guerrilla opposition. Racial and national sentiments are often involved, although in many cases no clear national consciousness has developed. Guerrilla warfare on both sides featured white conquest of the Indians of North and South America and in the Spanish colonial dominions led to consciously nationalist revolts. Spain faced many guerrilla uprisings in Mexico, which were sometimes under Negro slave leaders, had a definite racial basis and carried the slogan of extermination of whites. Generals Campos and Weyler were harried by the guerrilla tactics of Cuban insurgents.

The nomadic Bedouin is particularly given to guerrilla warfare. The French have had to fight repeated battles against the irregular Moslem *harka* of the African desert—in Algeria from 1830 to 1849 and in 1870, in Madagascar from 1884 to 1895, in Tunis from 1880 to 1882, in Morocco from 1892 to 1895, from 1923 to 1927 and in 1929—and against irregular Druse bands in Syria. Spanish and Italian forces have had similar difficulties in Morocco and Eritrea.

British forces in India have often been faced with raids, some of which were more than brigandage and had a definite nationalist tinge, e.g. the Pindari incursions of 1815 which spread over a great part of central India. The outbreak and the end of the Boer War were characterized by guerrilla fighting. The United States confronted the same problem in Aguinaldo's six-year struggle in the Philippines, Peralte's four-year struggle in Haiti and Sandino's three-year struggle in Nicaragua. At the height of Sandino's activities in 1928 he kept more than 5000 marines engaged.

Guerrilla fighting frequently appears in civil conflicts, as under Stuart, Forrest, Morgan, Mosby and Stoneman in the American Civil War. Huguenot bands harried the Cavaliers in the Cevennes, Catholic and loyalist elements conducted serious guerrilla fighting in Vendée

against the French Republic in 1793, the Francini and Trencks were famous in the time of Frederick the Great and many of the heroes of the Thirty Years' War (the Duke of Brandenburg, Prince Christian, Count Mansfeld and others) were little more than persistent *guerrilleros*. Carlists kept up an irregular insurgency in Spain from 1830 to 1840 and from 1872 to 1876. The fighting in many sectors of the Russian front after the Bolshevik Revolution of 1917 was conducted along guerrilla lines by both sides. Nearly all Latin American revolutions are featured by guerrilla fighting.

Peasant uprisings are frequently attended by such tactics. The peasant knows the countryside and its trails; he can readily return to his farm when things go wrong; he counts on widespread sympathy. The nationalist peasant revolutionists of Catalonia during the eighteenth century and both Catholic and peasant revolutionists in Mexico in recent years resorted to guerrilla warfare. The maraudings of Pancho Villa in the north and the *Zapatista* movement in the south of Mexico were largely conducted along such lines, although Emiliano Zapata entered Mexico City in 1914 with what was virtually an army. The centuries old Yaqui struggles in Sonora, the war of the castes in Yucatan during the middle of the nineteenth century and many eruptions in Nicaragua, Bolivia, Peru and Brazil, colored by racial antagonism, have been guerrilla in form.

Where such guerrilla revolts occur in imperial key centers, as in north Africa, the whole international balance of power may be affected. French and English operations in north Africa frequently aroused alarm in Italy and Germany. The Agadir incident was a forerunner of the World War; guerrilla operations in the Balkans, abetted on the one hand by Austria, on the other by Russia and elsewhere by Turks, prepared the way for armed conflicts on a more grandiose scale. After the World War Poles in the Ukraine, Rumanians in Bessarabia, Italians in Fiume, Young Turks in Asia Minor and similar guerrilla groups were important in revising national boundaries.

Various technical treatises have been written on the science of guerrilla warfare. The general conditions for successful operations which have been laid down are: an unassailable base (as in the cases of General Allenby in the Red Sea ports and Sandino in Nicaragua, with a backdoor in Honduras), a friendly population, a conventionally trained alien enemy too small

in force to dominate all areas from fortified points, the ability to be independent of ordinary arteries of supply, speed of movement, power of endurance and the possibility of frequently attacking small enemy detachments.

Thus the civilian populations often suffer more heavily than in regular organized army operations. *Guerrilleros* raid unprotected centers and the enemy severely represses pacific populations to counteract hostility. The German invaders of France in August, 1870, ordered the death penalty for all francs-tireurs and those who might aid them. Communes assisting the irregulars were to be fined an amount equal to their annual taxes. To put down the Catholic revolt in Jalisco from 1926 to 1929 the Mexican federal forces declared one third of that state a combat zone and all inhabitants who did not evacuate to be rebels.

The Brussels International Conference of 1874 attempted to lay down rules for irregular combatants. Irregular bands to enjoy belligerent status must be headed by a person responsible for his subordinates; all members must wear some distinctive emblem recognizable at a distance; they must carry arms openly and conform to the laws and customs of war. Although transcribed into the Russian army regulations during the war of 1877-78 these rules were not adopted until the Hague Conference in 1899. They were reaffirmed in 1907. Belligerents also include those who rise voluntarily at the moment of foreign invasion, although they may not have had time to become organized in the manner just described. These rules have been observed in cases of bands connected with regular army operations but have rarely been followed during invasions of colonial countries. Although Sandino in Nicaragua complied with them, the American forces classed him technically as a bandit.

With the invention of airplanes, light field artillery, machine guns and poison gas it is easier to cope with guerrilla activities than formerly. It is more difficult for armed bands to conceal themselves and their operations; they can be more swiftly attacked once they have been localized. On the other hand, since guerrilla operations now attract more general attention as a result of improved international communications, foreign opinion is brought more quickly to bear on cases where civil or international injustices have resulted in armed revolt. National and racial aspirations are better known to the world. Sandino's activities had more publicity value than actual military importance,

although a few years earlier Peralte's more prolonged resistance in Haiti attracted little attention. Colonial guerrilla warfare often prepares sentiment over large areas, as evidenced by the naming of public streets throughout Latin America after Sandino and the stirring of Moslem hosts from the Wad Draa to the Philippines as a result of the activities of the Riff guerrillas. The development of modern proletarian and liberal movements on a wide international scale provides a large audience ready to make foreign racial and anti-imperialist causes its own.

CARLETON BEALS

See: WARFARE; BRIGANDAGE; COMITADJ; TERRORISM; BELLIGERENCY; INSURRECTION; REVOLUTION AND COUNTER-REVOLUTION.

Consult: For HISTORICAL AND MEMOIR TREATMENT: Maquire, T. Miller, *Guerrilla or Partisan Warfare* (London 1904); Standing, Percy Cross, *Guerrilla Leaders of the World* (London 1912); Firth, J. B., "The Guerilla in History" in *Portnightly Review*, n.s., vol. lxxvi (1901) 803-11; Schönowsky von Schönwies, M., "Irreguläre Kriege" in *Strefleure österreichische militärische Zeitschrift*, vol. xlii, pt. iv (1901) 213-48; Gómez de Arceche y Moro, José, *Juan Martín, El Empecinado, la guerra de la independencia bajo su aspecto popular—los guerrilleros* (Barcelona 1888); "The Guerrillero" and "The Carlists" in *Blackwood's Magazine*, vol. clxiii (1898) 540-51, and vol. clxv (1899) 106-19; Funston, F., *Memoirs of Two Wars* (New York 1911); Great Britain, Army, Egyptian Expeditionary Force, *A Brief Record of the Advance of the Egyptian Expeditionary Force under the Command of General Sir Edmund H. H. Allenby* (2nd ed. London 1919); Sheean, Vincent, "The Story of Abd el-Krim" in *Asia*, vol. xxv (1925) 720-42, 797-801, 845-57, 878-85, 969-80, 984-88, 1071-79, 1108-15; Beals, Carleton, "With Sandino in Nicaragua" in *Nation*, vol. cxxviii (1928) 204-05, 232-33, 260-61, 288-89, 314-17, 340-41.

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GUESDE, JULES (Jules Basile) (1845-1922), French socialist. Guesde was born in Paris, the son of a boarding school master. As editor of the republican *Droits de l'homme* he was condemned to six months' imprisonment at the end of the Second Empire. He embraced the cause of the Commune and when it fell became an expatriate. In Switzerland he joined the anti-Marxist *Fédération Jurassienne*. He returned to France

in 1876, founded *Égalité*, a collectivist organ, and in 1878 was again condemned to six months in prison. Meanwhile he had shifted toward Marx' ideas and after the Congress of Marseille, which marked the triumph of collectivism, he founded the *Parti ouvrier* with a Marxist program and became with Lafargue and Deville the popularizer of Marxist doctrines in France. He published pamphlets, lectured throughout France and in 1893 became a deputy, retaining a seat until 1921. He attacked anarchism, possibilism and insurrectional Hervéism. In 1898 he opposed Jaurès, whom he reproached for associating himself with liberal intellectuals in the Dreyfus affair. Later he denounced Millerand's participation in the Waldeck-Rousseau cabinet of 1899 and defended his stand at national and international socialist conventions. After triumphing over Jaurès at the Amsterdam International Socialist Congress in 1904, Guesde led in creating the unified *Parti socialiste* in 1905.

Guesde considered the principle of the class struggle predominant throughout history; the proletariat is exploited by industry as the slave was by his master and the serf by his lord. Large scale industry increases the number of workers, who, like the bourgeoisie before them, should organize to bring about their revolution. The revolution would be accomplished not by parliamentary means (which, however, should be used for educational ends) but through mass action. The proletariat should demand reforms but should not expect them to lead to freedom, which, like the abolition of war, can come only after the destruction of capitalism. Collectivism is the first stage of socialism. For the ultimate establishment of collective property the proletariat must acquire power. It must refuse all collaboration with the propertied class and hence must take no part in the administration of the bourgeois regime. Guesde explained his participation from 1914 to 1916 in the *Union sacrée* cabinet, formed to conduct the war, on the ground that the circumstances were exceptional.

PAUL LOUIS

*Works: Le livre rouge de la justice rurale* (Geneva 1871); *Della proprietà* (Milan 1877); *Essai de catéchisme socialiste* (Brussels 1878); *Le collectivisme devant la 100 chambre* (Paris 1878); *La loi des salaires* (Paris 1879); *Collectivisme et révolution* (Paris 1879); *Le collectivisme au Collège de France* (Paris 1883); *Le programme du parti ouvrier* (Paris 1883); *Le socialisme au jour le jour* (Paris 1899); *Quatre ans de lutte de classe à la chambre, à vol.* (Paris 1901); *En garde!* (Paris 1911); *Questions*

*d'hier et d'aujourd'hui* (Paris 1911); *Çà et là* (Paris 1914).

*Consult: Zevaeas, Alexandre, Jules Guesde* (Paris 1929), and *Les guesdistes* (Paris 1911); Saposs, David J., *The Labor Movement in Post-War France* (New York 1931).

**GUGGENHEIM FAMILY**, American industrialists. The Guggenheim name is the principal one associated with mining and metallurgical enterprise on a world wide scale. The founder of the business dynasty, Meyer Guggenheim (1828-1905), was a Swiss-Jewish immigrant who came penniless to the United States and amassed a fortune in the best manner of the American success saga. In his fifties, after he had built up a substantial Philadelphia establishment importing Swiss embroideries he turned, largely through accident, to mining. But finding it unstabilized in its operations and risky in its returns he transferred his attention and eventually all his capital to smelting, which he felt could be reduced to systematic processing and could be made to yield steady profits. He established smelters not only in Colorado but also in Mexico where they would be readily accessible to Mexican silver-lead ore without the heavy burden of freight charges, and he established a refinery in New Jersey. In the entire process of building up his business power one of his principal resources lay in the possession of seven sons whom he trained in business strategy and through whom he retained a degree of control over his far flung enterprises that was impossible for most firms operating on the same scale. When the metallurgical industries were caught up in the consolidation movement of the nineties and the American Smelting and Refining "trust" was in process of formation (1899), the Guggenheims made control a condition of their adherence, and when that was refused they remained outside the trust as its chief competitor. The struggle that followed was fiercely and, at least on the part of the Guggenheims, brilliantly conducted. In the end the trust capitulated (1901) and a reorganization was effected that gave the Guggenheims control. Daniel Guggenheim (1856-1930) became chairman of the executive committee and Isaac Guggenheim (1854-1922) a member; five Guggenheims sat on the board of directors.

The enlarged scope of their operations gave the Guggenheims a chance to develop a complex but well articulated business policy which effected little short of a revolution in the industry. One phase of this policy was the integration

of the mining with the processing of metals under a single control. In the battle with the early trust the Guggenheims had been forced to reverse Meyer Guggenheim's original intention to stay clear of mining. To obtain control of a steady supply of ore for their smelting processes they had not only made financial alliances with mine owners but had formed a separate organization, the Guggenheim Exploration Company, mobile and flexible in its operations, and combining engineering with promoting functions. The reorganized American Smelting and Refining Company pursued this tendency farther. A number of affiliates were created which clustered about the central enterprise. Through them the various steps from the exploration of ore to the marketing of the finished product were integrated under a masterly if somewhat tortuous and baffling organization. The scheme combined operating autonomy with centralized financial control. Another phase of the policy was a decisiveness of operation and a grandeur of scale new in mining. Once a decision was made to exploit an ore field the proceedings moved rapidly and huge sums were spent in engineering construction. The Guggenheim exploits in the copper fields of Alaska and Chile stand out in engineering history. No less ingenious and magnificent were their feats of financial reorganization of enterprises the world over. But the most important phase of the Guggenheim plan was the way in which, through technological overhauling and the introduction of machine methods, they stabilized the processes of production and often reduced the margin of ore content that could profitably be mined.

In the three decades since the merger the Guggenheims have girdled the globe with an imperial organization of possessions, dependencies and protectorates over mines and mining operations. Their extensive properties in Mexico, Alaska, Bolivia, Chile, Angola and the Belgian Congo have given them an industrial power which has carried with it a degree of control not only over the economic prosperity but often over the political fortunes of those regions. Aside from their economic importance in their own country they have played an extensive part in the life of the nation. Meyer Guggenheim set his sons an example of philanthropic activity which they have consistently followed. At times they participated in politics, Simon Guggenheim (1867- ) having been senator from Colorado. Their labor policy, in the main an unimpassioned welfare capitalism, has been more a matter of

avowal than of fact. Evidence before the United States Commission on Industrial Relations in 1915 showed important discrepancies between Daniel Guggenheim's credo and his actual policy. But the family has shown an unflinching public spirit in the promotion of such matters as aviation, band concerts and fellowships for study abroad.

MAX LERNER

*Consult:* Lyle, E. P., "Ore Finders," "Founding the House of Guggenheim," and "Guggenheims and the Smelting Trust" in *Hampton's Magazine*, vol. xxiv (1910) 50-70, 256-67 and 411-22; "The Guggenheims" in *Fortune*, vol. ii, no. 1 (1930) 72-76; Richter, F. E., "The Copper-Mining Industry in the United States, 1845-1925" in *Quarterly Journal of Economics*, vol. xli (1927) 236-91, 684-717; United States, Industrial Commission, *Reports*, vol. xii (1901) 204-305; United States, Commission on Industrial Relations, *Industrial Relations: Final Report and Testimony Submitted to Congress*, 64th Congress, 1st sess., Senate Document, no. 415, vol. viii (1916) 7559-79, 7746-47.

GUICCIARDINI, FRANCESCO (1483-1540), Italian statesman and historian. A student of jurisprudence and a practising lawyer in his youth, Guicciardini began his political career in 1512 as a diplomatic representative from his native city, Florence, to the Spanish court. He occupied various responsible offices in the city magistracy and in 1516 entered the papal service as governor of Modena. In 1521 he was promoted to the post of commissary of the papal army, in 1524 to the presidency of Romagna. But after his disastrous failure as lieutenant general of the papal and Florentine troops in the war following the formation of the League of Cognac, his fortunes were eclipsed. Thereafter, while vainly attempting to regain political favor, he devoted his time to the composition of his major works.

His writings fall into two distinct although related groups, political and historical. The political writings, to which belong *Discorsi politici* (begun during his Spanish legation and continued throughout his active career), *Del reggimento di Firenze* (written between 1521 and 1526), *Considerazioni sui discorsi del Machiavelli* (written in 1529) and the collection of maxims entitled *Ricordi politici e civili* (written toward the end of his life), represent a modified form of Machiavellianism. He tempered Machiavellianism by a scrupulous adherence to the empirical method, a distrust of abstraction; he heightened it by a consistently realistic or cynical point of view, which contrasts with his predecessor's propensity to irradiate egoism with the light of loftier ideals. Guicciardini had no hesitation in con-

fessing that although he detested priests and was inclined to "love Luther as he loved himself" he nevertheless slaved for the popes to serve his private interests. His typical statesman, whom he conceived in his own image, may be looked upon as a product of the moral decadence and utilitarian spirit prevalent in an Italy which had abandoned all hope of regaining its ancient autonomy. The callousness with which his writings, particularly the maxims, dissect the psychological motives underlying political actions is matched only by their lucidity. What elements of idealism exist in Guicciardini take the form of a nostalgia inspired by the vestiges of ancient republican customs and the literature of Greece and Rome. But his dream of an ideal government, which he views as a composite of the monarchical, aristocratic and democratic forms, never intrudes upon his analysis of actual conditions.

As a historian Guicciardini wrote in his youth *Storia fiorentina*, treating the period from 1378 to 1509, and in his maturity *Storia d'Italia*, which begins with 1492, where Machiavelli's history breaks off, and concludes with the death of Clement VII in 1534. The supreme monument of sixteenth century Italian historiography, the *Storia d'Italia* fulfils Montaigne's wish that history be written not by litterateurs but by statesmen who have directly or indirectly participated in the events they narrate. With this qualification Guicciardini combines a freedom from partisanship and apologetic intent. In fundamental conception the work is entirely analytical and genetic despite its external chronological form. Its limitations are those of Guicciardini's interests as well as of all historiography of the time. *Storia d'Italia* is, in modern terms, a diplomatic history confined to a study of the intricate relations between the various powers, particularly France and Spain, who in Guicciardini's time were struggling for European hegemony on Italian soil. Concerning the life of the people and all questions of social, religious and moral conditions it maintains unbroken silence.

GUIDO DE RUGGIERO

**Works:** The first sixteen books of *Storia d'Italia* were first published at Florence in 1561; the last four, edited from the author's notes by his nephew, were published at Venice in 1564. The best modern edition of the whole work is that by C. Panigada, 5 vols. (Bari 1929). The other works mentioned in the text remained unpublished until the Canestrini edition of the *Opere inedite*, 10 vols. (Florence 1857-67).

**Consult:** Sanctis, F. de, *Nuovi saggi critici* (10th ed. Naples 1903) p. 201-26; Croce, B., *Teoria e storia della*

*storiografia* (2nd ed. Bari 1920), tr. by D. Ainslie (London 1921); Ruggiero, G. de, "Rinascimento, riforma e controriforma" in his *Storia della filosofia*, 2 vols. (Bari 1930) pt. iii; Otetea, A., *François Guichardin, sa vie publique et sa pensée politique* (Paris 1926); Barkhausen, M., *Guicciardinis politische Theorien in seinen opere inedite* (Heidelberg 1908); Gmelin, H., *Persondarstellung bei den florentinischen Geschichtsschreibern der Renaissance*, Beiträge zur Kulturgeschichte des Mittelalters und der Renaissance, vol. xxxi (Leipzig 1927) p. 39-76; Seligman, E. R. A., *Progressive Taxation in Theory and Practice* (2nd ed. Princeton 1908) p. 135, 239-40, 295-96.

**GUILD SOCIALISM** is that form of socialism which laid stress on the importance of industrial self-government and functional democracy. Agreeing with other schools of socialists that the means of production ought to be communally owned, the guild socialists favored workers' control as opposed to state management of industry. They contended that the administration of socialized industries and services should be entrusted not to government departments but to self-governing guilds or corporations consisting of all the hand and brain workers employed in each industry. They sought to realize this idea by influencing and strengthening the trade unions in the hope that largely from them might arise the guilds which they desired. They were not hostile to the political activities of labor and socialist parties but believed that economic power precedes and dominates political power and that the decisive battles of the working class can be won only in the industrial field. Parliamentary democracy they held to be a sham as long as great economic inequalities continue to exist. They repudiated for the most part the doctrine of state sovereignty, setting in its place a political pluralism which splits up ultimate authority in the community among several functional bodies.

In economic theory guild socialism was predominantly Marxist. Many of its advocates laid stress on the class struggle and put the abolition of the wage system in the forefront of their policy. They observed the concentration of capital in the hands of large corporations and set out to create new instruments for the control of industry on the basis of the working class movement. They insisted that the emancipation of the workers could be achieved only by the workers themselves and adopted the Marxist view of the state—that it is, in effect, the executive of the capitalist class. There were always among the guild socialists some who were not Marxians in this sense, including a small band of medievalists and Anglo-Catholics who stressed rather

the artistic and ethical implications of the guild doctrine. The writings of the guild socialists are Marxist in tone; in their propaganda, however, they stressed chiefly not this Marxist basis but their special interpretation of it in terms of functional self-government and of workers' control of industry, which they held could begin to be effected under capitalism and would serve as a gradual transition to a socialist society. Guild socialists differed about the state, some holding that it could be so reformed as to serve as a useful coordinating instrument in a guild society, while others held that the state as it is at present would disappear and its place be taken by a connected group of functional organizations representing producers and consumers.

The guild movement passed through several phases. From 1906 to 1912 what was originally a craftsmen's demand for the restoration of the mediaeval guild system developed into a demand for the creation of national guilds for the control of modern large scale industry. The protagonist of the early guild doctrine was the architect and former Fabian, A. J. Pentty. He was supported by A. R. Orage, also a former Fabian, who became editor of the *New Age* in 1907. In his first book, *The Restoration of the Gild System* (London 1906), Pentty attacked the dominant socialist doctrine of collectivism and called for the restoration of craftsmanship and industrial self-government through a revived system of guilds. According to Pentty and Orage the evils of modern society arose mainly out of the domination of the financial powers over the actual producer, with results disastrous for the quality of work and life. Their hopes in regulating the control of industry were already based on the growing power of the trade unions, which were regarded as the potential instruments of a coming system of guild control. The mediaevalist associations of the movement were strongly marked, as in the spelling of gild, which later became guild.

Orage with the collaboration of S. G. Hobson reformulated guild doctrine between 1912 and 1915 in the columns of the *New Age*. *National Guilds*, originally published in the *New Age* during 1912 and 1913, was the first systematic exposition of the new guild doctrine. The mediaevalist implications fell into the background; and partly under the influence of syndicalist and industrial unionist doctrines, then only becoming known in Great Britain, the guild movement began to appeal more and more directly to the trade unions, urging them to adopt an advanced industrial policy for the securing of

workers' control in industry. These were years of widespread disappointment over the tactics of the Labour party, which after the general elections of 1910 subordinated its own plans to the immediate task of keeping the Liberal government in office. They were also years of rising prices and, on the whole, falling real wages, which led to the great outburst of strikes and industrial unrest in the period immediately before the World War. Guild socialism thrived on these conditions, insisting that parliamentary action by itself was futile and allying itself with the new militant tendencies in the trade union movement.

It was not until 1915 that the guild movement assumed an organized form. In that year the present writer, who had become a convert to guild socialism some time earlier, joined a group, including most of the original guildsmen, which founded the National Guilds League as a propagandist body. The league was always small: even at the height of its influence it had not many more than five hundred members; but these included a considerable number of effective writers and speakers such as R. H. Tawney, Bertrand Russell, J. N. Brailsford, Maurice Reckitt, J. L. Hammond, Frank Hodges, George Lansbury and Lord Justice Slesser. It issued a stream of pamphlets of high literary quality and followed these with a monthly paper, the *Guildsman* (later the *Guild Socialist*). The members were active in writing books expounding guild doctrines and in contributing articles to newspapers and magazines as well as in providing speakers for labor organizations all over the country and skilled draftsmen for trade unions or other bodies which wanted their policies set forth in clear and cogent language. This last activity especially enabled them to wield an influence on the trade union movement quite out of proportion to their numbers. The new policies of socialization with workers' control adopted by many leading trade unions during and after the war were produced partly under guild socialist inspiration and with the help of leading guild socialists. Moreover, the conditions of industry in the war period seemed to make the guild doctrine highly appropriate. Shortage of man power greatly strengthened the trade unions; and wartime conditions of production caused constant friction in the workshops and led to a demand for workers' control. The guild socialists were able for the time to ride on the wave of this demand and their propaganda had wide appeal. Although no definite organization was effected outside of

Great Britain, except for a small branch in New Zealand, the propagandist literature issued by the league was translated and books were written on guild socialism in many languages.

In 1920 throughout Great Britain a number of building guilds were created, which entered into ambitious contracts for housbuilding under the government housing scheme. S. G. Hobson and Malcolm Sparkes were mainly responsible for drawing the building trade unions into this important venture. The government, which had in effect advanced the capital for the scheme, modified the conditions of its housing program in 1921 and 1922, compelling the guilds to find their own capital and credit. Unable to do this, the guilds attempted recklessly to carry on without the necessary resources and were brought to the ground. The National Building Guild, which had absorbed most of the local bodies, went bankrupt and only a few small guilds survived.

While the building guild movement lasted it greatly increased the influence of guild propaganda. Many trade unions linked up with the movement and were federated in a body called the National Guild Council, which was formed early in 1922 as an auxiliary to the National Guilds League. Small guilds were formed in a few industries besides building, including tailoring, men's furnishing and pianoforte making, some still surviving. But when the National Building Guild collapsed it dragged down the guild movement with it. The National Guild Council soon ceased to function as a separate body and a little later in 1925 the National Guilds League, with which it had been amalgamated, suspended operations and was dissolved.

Other factors besides the fall of the building guilds contributed to this collapse. For some time pronounced differences had been evident among the leaders of the movement. These first became serious after the Russian Revolution, which, welcomed by the majority, was strongly disapproved by a minority of guild socialists.

This difference did not cause a split; but soon afterward strong dissensions arose out of the currency theories of Major C. H. Douglas, who enunciated a "social credit" scheme designed to increase the volume of currency and to reduce the level of prices. The doctrine secured the support of Orage and of the *New Age* but was rejected by the majority of guild socialists. Although no actual split occurred, the guild propaganda became more diffused and contradictory and far less effective and the leaders were not wholly sorry when the fall of the building guilds afforded a good reason for bringing the organized life of the movement to an end.

Since the collapse of the National Guilds League there has been no guild socialist movement. But many of the ideas for which the guild socialists contended have been incorporated into British socialist thought and policy. Sidney and Beatrice Webb, for example, show the influence of these ideas in their book *A Constitution for the Socialist Commonwealth of Great Britain* (London 1920). Socialist ideas of nationalization have been profoundly modified, and it is now generally believed among socialists in Great Britain that socialized industries and services must be largely self-governing with an increasing measure of control allotted to the workers. The old notions of state sovereignty have also been amended and the idea of functional democracy commands a measure of support.

G. D. H. COLE

See: SOCIALISM; SYNDICALISM; DEMOCRACY; INDUSTRIAL DEMOCRACY; FUNCTIONAL REPRESENTATION; PLURALISM; STATE; GUILDS.

Consult: Hobson, S. G., *National Guilds*, ed. by A. R. Orage (3rd ed. London 1919); Cole, G. D. H., *Guild Socialism Re-stated* (London 1920), and *Self-Government in Industry* (5th ed. London 1920); Reckitt, M. B., and Bechhofer, C. E., *The Meaning of National Guilds* (2nd ed. London 1920); Penty, A. J., *The Restoration of the Guild System* (London 1906); Carpenter, N., *Guild Socialism, an Historical and Critical Analysis* (New York 1922); Elliott, W. Y., *The Pragmatic Revolt in Politics* (New York 1928) ch. vi.

## GUILDS

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|-------------------------------|--------------------|
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IN ANTIQUITY. *Ancient Mesopotamia and Pharaonic Egypt*. Specific information is yet to be found concerning the consolidation of trade and

craft into forms of organization transcending that of professional heredity within the family, either in Babylonia and Assyria or in pre-Hel-

lenistic Egypt. It is very doubtful whether the frequent mention in documents and monuments of "superintendents, secretaries" or "clerks" of goldsmiths, carpenters, masons, weavers, fishers, bakers and similar crafts really indicates the existence of associations formed on an autonomous basis. As would be true in the case of ordinary workmen these inscriptions may refer only to a bureaucratic organization of the artisans employed in state enterprises. Likewise the naming of city streets and squares after various trade branches and crafts does not in itself prove anything beyond the mere fact that a group of people engaged in the same profession had actually settled down in a certain neighborhood. It seems somewhat more likely that there existed at one time or another, at least in Babylonia and Assyria, merchants' associations of a local nature which performed certain administrative functions. There is no evidence, however, of any craft organization even in periods which were as highly developed economically as those of Chaldean and Persian rule. These negative findings are of importance to the problem of the origin of the very numerous guilds found on the soil of the ancient kingdoms during the Hellenistic period.

*Greece.* Associations of traders and craftsmen may have been known in Greece quite early, for even the so-called law of Solon mentions along with religious and industrial organizations those of the *emporoi*, or traders. Documentary evidence, however, of the existence of corporations of *emporoi* and *naukleroi*, or shipowners, in Athens and Piræus is not available for a period earlier than the end of the fifth century B.C. Not until the subsequent Hellenistic period does this evidence become more abundant on the mainland as well as on the islands and refer to the organization not only of merchants, shipowners and navigators but also of artisans and craftsmen in definite unions, more and more clearly differentiated according to profession. The basis in Greece for such organizations may have been on the one hand common professional interest and on the other religious and other motives. The religious and occasionally also the artistic and social character of these guilds is clearly visible in their external forms as well as in their internal structure. Thus the Greek guilds became an important factor not only in the economic but also in the social and cultural life of the time; and they further joined with other types of association in the pursuit of surreptitious political aims.

In the founding of professional corporations the principle of freedom of association was adhered to in countries where the Greek law prevailed. The concession system and the state confirmation of guild status were Roman innovations which took root only in later centuries. The organs of guild government were everywhere membership meetings and elected officers. The jurisdiction of each was, as with other types of association, clearly defined; and in accordance with the democratic principle the plenary session of the assembly had the final authority. It drew up the statutes, decided on the admission and expulsion of members, determined the ways and means for the attainment of economic and social aims, regulated the acceptance and distribution of work and exercised judicial functions. The growth of state influence at a later period was accompanied by an increase in the executive power of the officers (board of directors) and the gradual pushing into the background of the functions of the assembly.

*Egypt and Western Asia in the Hellenistic Period.* Extraordinary guild activity is one of the characteristic features of Hellenism; the same impulse finds expression also in the extensive organization of commerce, trade and industry. There exists especially full information about this period in the Greek papyri dealing with conditions in Egypt; inscriptions from Asia Minor and other countries on the eastern Mediterranean are also quite profuse. On the other hand, literary evidence unfortunately is very scarce and thus very little is known about the economic significance of the Hellenistic guilds, their influence on trade and industrial production or their share in the development of those institutions of commercial and naval law which through the mediation of Rome played so important a part in world commerce until far into the Middle Ages.

In Egypt even in the Ptolemaic period a distinction must be made between the autonomous associations of craftsmen and traders, which doubtless can be traced back to their Greek root, and those associations (of crown peasants, transporters, certain branches of stock breeders and stonemasons) which from the very beginning bore the earmarks of semigovernmental organizations, and which can perhaps in part be traced back to autochthonic public economic institutions. Both in Egypt and outside it the free corporations of the various professions were organized chiefly according to localities and cities; larger unions, except those of merchants which



often covered whole districts, were less frequent. Occasionally evidence of women guild members is found; foreigners, however, were admitted only to merchants' associations.

Roman rule was responsible in all the Mediterranean countries (Greece, Egypt, Mesopotamia, Asia Minor and so on) for an increase in the number of guilds and also for further specialization of production and division of labor. The common Greek basis in the organization of professional corporations does not, however, seem to have been affected to any appreciable extent by Roman influence during the first centuries of the empire. But during the Byzantine period, with the growing influence of the state, far reaching changes become apparent everywhere. It is impossible, for instance, to discover even in Egypt any continuity between the Ptolemaic semistate associations of certain professions and the Byzantine compulsory unions.

**Rome.** Professional corporations in Rome are not so ancient as would be indicated by the legend which ascribes the creation of *collegia opificum* to King Numa or Servius Tullius. The separation of the crafts from home industry came about gradually and at a later time. It is doubtful whether there were many guilds in existence in Rome prior to the Second Punic War; indeed even for the period of the later republic available material is still very scant. Not until the imperial period is there evidence of the existence of a great number of *collegia opificum* (*fabrorum, centonarium, dendrophorum, artificum, mercatorum* and *negotiatorum* throughout the empire. In general these *collegia* were organized very much like municipal communities (*municipia*) and therefore had frequently to adjust themselves to the fundamental changes in the organization of these latter which took place in the third century A.D. The organic basis of Roman guilds was a statute, *lex collegii*; in many instances the authority was centered for the most part in the *magistri, quinquennales* and the like, who were heading the guilds in the capacity of officers.

In Rome as elsewhere the relationship of the guilds to the state probably developed out of the principle of free association. Occasional interference on the part of the state during times of political unrest led under the principate to the concession system, which, however, was not applied consistently to the guilds. The granting of a concession per se does not seem to have vested the *collegium* with the rights of a juristic person (*corpus*).

The Romans with their genius for statecraft succeeded relatively early in enlisting the professional corporations in public services. As early as the end of the republic a close alliance is found between the *collegia fabrorum* and the municipal fire department. During the empire a similar tendency was manifested regarding the various professions providing the capital with food supplies from the provinces (*annona*). At first the responsibility for such undertakings rested on individual members of the guilds, who in return received various privileges from the government. The number of such individuals grew constantly; state service did not, however, exclude them from the conduct of private business. As early as the beginning of the third century A.D. there were certain *collegia* (*navicularii, frumentarii, boarii, pistores* and so on), whose members were nearly all actively engaged in government service. Obligations and privileges were now being transferred from individual members to their guilds. Here too the example of the municipal curiae was being followed, thus paving the way for the compulsory unions of the absolute monarchy.

During the Byzantine period the increasing and widespread subjection of industry to state control, the far reaching monopolization of trade and labor, the drafting of whole corporations as such rather than individual members for the performance of governmental tasks, gradually brought all organizations into the exclusive service of the state government. Thus the process of stagnation by which the guilds were converted into compulsory associations (*corpora, systemata*), already well under way in both the eastern and the western empire, was soon completed.

It is still an open question whether a bridge can be found linking the last compulsory associations of the Roman Empire to the mediaeval guilds of western Europe. So far as Germany is concerned there is probably no such link. With regard to Italy, however, where the existence of guilds even under the Teutonic rulers can be proved, at least a limited continuity should not be denied.

MARIANO SAN NICOLÒ

**LATE ROMAN AND BYZANTINE.** The opening of the fourth century A.D. brought with it the culmination of the process whereby the professional guilds of the Roman Empire were transformed from voluntary associations formed with governmental approval and encouragement into com-

pulsory public service corporations entirely controlled by the state. The members of the guilds thus came to constitute one of the hereditary castes into which the population of the empire was divided.

The guilds of Rome and Constantinople were called *corporata*, those in the provincial municipalities *collegia*. Their members were respectively *corporati* or *collegiati*. Practically all persons throughout the empire who were engaged in trade or commerce or who practised the various arts and crafts, apart from agriculture, were enrolled under compulsion in guilds corresponding to their occupations. The most important of these guilds were those which were concerned with the *annona*, or public distribution of food to the populace of Rome and Constantinople. In contrast with these, which engaged in business on a large scale and occupied a position of some social distinction, were the guilds of the laboring classes and at the bottom of the social scale those of the charioteers and actors. An important group of guilds was formed by the employees of the imperial mints, factories, mines and other industries. There is less information on the guilds of the municipalities than on those of the two imperial cities; but the general situation was similar, although the local associations were necessarily both fewer and smaller. Particularly prominent among them were the guilds which constituted the local fire brigades, the builders, woodcutters and rug makers.

The ultimate control over the guilds rested with the emperor, and imperial edicts regulated both the general status of these associations and the details of their internal organization. In Rome and Constantinople the city prefect exercised direct supervision over the guilds, watching over the performance of their public services and having authority to punish them for disobedience or neglect of duty. Throughout the provinces the guilds which ministered to the *annona* were under the control of the praetorian prefects, who acted through their subordinates, the vicars of the dioceses and the governors of the provinces. The municipal guilds carried on their public duties under the direction of the local councilors, the *curiales*, but administratively were subject to the *defensores civitatis*, who as representatives of the central government were subordinate to the provincial governors.

In order to maintain the numerical strength of the guilds at a level equal to the demands of the public services, the state rigidly applied to the *corporati* the doctrine of the *origo*, whereby

persons of all classes were compelled to meet their obligations to the state in the place of their birth. For the *corporatus* the guild was the *origo*, and the children of *corporati* had to enter the guild to which their parents belonged. Even if only one parent was a member of a guild, the children were still required to become *corporati*, assuming active membership on the attainment of their majority. For this reason intermarriage between members of different guilds was definitely restricted. As a result of these regulations the personnel of the guilds came to be composed primarily of the descendants of former members. Women as well as men were considered as belonging to the guilds even where they could not personally carry on the professional duties of the members. Other sources of membership were election by the guilds themselves of persons approved by the state officials, assignment to the guilds of suitable persons and in extreme cases judicial condemnation of individuals to specific guilds. The qualifications of new members included proper age and freedom from obligation to other public services. The names of all members were entered on a list called an album, copies of which were in the offices of the proper public officials. Slaves were not eligible to membership, although a guild might itself own slaves. Once a person was enrolled in a guild it was exceedingly hard for him to secure a discharge from it. Satisfactory tenure of all the guild offices, entrance into the ranks of the clergy with cession of property and special action by the emperor himself were the chief ways of obtaining relief. The *collegiati* were required to reside in respective towns, and anyone who tried to escape from his obligations was reclaimed by the guild with the aid of the public authority. Only those who escaped detection for fifty years were considered to have acquired immunity. In spite of these restrictions the members of the guilds ranked as free persons, legally competent in all private relations.

The public obligation for which each guild was liable rested upon the guild as a whole but was apportioned among the members according to their means. This burden was a *munus mixtum*; that is, it fell upon both the individual and his property. Hence no *corporatus* could withdraw his property from the public service. This liability passed with the property from one owner to another and any outsider who acquired liable property was required to join the appropriate guild.

The internal administration of the guilds is

not very well known but was under the close supervision of the state. Each guild had an assembly which assigned the public duties to the various members but was itself responsible for their performance. The guilds were juristic persons, possessing property which they used for the performance of their public duties and having a claim to inherit a share of the property of members who died intestate.

In return for their public services the state conferred upon the guilds certain privileges. In general they were exempt from extraordinary and degrading services, from undertaking the guardianship of children of outsiders, from military service, from municipal obligations and from the trade tax. Pecuniary compensation was given by the state in some cases, but this was not so much payment for services as reimbursement for expenses or losses incurred in carrying out specific tasks. The shipowners were honored with admission to equestrian rank and the officials of other guilds were likewise granted special titles of rank or other advantages. Since the guild members were allowed to ply their trades as best they might for their own private gain subject to the fulfilment of their public duties, the virtual monopolies of their respective occupations which they enjoyed were greatly to their advantage. No one could be a member of two trade guilds; secrets were therefore preserved and proficiency in the various crafts encouraged. Nothing is known, however, of the methods of training employed.

Under the crushing burden of the state's demands the guilds were reduced to a very precarious condition by the middle of the fifth century. The flight of the *corporati* could not be checked and the guilds were held together only by most stringent measures on the part of the emperors, who resorted to obligatory enrolment, the amalgamation of different guilds and similar drastic steps. These efforts, however, proved vain and the majority of the guilds in the west disappeared with the barbarian conquest. A few remained in Italy under the Ostrogoths and there is evidence of an isolated guild at Ravenna as late as the tenth century.

In the east the guild system survived but practically nothing is known about it from the time of Justinian to the tenth century. In Constantinople at the latter date dealers in all food-stuffs, merchants and manufacturers of silk and linen and such others as had important public services to perform were organized into guilds whose names show that they were the direct

descendants of the guilds of earlier date. It is uncertain, however, whether all trades and professions still had a similar organization. The guilds were under the strict control of the state, represented by the *praefectus urbi*. His approval was necessary for the election of new members and the appointment of guild officers. He controlled the private and public activities of the guilds in the interests of the state and the populace of Constantinople, fixing prices, profits and conditions of trade. But some important changes had come about. The guilds were no longer hereditary groups, the property of members was no longer bound to public service, enrolment was entirely voluntary and the obligations of the *annona* had vanished with its abolition. The fate of the Byzantine guilds from the tenth century to the fall of Constantinople is shrouded in darkness.

A. E. R. BOAK

EUROPEAN. The origin of the mediaeval European guilds may probably be found in the religious associations of Germanic antiquity. Guilds existed in the ninth century in the Carolingian empire and also in the Anglo-Saxon countries as associations for protection and defense. At the beginning of the eleventh century they appear in the growing cities in the form of organizations of merchants. The trade of that epoch was essentially a foreign commerce. Merchants grouped themselves into caravans and traveled from one market to another; these caravans selected their own chiefs and obeyed self-imposed regulations. In the Germanic countries they were called either *gilde* or *hansa*; in the Roman countries they were usually called *caritas* or *fraternitas*. Their members were under obligation to defend each other in legal disputes and their purchases were made from a common fund. The solidarity thus established during their travels often continued after the return of such merchants to their own city. As early as the middle of the eleventh century the guild of St. Omer had a permanent headquarters, the *Gildehalle*, where the members (*fratres*) assembled, and it maintained a fund to care for its poor and sick.

At first the merchant guilds were doubtless mere voluntary associations. From the twelfth century on they began to acquire the monopoly either of the entire trade of a city or of some branch of it. For instance, in Flanders the London Hanse was an association of guilds from several cities the members of which had acquired the exclusive right to carry on trade in England.

It is easy to realize that isolated individual merchants would not have been able to compete with the guilds and that on the other hand it was in the interest of the guilds to prevent such individuals from engaging in trade outside their home cities. The feudal lords and the cities soon acknowledged officially the position which the merchant guilds had acquired for themselves. A commercial monopoly which at the beginning was nothing but a mere fact thus became an acknowledged right. The merchant guilds included in their membership practically all the rich merchants of a city. Moreover they exerted considerable influence in municipal government. But one cannot on that account assume, as did certain earlier writers, that the mediaeval communes developed out of the guilds. Even in England, where they were more numerous than almost anywhere else, the guilds were nothing but commercial associations; they were vested with certain municipal functions but were never identical with the municipal administration. In many cities the merchant guilds retained their privileges to the end of the Middle Ages. In others after the social revolution of the fourteenth century they disappeared or survived only in a very much attenuated form. The development of craft guilds for the separate professions tended to split the older organization into many sections. Especially in England the craft guilds at first ordinarily remained subordinate parts of the Gild Merchant. Even this nominal control soon disappeared and the Gild Merchant survived as a functioning organization only in places too small for the division of professions into separate crafts.

Alongside the merchant guilds organized exclusively for commercial purposes there were growing up by the twelfth century group organizations regulating industrial activity, which likewise bore the name of guilds (or craft guilds) in England and in some of the continental countries, such as Normandy, Holland and part of northern Germany. In most European countries, however, they were commonly designated either by the Latin name *officium* or *ministerium*, by the French *métier* (cf. the English *mistery*), in Dutch by *ambacht* or *neering*, in German by *Amt*, *Innung*, *Zunft* or *Handwerk* and in Italian by *arte*. The craft guilds seem to have first appeared about half a century later than the merchant guilds. As early as 1100 there were a number of them in the region between the Seine and the Rhine and by the thirteenth century they had been organized in practically every city of north-

ern Europe and England. The craft guilds constituted an essential and characteristic feature of the industrial organization of the Middle Ages, and although they differed in detail in many respects, the common spirit and general traits which they exhibited prove that they must everywhere be considered as different manifestations of the same general phenomenon.

There have been many disputes— and the question is still an open one—as to their origin. It was first sought, in accordance with the general tendencies of most scholars at the beginning of the nineteenth century, in the *collegia* and the *artes* into which the city artisans of imperial Rome were organized. These institutions were supposed to have survived the Germanic invasions to blossom forth again in the twelfth century in the form of craft guilds. It has been impossible, however, to establish any proof of their survival north of the Alps, and all that is known of the complete extinction of municipal life in the eighth and ninth centuries definitely militates against such a conclusion. Only in those parts of Italy which remained under Byzantine rule throughout the Middle Ages, such as Rome and Ravenna, does it seem likely that certain vestiges of the *collegia* of the empire were preserved. But this is a phenomenon of merely local significance and of too little importance to be linked to so powerful and universal a movement as the organization of industrial guilds.

The attempt to trace their origin to the domestic organization (*Hofrecht*) has not met with any greater success. It is true that there were on the large domains during and after the Carolingian epoch groups of all sorts of artisans—bakers, brewers, blacksmiths, weavers and so on—recruited from among the serfs who worked for the benefit of the lord under the supervision of overseers whose duty it was to organize their work. But it has been impossible to prove, as would be necessary to the theory, that during the period when cities were developing such artisans received permission to work for the public, that freemen joined with them and that little by little such groups, servile in origin, became transformed into craft guilds. On the contrary, it would seem that in many places groups of domestic artisans continued to exist for a considerable time alongside the craft guilds—sufficient evidence that the latter developed independently of the former.

Most modern scholars look to the free association of artisans as the most rational explanation of the origin of the industrial guilds. The urban

workers must, in short, have followed the example of the merchants. They similarly united into separate groups on the basis of profession or craft to secure for themselves mutual aid and support. It is certain that from the end of the eleventh century groups of artisans were united in religious brotherhoods, and it does not seem improbable that these brotherhoods aimed also at the economic protection of their members. The advantage of joint action to withstand the competition of foreign artisans was too obvious not to have forced itself upon the attention of such groups.

Important as was this free association of artisans to the development of the craft guilds, it must not be allowed to obscure the part played simultaneously by the exercise of public authority. In accordance with the Roman tradition the political rulers of the Middle Ages exercised the right to subject economic activities to their control. The Carolingian capitularies reserved to the emperor the supervision of weights and measures, the regulation of markets, the minting of coins, the administration of taxes; in other words, control over the dues levied on the circulation of commodities. The rapid decline of the royal power in the ninth century did not fundamentally change this situation. The feudal lords continued to exercise a similar power for their own benefit. The taxes and fines which they levied furnished them with a source of income that became more and more abundant with the revival of commerce, which in the course of the eleventh century led to the formation of the first urban agglomerations. The policing of the markets and the establishment of legal jurisdiction over them were bound to result at a very early stage in the development of rudimentary systems of regulations. The greater the influx of artisans to the increasingly numerous cities and the greater the variety of crafts set up, the more the castellan or the mayor who represented the territorial lord tended to subject their activities to his authority. It would be wrong, however, to believe that this was done with no other end in view but financial exploitation. No doubt dues were everywhere exacted from those who sold in the market or in their homes, but it is also probable that a certain amount of supervision was undertaken with a view to protecting the consumer against the rapacity of the producer. This was certainly the case in regard to the supervision of weights and measures. In addition, in the episcopal cities the bishops attempted to apply the principles of Catholic morality, estab-

lishing for all sellers a *justum pretium* which they could not exceed without being guilty of sin.

The available source material is too limited to make possible a reconstruction in any detail of the system by which the industry of that remote epoch was regulated. More precise information is to be had for the period beginning with the twelfth century; that is to say, with the appearance in the cities of communal organizations headed by magistrates selected from the bourgeoisie and devoted to the protection of their interests. The magistrates, the counselors or the jurors who exercised the municipal power seem at this time to have been responsible for the procuring of food supplies for the inhabitants. Although no regulations promulgated in that period have been preserved, it is certain that they did exist. The majority of them no doubt were concerned with the supplying of the city with foodstuffs and with trade in foods. At a very early stage, however, control must have been extended also to various industrial products necessary to the existence of the citizens. In Flanders in the second half of the twelfth century the magistrates promulgated ordinances which referred not only to bread and wine but to other commodities as well (*in pane et vino et ceteris mercibus*). Now it must have been impossible to legislate in regard to products without legislating at the same time in regard to the producers; without, that is, subjecting them to a supervision designed to insure the quality of the commodities offered for sale and without punishing them with fines or various other penalties in case of transgression. This development can be clearly seen in the records of the German town of Hagenau, where in 1164 the butcher who sold unwholesome meat or the baker who baked loaves too light in weight was expelled from the community of his fellows and by this very act deprived of the right to continue the exercise of his profession (*pro pena a consorcio ceterorum separatur*). If that was the case in Hagenau, a comparatively unimportant town, it is safe to conclude that the same situation existed and with greater force of necessity in cities which were richer, more populated and more advanced in their economic development.

The text of the records of Hagenau mentions a consortium of butchers and one of bakers. This expression clearly indicates the existence from that time on of distinct professional groups. The same document reveals that each of these groups was headed by a chief (magister) nominated by the mayor (*scultetus*) of the city and that

a similar organization was to be found even in such insignificant places as Hochfelden and Swindratzheim. It is thus possible to conclude that in the middle of the twelfth century throughout western Europe the division of urban artisans into publicly regulated professional associations was normal and universal. Each of these associations had a monopoly in the exercise of its profession. A number of documents have been preserved which prove incontestably the early existence of craft guilds and show something of their structure. In 1162 Louis VII of France, while placing a magister in charge of the bakers of Pontoise, guaranteed to them the exclusive right of preparing bread for sale, at the same time denying it to the millers and fullers, who had theretofore been in possession of the right. In 1099 the weavers of Mainz, in 1106 the fishers of Worms, in 1128 the cordwainers of Würzburg, in 1149 the blanket weavers of Cologne, were officially recognized groups. In Rouen at the beginning of the twelfth century the tanners were organized in a guild to which it was necessary for all those who wished to practise the trade to belong. In England references to the existence of craft guilds in Oxford, Huntingdon, Winchester, London and Lincoln are found for the period of Henry I (1100-1135) and after that time the institution spread rapidly to other cities. No records of equal antiquity have been preserved for Flanders, but it is impossible to believe that this country, where beginning with the twelfth century industry was more flourishing than in any other country of northern Europe and where craftsmen's associations were later to become so numerous and powerful, had no craft guilds at the time when they were first appearing in Germany, France and England.

It is thus apparent that beginning with the eleventh century the municipal authorities regulated the industrial activity of the cities through a division of the artisans into as many groups as there were distinct professions. Each of these groups received the right of reserving to its members the practise of a profession. The craft guilds thus constituted essentially privileged bodies; they were based on protectionism and exclusiveness and represented a system as remote as possible from that of industrial liberty. This very monopoly character was designated in England by the name of *gilda*; in Germany by the word *Zunftzwang* or *Innung*.

The value of the industrial regulations of the guild system to the consumers, who were in need of protection against fraud and falsification, is

easily seen. This end could have been achieved, however, by simple and direct supervision. If the grouping of artisans in associations for better control over their activities was natural, it is difficult to see any advantage for the consumer in the monopoly of their professions given the craft guilds. On the contrary, it would seem that this privilege in limiting the freedom of the consumers must have constituted for them a real disadvantage. In truth, it benefited only the producers, who were thus freed from all competition. The privilege in all probability was granted in response to their demands, for it would be difficult to explain it except as a concession by the legal authorities.

The earliest of the *fraternitates* or *caritates* organized by the city artisans doubtless not only aimed at mutual aid but also attempted to boycott foreign competitors. But these voluntary unions possessed no legal rights as against such competitors. In this respect their position with regard to non-members was exactly the same as that of the older merchant guilds. In time therefore they found it necessary to attempt to secure the right to coerce those artisans who refused to join with them either to abandon their professions or to accept guild membership. It is not difficult to understand why the public authorities acceded to this desire, for the guilds were willing to pay for the concession which they asked. In England the craft guilds paid annual dues in return for the industrial monopoly which they received from the crown; in Germany also the *Zünfte* of numerous cities were for the same reason liable to the payment of various kinds of dues or services.

The origin of the craft guilds can now be explained as the result of two factors acting simultaneously: legal authority and voluntary association. The two originally contradictory tendencies merge at the moment when the authorities officially recognize the workers' associations as compulsory, in reserving to their members the right to devote themselves to a particular branch of industry. The craft guilds can therefore be defined in essentials as privileged groups of artisans endowed with the exclusive right to practise a certain profession in accordance with regulations laid down by public authorities.

In many cities the nature of the craft guilds remained conformable to that definition. It is completely erroneous to believe that the guilds everywhere enjoyed complete autonomy with the privilege of self-government and self-control. Without doubt they were consulted in re-

gard to the technical regulations imposed upon them, and the supervisors responsible for the observance of such regulations were selected from among their own members. But it was the municipal authorities alone who had the right to legislate in regard to them and to appoint their chief officers. Wherever this was the case, they never became more than simple compulsory industrial groups functioning under the control of public authority. In this sense the German word *Amt*, which means function, characterized them exactly. In a city as active as Nuremberg, for example, the guildsmen were always markedly subordinate to the municipal council (*Rath*), which even refused to allow them to meet without authorization and forced them to submit to it all correspondence with artisans from foreign cities.

On the other hand, a very powerful movement toward independence developed in most of the cities of western Europe. In northern France, in the Netherlands, on the banks of the Rhine—in other words, in those regions where city life had developed earliest and most completely—the craftsmen's associations claimed a degree of autonomy which frequently led to conflicts not only with the public authorities but among themselves as well. The associations formed in the eleventh and twelfth centuries, far from disappearing after their official recognition, came to represent ever more clearly the solidarity of interests and claims of the different professions, until each of them formed a little industrial commune within the municipal commune. Beginning with the first half of the thirteenth century they claimed the right of self-government, the right to assemble and discuss their interests, the right to possess a bell and seal and even to participate in the conduct of the municipal government along with the rich merchants who were in control. In Rouen in 1189 the attempts of the artisans' associations seemed so formidable that they were deprived of a large part of their autonomy. Similar action was taken, to mention only a few examples, at Dinant in 1255, in the majority of Flemish towns and at Tournay about 1280 and at Brussels in 1290. This opposition, however, did not result in their destruction. In the course of the fourteenth century the craft guilds succeeded in obtaining the right to nominate their own senior officers or their jurors, to be recognized as judicial bodies and to share with the rich merchants in the conduct of the municipal government. In certain cities, as in Liège, their triumph was so complete as to put

them in complete control of the city administration, which after 1384 was headed by a council consisting of representatives of the thirty-two crafts of the city.

The achievement of political power by the craft guilds, which certain historians have rather inaccurately called a democratic revolution, made the municipal administration dependent on the frequently conflicting interests of these privileged bodies. The generalization may safely be made that the more effective the participation of the crafts in the municipal government, the more unstable the government became. This development can be clearly seen in cities like Ghent or Liège, which finally fell almost into a condition of anarchy. To reestablish order it was necessary to take from the craft guilds the autonomy which they had abused and to reduce them to the state of mere professional associations. This Charles V did in Ghent in 1540 and the bishop Ferdinand of Bavaria in Liège in 1649.

If the craft guilds differed considerably in degree of internal autonomy and political influence in various regions and cities, they were, on the other hand, everywhere markedly similar in their economic organization. In its fundamental traits the guild system was everywhere the same and everywhere it constituted the most striking feature of mediaeval urban economy. Like this economy in general it was distinguished by a spirit of extreme protectionism. Its principal aim was to protect the artisan not only against competition from other cities but also against the competition of his fellow workers. It gave him exclusive access to the city market and at the same time attempted to prevent any member of the profession from enriching himself at the expense of the others. It was largely for this reason that the guild regulations imposed with ever increasing minuteness techniques which they rigorously attempted to keep the same for all; for this reason that they established working hours, wages and prices, prohibiting advertising of all kinds, determined the number of tools and of individuals to be employed in each shop, appointed supervisors responsible for constant and inquisitorial inspection. In brief, they attempted to create a condition of complete equality for each member. The guild system thus secured the independence of the individual through strict subordination of all. The privileges and monopoly which the members of a guild enjoyed had as their counterpart the annihilation of all personal initiative. No one was allowed to injure another by improving the methods of production in such

a way as to allow him to produce more rapidly and at less cost. Technical progress was seen as disloyalty. The ideal was stability of conditions in a stable industrial organization.

Such a system since it largely prevents fraud undeniably does insure a high quality of product, and in this respect it benefits the consumer. It is evident, however, that the chief concern is the profit of the producer, who dominates a closed market. Emphasis on professional exclusiveness becomes increasingly evident in the later Middle Ages. Each corporation tended to restrict the enjoyment of its monopoly to an ever more limited number of persons. Many guilds even attempted to make membership hereditary. It is not surprising to find that beginning with the fourteenth century in many cities considerations of general welfare led the public authorities to attempt to substitute for the privileged industrial guilds a regime of freedom of industrial activity. An ordinance issued by Charles VI of France in 1358 clearly had such an object in view; similar attempts were made about the same time in Vienna and in the fifteenth century in Lüneburg and elsewhere. But at the time such reforms ran counter to too many interests to be successful. The craft guilds continued to exist in spite of constantly growing criticism until the end of the *ancien régime*. After the beginning of the sixteenth century their economic importance was continually reduced by the progress of the capitalistic industry which was growing up outside their sphere. They strove for a time to preserve at least their monopoly within the city walls. Yet their exclusiveness became more and more incompatible with the new economic conditions. By the eighteenth century in England the guilds had lost most of their former prerogatives and what remained were definitely abolished by the laws of 1814 and 1835. In France in 1776 Turgot abolished all but four of the existing guilds in favor of the principle of freedom of association; his action was effective for two years only, but in 1791 the guilds were completely destroyed by the revolution. Prussia and the other German states forced the disappearance of the last vestiges of the guild regime at the beginning of the nineteenth century. By the time of their legal abolition the guilds had lost all vitality and were characterized by a completely reactionary spirit. The opinion of scholars has differed, but it does not seem likely that the guilds influenced in any significant fashion the formation of modern trade unions or syndicalist organizations.

From an economic point of view the guild system was clearly anticapitalistic. With no place for individual initiative or the entrepreneurial spirit it was incompatible with the capitalist idea of profit making. It made it impossible for the artisan to reinvest his savings or his profits in business, since its volume was prescribed by the guild regulations.

On the other hand, there had developed in each guild a hierarchy of groups: masters, apprentices (*Lehrlinge*) and journeymen (*Knechte*). The masters, the dominant group to which the two others were subordinated, were chiefly small proprietors, owners of the raw material and of the tools which they used. The apprentices were initiated into the trade under their direction. The journeymen were workers who had completed their apprenticeship but had been unable to attain the rank of master. From the beginning the number of masters was restricted; no one could become a master without satisfying certain conditions—such as the payment of dues, legitimate birth and affiliation with the local bourgeoisie—which made the acquisition of the status rather difficult. After the fourteenth century accession to the mastership became more and more complicated and difficult of achievement. Indeed in most cities it tended to become a privilege reserved to those belonging to the families of the existing masters. The period of apprenticeship also was prolonged and its termination came to require the passing of increasingly difficult tests, at least for a candidate not related to a master. As to the journeymen, their position grew continually worse. It is true that they frequently lived with the master, were in close relationship to him and were directly associated with his work. But as the class of masters became more exclusive and consequently less accessible to the journeyman, marked antagonisms developed between the two groups. In certain cities in the fourteenth century and again in the fifteenth and sixteenth the journeymen attempted to seize control of the guild organization. Elsewhere they formed associations of their own, built up treasuries and organized strikes (see JOURNEMEN'S SOCIETIES). On the whole the position of the journeyman tended progressively to become that of a mere wage worker.

The great majority of the craft guilds worked for a purely local trade. In general they had no other clients than the bourgeoisie of the cities in which they were located. But wherever an export industry existed, such as the cloth industry in the Flemish cities or in Florence, very different con-



ditions developed. In such cases the masters, themselves without the resources necessary to procure raw material, came under the domination of the capitalist merchants, who supplied them with wool. The cloth which they manufactured was then returned to the merchants, who sold it. The producer-artisan thus found himself in a situation closely resembling that of modern industrial homeworkers. Fortunately for him the guild regulations protected him against the abuses of a sweating system. But they could not protect him against the crises and the unemployment resulting from the fluctuations suffered by all the export industries through war, loss of foreign markets, competition and similar eventualities. On the whole the craft guild system was really well adapted only to local industry and especially to the supplying of the cities with food. Beginning with the fourteenth century the inadequacies of the system to meet the needs of export industries are apparent. In Flanders in the fifteenth century the cloth industry was declining in all those cities where the guild system was dominant. The development of capitalistic industries, beginning with the sixteenth century, took place outside the craft guilds either by their removal to the country or through the creation of privileged establishments whose freedom from interference was guaranteed by the state. The period of nascent capitalism was also the period in which the guilds continued to exist only as the result of privileges and monopoly already won, which the public authorities still respected out of a tolerance for acquired rights. By the seventeenth century the state was in many cases seeking to adapt the guild system to the needs of national industry. In France Colbert attempted to bring the guilds under his supervision. But in spite of all such attempts at adaptation the institution remained refractory to the progress of capitalism, which finally brought about its disappearance. In conclusion, the guild system must be recognized as the only source of protection to the worker before the period of social legislation in the nineteenth century and as an institution which at the height of its development assured the craftsman an existence as satisfactory from the economic as from the social point of view.

HENRI PIRENNE

ISLAMIC. Guilds developed in Moslem countries in the ninth century A.D. They did not derive from Moslem law but were an outgrowth of the unusual economic progress made in this

period by the great caliphal cities—first Bagdad, then Basra, Aleppo, Damascus, Alexandria, Cairo, Rey, Isfahan, Hamadan, Merv, Samarkand and Balkh. This advance was occasioned not by technical invention but by favorable political circumstances and was characterized by the concentration of both capital and labor. The concentration of capital was due to the creation of a caste of exchange bankers, at first Christian and later Jewish, close to the ruler in Bagdad and able to supply him with metal money; the concentration of labor was the result of the colonial slave raids subsidized by these bankers, under the pretext that they were "holy wars," in order to furnish labor for the workshops in the towns and for the plantations.

From their beginnings the Moslem guilds presented novel features, and although they were undoubtedly influenced by the ancient local Byzantine and Sassanian guilds they were by no means a mere revival of them. The Moslem guilds were rather evidence of the violent social reaction of the vast herd of workmen, laborers and peasants against the conquering class which had collected and enslaved them. Among them were shepherds and boatmen from the canals of lower Mesopotamia side by side with small artisans of Aramean, Iranian and Coptic origin who had become as converted Mohammedans the "clients" of the conquering Arab tribes and had settled beside their *jund* or fortified camps located at strategic points throughout the empire.

The history of the guilds is closely connected with that of the Karmathian movement, the great social, political and religious upheaval which swept the Moslem world between the ninth and twelfth centuries. The Karmathians developed a vast Masonic society, which was extended among the merchants, peasants and artisans and which developed and diffused guild organization. Although a majority of non-Arabs and even non-Mohammedans were admitted to membership, their revolutionary activity cannot be regarded as racial and anti-Arab, as certain historians have held, for their purpose was not to destroy Arab rule and to revive the old nationalities and the ancient religions but rather to establish equal administrative and social justice for all while preserving the unity of a truly international Islam. This tendency had already evidenced itself from 868 to 883 in the revolt of the Zanj slaves of Basra, who, scarcely Mohammedanized, demanded liberty and equality under the leadership of an Alide. The movement, systematically diffused by the interconfessional

Freemasonry of the Karmathians, won a decided victory when an analogous legitimist conspiracy resulted in 909 in the proclamation of the Fatimite caliphate, which soon gained control of Cairo and which officially recognized the existence of the guilds, their franchise and their legal autonomy.

In the eleventh and twelfth centuries the guilds (*ahl al-futuwa*, *fiṭyān*), promoted by Fatimite agents, spread throughout the entire Moslem world. This situation was, however, short lived, for the guilds were weakened by dissensions between rival initiations (Rahhāsiya, Shāhāniya, Khaliliya, Mawlūdiya, Nābāwiya), which were probably the results of the dynastic schisms of the Fatimite caliphate; and purely immoral guilds of thieves and forgers, like the Banū Sāsān, terrorized the workmen. When the Fatimite dynasty, which protected the guild movement, collapsed, the authoritarian reaction of the Sunnite states which followed definitely brought the development of the guilds to an end by subjecting them to the severe control of an orthodox urban police, the *hisha*, an institution derived from the early canonical doctrine of the caliph's right to regulate the morality of the markets. It was revived by the state in the twelfth century for the purpose of curbing the guilds which were suspected of Karmathian and revolutionary tendencies and it practically ended the period of independent guild activity. This repression was the work of Saladin in Egypt and Syria, of the Seljuks in Anatolia, where guild insurrections continued to occur in the fourteenth and fifteenth centuries, and of the Mongols in Iraq and Persia. Spain, where the guilds appear never to have demanded autonomy, in the fourteenth century adopted the police regulations of the *hisha* and transmitted them to Maghreb when the Andalusian guilds spread to that region, to Morocco in the fourteenth century and to Tunis in the seventeenth. For four centuries the Mohammedan guilds vegetated, further hindered by the lack of advance in technical processes, for the police repression allowed only the artisans "in attendance at the court" to prosper; that is, the purveyors to the sovereign, who had a monopoly of his orders. Nevertheless, for centuries guild organization persisted in most of the crafts, trades or professions. Its prevalence is indicated by the fact that about 1640 at Istanbul there were about 1100 guilds centralized around the great bazaars, known as the Bezestān 'atīq, Sandāl Bezestāni, Mīsr Tchārchisi, Yēni Tchārchī, Ūzūn Tchārchī, Esir Tchārchisi,

Tāwūq Bāzāri; in Cairo in 1798 the guilds occupied twelve great bazaars (*khāns*), about eighty markets (*sūqs*) and from 1200 to 1300 stores.

The Moslem craft guilds which had originated as democratic organizations always retained this character. They never went through a process of stratification as in the west. Membership in certain guilds, such as those of the bankers and of dealers in precious metals, was confined to the Jews and Christians since they alone were allowed to engage in such pursuits. Various terms are used to designate guild: *sinf* (pl. *asnaf*) was the name used in Persia, the Punjab and the entire Ottoman Empire; *hanta* (pl. *hanātī*) was employed only in Morocco. The common name for guilds, however, is *naqābat*, which means *syndicates*. Their functions are the regulation of the craft or trade, the retention of trade secrets, the fixing of fair prices and the maintenance of standards of workmanship.

Each guild contains masters (*mu'allim*), journeymen (*Khalifa*, *muta'allim*), workmen (*samī*) and apprentices (*muṭtadī*). The apprentice becomes a master in a semi-Masonic ceremony, in the course of which a sash or some piece of material is knotted around him after he takes a solemn oath. The ceremony is followed by a banquet. For the last forty years this ritual has tended to disappear even in Persia. The president of the guild (*naqīb*, *pīr*, *amīn*, 'Arif'), who is either chosen by the members with the consent of the government official in charge of guilds (*muhtasib*) or appointed by him, has considerable authority over the members. In important matters, such as the fixing of prices, he must, however, consult with this same official. The president acts as the representative of the guild in all public affairs, sees that the code is strictly observed and arbitrates differences between members, who may appeal from him to the court of the *qāḍī*. This court also renders decisions in disputes between two or more guilds. In some of the Moroccan guilds, where Berber influence is very strong, representative councils take the place of the president in directing guild activities. The president together with two members of the guild regulated guild affairs in Turkey before 1924. Where the guilds are very weak the president is a mere intermediary to carry out government orders.

Every guild has a traditional custom by which it is regulated. This custom is usually written in small record books, catechisms of initiation (*Kutub al Futuwa*), containing questions and answers. The ceremonies which they described

and which the Moslem congregations borrowed from them are mentioned by historians after the middle of the twelfth century, and one of these catechisms of the year 1290 in a Turkish dialect has been found by Babinger. Thorning has translated some belonging to Arabs from Egypt and Syria; Gavrilov, Likochine and Samoïlovich have published some from Turkestan and Massignon has translated some from Persia.

The Moslem guilds never attained a political influence comparable to that of the mediaeval European guilds. There are, however, indications that the guilds were important political factors from time to time. Under the Fatimites they were sufficiently influential to have their own courts. The "bankers of the court" (*juhābidhāt al-Ḥaḍra*) played an important role at Bagdad from 908 to 940 and there were guild insurrections even as late as the seventeenth century at Istanbul.

In the course of the nineteenth and twentieth centuries the excessive large scale importation of European manufactured products and the introduction of machinery and European industrial organization succeeded in destroying the old Mohammedan guild forms without much difficulty. In a number of places the guilds still persist, although they are rapidly disappearing; in French north Africa the Moslem guild organization exists officially only in Tunis. While in the Occident there elapsed a century, during which a great advance of mechanization took place, between the disappearance of the mediaeval trades and the creation of the first modern *syndicats*, in the Orient these two social phenomena took place almost simultaneously; at Damascus the guilds studied by Qudsi in 1883 gave way to the *syndicats* well before 1927, the year in which the latter were studied by Massignon; at Bokhara the transformation took place between 1918 and 1924. In Turkey prohibitive laws tended to suppress the old *syndicats* (*guedik*) until 1924.

LOUIS MASSIGNON

INDIAN. The question of how far the term guild can accurately be applied to the associations of merchants and artisans of ancient India is a controversial one. There is no doubt, however, that even in the remote past Indian industry and trade assumed a form and were conducted by methods closely resembling those under which the guild system developed in the West, and that persons following the same trade or industry grouped themselves into associations

which amongst wider social and religious functions regulated the economic life of their members. These associations, which secured social and legal recognition of their status, rights and activities and possessed a true corporate existence, may conveniently and appropriately be called guilds. Their rise, development and decay in India as elsewhere were intimately connected with the general development of industry and trade. A precise parallel with the history of European guilds is, however, impaired by India's peculiar type of social organization, which involves a stronger theocratic bent and above all the crystallization of class into caste. Accordingly authorities have differed about the nature of Indian guilds, some seeking to emphasize and others to blur the contrast with the European system. The recent revival of interest in Indian institutions and corporate life has, however, led both to a more accurate study of the ancient texts for material and to more detailed inquiries about existing institutions.

The origin of Indian guilds is lost in the obscurity of the remote past; early Hindu and Buddhist evidence, however, refers to local bodies of this type. Their existence can be definitely traced to about 600 B.C., the beginning of the Buddhist era; and since at that time they had considerable influence and importance, it may be inferred that they originated much earlier. By the beginning of the seventh century B.C. Indian society was sufficiently settled to enable the development of that degree of specialization of occupations and function necessary to the rise of such institutions as guilds. There was considerable subdivision of labor, and numerous separate crafts and special classes concerned respectively with trade, usury and other commercial activities had been formed. The extent of the localization of industry in towns and in streets was remarkable. The *Jātakas* mention no fewer than eighteen separate trade guilds, four of them by name.

During the Buddhist era from 600 B.C. to 300 A.D. the guilds grew in influence and power, especially in areas where Buddhism and Jainism predominated; at the end of that period guild organization had become a highly important factor in state politics and had probably attained its fullest development. Buddhism and Jainism naturally favored the development of the guilds, for both movements were democratic and represented above all a revolt against the tyranny of Brahmanism embodied in the kings and organized priesthood of the times. The Buddhist order

preached equality as against the exclusive rights of Brahmans to partake of the spiritual life. Accordingly it received the support of the third caste, the merchants and artisans, and in turn tended to increase their power and authority. The interests of the industrial and mercantile classes and therefore of the guilds were accordingly advanced, but it should not be forgotten that the members of certain occupations were looked down upon by Buddhist and Hindu alike and that caste rules rigidly restricted admission to the guilds.

The growth in importance of the guilds during the Buddhist period is evidenced by both literary and epigraphic sources. It appears most clearly in the changing attitude evinced in the earlier and later Hindu law books. In those referring to the period from 600 to 200 B.C. references to the guilds are somewhat vague and indefinite, and custom and the laws of caste appear preeminent. *Manu* (VIII: 41) and the later law books (*Dharma Shastre*), on the other hand, give evidence of their independent status and jurisdiction. The great epics, especially the *Mahabharata*, compiled in its present form about 350 A.D., fully support legal and Buddhist evidence as to the prevalence, importance and high status of the guilds and their leaders. The still later law books, those referring to the Puranic era, which witnessed the downfall of Buddhism and revival of Hinduism between 300 and 800 A.D., do, it is true, furnish some new and more detailed information with regard to guilds. Nevertheless, guild powers and status appear to have altered but little and certainly show no advance over those of the Buddhist period. It is accordingly possible to summarize the position, functions and government of the guilds as they developed in the period beginning about 600 B.C. and extending approximately to 900 A.D.

Ancient Indian civilization evinced a highly organized group life, in which the state, the individual and the various intermediate groups, including guilds, had a definite sphere upon which the others might not encroach. The authority of the guilds was not derived from the delegation of power from above, but had an independent, spontaneous existence. There were at all periods many types of guild: the village guilds, which included within the same guild either all or at least the superior classes of the working population; in the towns the merchants', bankers', money lenders' and artisans' associations, the different crafts having their own separate guilds, possibly coordinated by a *maha-*

*jan*, representing guild life as a whole; the guilds of cultivators, shepherds, seamen and others. The line of demarcation between caste, guild and communal village association is not always clear; and it is possible that sometimes these merged into one general organization, which met on different occasions for different purposes, while sometimes the membership and organization of the guilds were permanently separated from those of the other associations. Guilds were formed throughout India, but their organization was naturally more complex in industrial and urban centers. In the latter, merchants as well as craftsmen had their separate organizations and also took the lead in guild life as a whole. The *mahajan*, or head of a merchant guild, might represent all local guilds in legal matters, at the court or in dealings with other localities or corporations.

The guilds were corporate self-governing entities: their status and rights were upheld by law; they collected fees and taxes, possessed property, had powers of corporate contract, received gifts, had banking functions and acted as trustees for religious endowments. They expended their revenues upon the establishment and upkeep of religious and charitable institutions such as temples, rest houses and animal hospitals and upon such public utilities as wells and water-courses as well as upon the relief of distress. They acted as courts for the settlement of disputes and their contracts as corporate bodies formed part of the general law on the subject. The king was to enforce his own law only after careful examination of the laws of castes, districts, guilds and families and was bound both to respect and in certain circumstances to enforce the laws of the guilds. On important occasions also the king evoked guild organization to summon the people.

The guilds always had a religious basis: the spiritual and economic functions were combined in the same institution. In many cases the religious castes have been and still are coterminous with guilds; nevertheless, the connection between caste and trade associations has never been complete or universal, and while guilds have in some cases reinforced caste, in others they have cut across and tended to weaken caste lines. In Buddhist times social divisions and occupations were not always the same, and although a man customarily followed his father's profession he did not always do so. Buddhist literature provides many examples of the son adopting an occupation other than his father's.

In general it appears that in areas with a homogeneous population caste and guild membership frequently coincide, while elsewhere, especially in large towns, guilds include members of various castes. Economic changes, entailing an increase in the demand for labor in certain trades and industries, which the older caste guilds could not satisfy, led members of other castes to adopt the expanding occupations; and eventually the common interests of those engaged in the same occupation led to the formation of new associations or guilds including members of various castes.

During this period considerable and highly skilled industrial production was carried on in India. The artisans were divided into a large number of crafts, including weavers, potters, leather workers, painters, woodworkers, ivory carvers, workers in the precious metals and other metal workers. The members of the various crafts were organized into separate guilds, which laid down rules with regard to the status and pay of the workers, the methods and quality of the work, prices and terms of trade. The apprenticeship system appears to have been very similar to that prevalent under the European guild system. The apprentice lived for a fixed term of years with his master, who was to treat him "like a son." The guilds were customarily governed by a board of from two to five persons presided over by an alderman, who was usually chosen by unanimous acclamation at a general assembly. The alderman, sometimes called the *sheth*, or *seth*, was also frequently the head of the caste where caste and guild coincided or of the predominant caste in the case of a "mixed" guild. As a rule the position was hereditary, so that on the death or retirement of the *sheth* his son would be appointed unless obviously unfitted for the post.

Since the end of the Puranic era, especially during the Dark Ages from the ninth to the eleventh centuries and the period of mediaeval Mohammedanism from 1193 to 1526, evidence is scanty with regard to social organization in general, and that relating to guilds is practically limited to a number of south Indian inscriptions. Nor is there more information on the Mogul period after 1526. Later literature down to the present contains isolated references to guilds but except for one or two special inquiries no systematic treatment of the subject. It is clear, however, that although the Mohammedans were deeply affected by Hindu social organization and tended to form both castelike classes and occupational

guilds, sometimes separately, sometimes jointly with Hindu workers in the same trade, nevertheless the power of the guilds was bound to wane. This was due to the increasing importance of the middlemen during the Mogul period and still more after the introduction of British rule. The middlemen organized production and trade and even in some cases collected the artisans into workshops. Many artisans thus lost their former position as master craftsmen and became dependent upon the middlemen.

The chief economic factors involved in the decline of the guilds during the British period were the growth of both internal and foreign trade and the increasing competition of imported products, both largely due to transport improvements and the general decay of corporate cohesion. The growth of trade involved increased specialization and localization and the growth of the factory system, thus tending to increase the need for capital. The artisans no longer sold direct to the consumer but became increasingly dependent upon the merchant. In their turn the small town merchants became dependent upon those in the larger centers. The same economic forces also loosened the connection between guild and caste, as the members of several castes adopted similar crafts. This had in general an adverse effect upon corporate cohesion, and the latter was at the same time threatened by administrative changes due to British rule, which reduced the power and functions of village and other local officials. The reconstruction or rather destruction of local government in India after the introduction of British rule undoubtedly tended not only to break up the traditional social organization but also to engender indifference and ignorance concerning indigenous forms of economic life. Meanwhile the competition of imported manufactures threatened the prosperity of Indian hand workers. Cheap factory goods wrested part of their former home and overseas markets from Indian craftsmen and reduced prices even where sales were maintained. Certain handicrafts were practically destroyed during the nineteenth century, while none of the indigenous industries expanded in proportion to the increase in population. The blow to native industries naturally intensified the breakdown of the native system of industrial organization.

Nevertheless, guilds survive to the present day. The lack of information, however, makes it difficult to generalize concerning their organization, strength or even territorial distribution. Where guild organization persists, the descrip-

tion of the ancient guilds given above seems to be still largely applicable; but the tendency is for the middlemen to absorb more and more power, whether the artisans still work at home or in the increasing number of small workshops. The banking functions of the guilds and the system of formal apprenticeship are also disappearing. Even in Ahmedabad, the center of present day guild life, the guilds have no written laws and their procedure is governed by custom. It has been said that their practices tend to be modified by the ever increasing number of merchants and manufacturers who do not belong to any guild and whose methods are more modern. An investigation of the guilds of Gujarat and Rajputana in 1896 revealed that they arbitrated in trade matters, fixed wages, prices and hours, organized strikes, ordered trade holidays, organized festivities and when necessary enforced their rules by boycott and ostracism. Detailed studies of the guilds of southern India, especially of Madura and the Benares silk weavers' guild, have been made in recent years. According to most observers Gujarat, centering on Ahmedabad, and southern India, particularly around Madura, remain the strongholds of guild organization; but it is asserted that survivals are widely scattered, being found in most ancient cities, such as Surat, Jaipur, Delhi, Benares, Dacca and Conjeevaram, and in districts, such as the Konkan, Kathiawar, Khandesh and Baroda. From the studies made it is obvious that guild life is rapidly declining. Even the swadeshi movement with its emphasis upon the revival of the handicrafts and local corporate life has not concerned itself with reviving the guilds, for it is clear that they are no longer sufficiently important, widespread or powerful to form a sound basis for the regeneration of either rural or urban life.

VERA ANSTEY

CHINESE. The absence of records makes it impossible to establish definitely the date of the earliest appearance of guild organization in China or the exact reasons for its development. Sources which trace the origin of guilds back to the Chou dynasty, when economic life was organized on a highly paternalistic basis, are probably unreliable; but it may be authoritatively stated that guilds existed a thousand years ago. During the period when governmental control was unduly burdensome they may have been formed for protection against official exploitation. When subsequently the role of economic direction was given up by the state, extra-official organizations

for regulative and protective purposes became necessary. This regulative function, although most important, is not the sole explanation of the origin of the guilds. There is a theory that they developed from purely religious associations; this is supported, however, only by the fact that each has its patron saint and that worship is a feature of guild meetings. The evolution of certain guilds seems to be closely connected with the clan family: a family monopoly of an occupation in a single family village may have been perpetuated through the guild as the village expanded into a multifamily town, or a monopoly of a particular trade developed under family control may have been extended elsewhere through guild organization. Some occupations, such as banking and acting, have been controlled by natives of particular provinces and others are known to have been carried from one section to another; such guilds, however, appear more closely related to the provincial guild than to the clan family system. Common to all the guilds are their strictly local character, corresponding to the localism of Chinese life, and their monopolistic basis.

Several types of guild have existed and still exist in China. One general type of guild organization is characteristic of the various crafts, trades and professions. There are of course some minor differences. Among the crafts guilds are composed of both masters and artisans, a distinction unnecessary in the professions; while in the trade guilds each shop is usually represented by one person and workers are not included as members. At the time when these guilds exercised effective control they determined the conditions and the period of apprenticeship, which was usually from three to five years, and frequently set the number of apprentices per master, thus effectively regulating the labor supply at its source. Penalties were imposed for the enticement of workers from one shop to another and a minimum wage was fixed in relation to the customary standard of living. Occasionally, when adjustment to changing price levels was not sufficiently rapid, the artisans formed temporary organizations to bring pressure upon the masters, who actually controlled guild affairs despite the inclusive membership and democratic basis. Since the labor supply was limited artisans could cause grave inconvenience and loss by stopping work, while the incidental disturbance of the peace might also bring about official intervention; accordingly they usually secured a speedy readjustment of wages.

To eliminate unfair competition the guilds established minimum prices for goods or services, and violations were penalized. Weights and measures were made uniform for the locality by guild action. The exchange business, of great importance in a country with wide local variations in the currency, was in the hands of a bankers' guild, which announced exchange rates and performed other necessary functions. This is the closest approach to a national guild, since almost all the bankers came from the Shansi province and were controlled from the place of origin as well as locally. The importance of the Shansi bankers, however, has decreased with the establishment of modern banks, the association of which has to a large extent supplanted the old guilds.

In addition to the craft guilds there exist provincial guilds. The official or merchant who lived beyond his native province was in an alien environment, segregated from the community by a language barrier and by marked differences of custom. He was liable to discriminatory treatment by the officials because he did not have community support and by the people because he was a foreigner. As an individual he had to deal with organized groups, guild or familial. Consequently all from the same province drew together; guilds were organized which served a social purpose, gave their members a group status and legal protection and also provided uniform conditions of trade.

A third type of Chinese guild is the guild merchant; that is, the association of the entire merchant group of a particular place for the purpose of regulating and improving its commerce. In addition the group exercises a number of municipal functions, such as the upkeep of streets, drains and reservoirs and the administration of poor relief. The only known example of such guilds are those of Newchwang, Swatow and Canton, all of which succeeded in controlling the conditions of native and foreign trade within their localities.

Chinese guilds are democratic in organization. Periodic meetings of members are held to select officers and establish guild rules. Administration by an elected committee is the general rule except in the provincial guilds, where the function of the committee is advisory. The latter have an annually elected salaried manager and a permanent secretary, who is chosen from the literati. The wealthier craft and trade guilds also employ literati as secretaries. Final power, however, resides with the members; the function of

committee and officers is to administer policies established at the annual meeting.

Since the activity of public magistrates was virtually limited to the maintenance of order and the collection of taxes, the guilds assumed an unusual importance, playing a regulative and directive role in the towns similar to that of the family in the villages. Guild rules took the place of a commercial code, which was enforced primarily through guild action. The magistrate was a stranger, unfamiliar with local custom and without the support of family connections, and his superiors judged him by his ability to maintain order. If he imposed new taxes or increased the customary levies without consulting the guilds, disorder ensued and he was liable to censure. The same consequences followed if he interfered in the settlement of disputes between guild members. Accordingly he was willing to deal with the guilds, holding them responsible for the performance of such of his functions as they could assume. Guild rules required that disputes be submitted to guild arbitration before they were taken to the magistrate, and penalties were imposed for violations. When appeals were taken, there was no law except guild regulations to guide the magistrate; and therefore he usually confirmed the decision. This relationship between the magistrate and the guilds resulted in a virtual transfer of judicial authority in civil and commercial cases.

Until recently the guild system effectively organized China's economic life. Its strength came from the governmental system and the handicraft basis of industry, which made necessary long apprenticeships and permitted effective control of the labor supply. Furthermore, the nature of communications was such that production was required for direct consumption within a restricted area and could be adjusted to demand, and price fixing was made easy. The limited productivity inevitable in a handicraft system and the intimate relationship of employer and employee, characteristic of the domestic system, were also factors.

Since 1900 conditions have changed essentially and guild control has been correspondingly weakened. Competition is being substituted for the cooperative system of the guilds. Improved communication has undermined local economic self-sufficiency, brought into competition goods produced beyond the jurisdiction of the local guilds and made labor more mobile. The labor supply has also been increased by the introduction of machinery, which renders long ap

prenticeships unnecessary. Machine production moreover involves the factory system, corporate financing and employers and managers who, unlike the masters in handicraft industries, have no contact with the workers. The new industry, partly financed and managed by foreign interests, has never been fitted into the guild structure and weakens the monopoly upon which guild authority rests. Goods of external production cannot be regulated either as to price or standards, except through trade guilds, which operate without regard to the interests of producers. Furthermore, the new conception of government threatens the power of the guilds unless they are formally incorporated in the political structure.

These new conditions have resulted in the organization of chambers of commerce provided for by national law, which now exercise some of the guild functions, notably that of arbitration. The Chinese chambers are partially erected on a guild foundation, having guilds as well as individual concerns for members and serving as interguild organizations. In this new relationship the guild is becoming an employer's association, while labor is becoming unionized. Consequently, although guild organization continues to exist it has been seriously undermined and may be either destroyed or reorganized under the pressure of governmental intervention, labor organizations and the amalgamation of employers into chambers of commerce.

HAROLD M. VINACKE

JAPANESE. The guilds of Japan appear to have been associated in their origins with common religious observances; but by the Hojo era (1220-1333) they had become mainly economic in character and were termed *za*. During the Ashikaga period (1335-1573) they came to play an increasingly important part in the economic life of the country. Each *za* consisted of a group of local merchants who were dealing in a particular line of goods and had secured from the shogun, from a feudal lord or from a temple privileges conferring upon them a monopoly of trade in return for periodical payments. The guild prescribed the conditions of trade and entered into arrangements with similar associations in other localities. Membership was strictly limited and became hereditary in character. Although the *za*, unlike the merchant guilds of Europe, did not become closely associated with local government, they achieved positions of considerable power. For example, groups of *za*

were formed which acquired from the feudal lords in some parts of Japan the right of controlling local customs barriers and even the use of the highways. The triumph of Nobunaga and Hideyoshi in the civil wars of the later sixteenth century led to the decline of the guilds. Desirous of increasing the authority of the central government and jealous of the power of the *za*, Nobunaga abolished their privileges and so created a period of comparative freedom of trade.

After the accession of the house of Tokugawa to the shogunate in 1603 this policy was gradually reversed. At first, however, the only guilds recognized by this government were those created on its own initiative and under its direct control. They were composed of groups of persons to whom special privileges had been given by the shogunate so as to enable it to carry out its policy concerning weights and measures, coinage and other matters in which the government had special interests. The term *za* in this period was limited in its application to associations of this kind. Other associations arose spontaneously during the seventeenth century, and as the economic development of the country had led to increasing specialization among dealers and craftsmen, several distinct types of guild appeared. The shogunate had at first shown hostility toward these organizations, but by the beginning of the eighteenth century it began actively to encourage their formation in order to facilitate administrative control over the mercantile and industrial classes. The Trade Association Decree (*Dogyo kumiai kai*) of 1721 provided for the establishment of guilds in many branches of commerce and recognized the existence of craft guilds which were not already under the government's special control. The most important guilds formed among traders were those of the wholesale merchants, which were called *tonya* associations. These sprang up in all Japanese towns during the seventeenth century as a result of the growth of internal trade; there was a great increase in their numbers after the decree of 1721. Upon receiving recognition from the central or local government each *tonya* guild was granted a monopoly of trade in the line of goods with which it was concerned; the district of the town in which its operations could be carried on was specified; membership was limited; the names of members were registered with the authorities; and dues collected from members were paid periodically to the government. The privilege of membership, known as *kabu*, became marketable and



could be obtained by an outsider only by the purchase of an existing member's rights. Among the *tonya* guilds those of Yedo ('Tokyo) and Osaka were of the greatest importance; and in 1694 an association of certain *tonya* guilds of Yedo, known as *tokumi tonya*, was formed, which preserved a monopoly of the import trade from Osaka for about a century and a half.

Local craft guilds (*kumiai*) are believed to have existed in the Ashikaga period, but they did not become of substantial importance until the seventeenth century. Certain families or groups of craftsmen then possessed special privileges conferred on them by the government, among which freedom from state taxation was often included. The restriction of the numbers enjoying these privileges led, as among the *tonya*, to the creation of a marketable *kabu*. In many trades, however, workmen outside these groups formed themselves spontaneously into *kumiai*, especially after the decree of 1721, and sought recognition from the shogun or the clan governments in return for payments in money or labor. Where a *kabu* did not exist and membership was not limited to a fixed number the admission of new members was decided at a *kumiai* conference. The members elected their officers and in their corporate capacity they prescribed the quality, output and prices of the products, the residential area of the trade, the conditions of work and the regulations governing apprenticeship, which was usually from seven to ten years in duration. The *kumiai* also provided mutual assistance for members in distress.

By the early nineteenth century the *kumiai* were pursuing an increasingly restrictive policy regarding membership, and this led to a growth in the number of journeymen (*shokunin*), who although qualified by apprenticeship for the status of master craftsmen were unable to obtain membership in the guilds and remained in a position of subservience to the members. At the same time the debasement of the currency was causing a rise in prices which was productive of much social distress. For this the monopolistic policy of the *tonya* and craft guilds was held responsible, and between 1841 and 1843 the shogunate issued decrees abolishing all classes of guilds. For a time this resulted in economic chaos. Trade was disorganized and the credit system, which rested on *kabu*, was destroyed. There was an attempt to revive the guilds in 1851; by this time, however, the shogunate itself was crumbling and it was found impossible to reestablish the monopolistic privileges on which

the guilds were based, especially as the number of *shokunin* was then rapidly increasing. Moreover, the isolation of Japan, which had helped to preserve the guilds for so long, had by this time been broken down and western influences were beginning to affect the life of the country. The system was finally swept away in the reforms which attended the restoration of 1868.

The guilds of the modern era are essentially a creation of the state; they were called into existence by legislation first enacted in 1884 and after that frequently extended in scope. Japanese industrialists and traders in the latter part of the nineteenth century suffered from an evil reputation on account of their malpractices, and the object of the government in encouraging the formation of these modern guilds (*Dogyo kumiai*) was to raise commercial standards in Japan as well as to foster cooperative action among manufacturers and merchants and to promote and control industrial and commercial development. At the present time local organizations known as Staple Production Guilds exist in connection with almost every important branch of industry. Their regulations usually provide for the inspection of the quality of their members' products with the object of safeguarding the common reputation of the trade. Besides these, various types of export guilds have been created by law with the purpose of increasing Japan's foreign commerce by cooperative effort among the merchants and manufacturers concerned. The most important function of these guilds is to insure a rigorous inspection of goods destined for foreign markets. In the case of merchants dealing in certain commodities guild membership is compulsory. It is characteristic of Japan, which has never been influenced by *laissez faire* doctrine, that its government should take over ancient principles of economic regulation and express them in forms appropriate to the modern world.

G. C. ALLEN

See: ORGANIZATION, ECONOMIC; COMMERCE; HANDICRAFT; INDUSTRIAL REVOLUTION; CORPORATION; COMMUNE, MEDIAEVAL; JOURNEYMEN'S SOCIETIES; APPRENTICESHIP; JUST PRICE; FRIENDLY SOCIETIES; GUILD SOCIALISM.

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GUILLAUME, JAMES (1844-1916), French revolutionary theorist and historian. Guillaume was born in London of middle class parents. His father, a Swiss of French origin, had been a liberal politician in Switzerland and was naturalized as English. His mother was French and in 1889 Guillaume was naturalized as French. Guillaume studied at Zurich from 1862 to 1864 and became an instructor in the trade school at Le Locle, Switzerland, a position he was forced to resign in 1869 because of his revolutionary political views and teachings. Coming into contact with the French cooperative movement and the branch of the International Workingmen's Association at La Chaux-de-Fonds, he became active in the Jura revolutionary movement (Fédération Romande 1869-78). Under Bakunin's influence he abandoned his early ideals of the development of individual perfection and turned to the development of mass consciousness and

solidarity as a means toward social revolution.

He was one of Bakunin's chief supporters in the anti-authoritarian group in the International and followed him in the split with the Marxists. He edited a number of revolutionary journals, the most important of which was the *Bulletin de la fédération jurassienne* (1872-78). He advocated abstention from politics and the use of the general strike but not of partial strikes. In 1878 he abandoned revolutionary work. With the rebirth of the antistate philosophy in France toward the end of the century under the name of syndicalism he became again an active propagandist, contributing frequently to the *Bataille syndicaliste* and the *Vie ouvrière*.

As a historian Guillaume specialized in the study of revolution. His chief works are collected in his *Études révolutionnaires* (2 vols., Paris 1908-09), which corrects many errors of earlier authors. He also wrote *L'internationale: documents et souvenirs* (4 vols., Paris 1905-10) and "Michel Bakounine, notice biographique" in *Oeuvres de M.A. Bakounine* (6 vols., Paris 1891-1913, vol. ii, p. 1-60). His *Karl Marx, pangermaniste, et l'association internationale des travailleurs de 1864 à 1870* (Paris 1915) argued that German socialism was from its very origins a nationalistic and imperialistic movement. All these works contain rare documentary material.

Guillaume was also active in education; he collaborated on Ferdinand Buisson's *Dictionnaire de pédagogie* (5 vols., Paris 1882-93) and, beginning a short time after he had settled in Paris in 1878, he served as secretary of the *Revue pédagogique*. He made critical résumés of educational legislation and institutions of the whole world and also published a great collection of the *Procès-verbaux du comité d'instruction publique de l'assemblée législative* (Paris 1889) and *Procès-verbaux du comité d'instruction publique et de la convention nationale* (5 vols., Paris 1891-1907).

Guillaume's *Le collectivisme de l'internationale* (Neuchâtel 1904) and his *Idées sur l'organisation sociale* (La Chaux-de-Fonds 1876) sum up his libertarian and equalitarian collectivist philosophy.

J. L. PURCH

Consult: Nettlau, Max, *Der Anarchismus von Proudhon zu Kropotkin*, Beiträge zur Geschichte des Sozialismus, Syndikalismus, Anarchismus, vol. iii (Berlin 1927) chs. xii-xvii; Steklov, Y. M., *Pervy international (3rd ed. Moscow 1923)*, tr. by Eden and Cedar Paul as *History of the First International* (New York 1928); Buisson, Ferdinand, and Aulard, A., in *La révolution française*, vol. lxx (1917) 10-18.

GUILLAUME-SCHACK, GERTRUD (1845-1903), German feminist and socialist. The daughter of Count Schack von Wittenau, Frau Guillaume-Schack had led a sheltered existence until her marriage with the Swiss artist Eduard Guillaume brought her into contact with the world. In Paris she learned of the work of the British, Continental and General Federation for the Abolition of Government Regulation of Prostitution, organized in 1875 and later called *Fédération Abolitionniste Internationale*, whose founder, Mrs. Josephine Butler, she met at the Liège conference in 1879. Fired by zeal for this work, she returned to Germany and in 1880 founded in Beuthen a similar association, the *Deutscher Kulturbund*. A branch was organized in Berlin in 1883, another in Elbing the following year. By petitions, pamphlets and public addresses (some of which were printed in the collection *Die öffentliche Sittlichkeit*, 5 vols., Berlin 1881-82) Frau Guillaume-Schack proclaimed throughout Germany the injustice and failure of police regulation. The police retaliated by dispersing her meetings and arresting her for disorderly conduct. This treatment and even more her ostracism by her own social group drove her eventually into the socialist fold. Accepting the socialist doctrine that prostitution is an economic problem she devoted her energies to bettering the condition of working women. She published a weekly journal and founded numerous working women's associations. These activities rendered her doubly *déclassée* and, in the decade when Bismarck was trying to eradicate socialism, politically objectionable. Her journal was suppressed, her organizations were disbanded and she herself had to leave Germany in 1887 for England, where she spent the rest of her life. Although she continued to attend conferences of the federation she was never again active in its service.

HUGH WILEY PUCKETT

*Consult:* *Handbuch der Frauenbewegung*, 4 vols., ed. by H. Lange and G. Bäumer (Berlin 1901-02) vols. i-ii; Plathow, A., *Begründerinnen der deutschen Frauenbewegung* (Leipzig 1907) p. 167-73; Puckett, H. W., *Germany's Women Go Forward* (New York 1930) p. 153-55.

GUIRAUD, PAUL (1850-1907), French historian. Guiraud, the favorite pupil of Fustel de Coulanges, continued to reflect both in his seminars at the University of Bordeaux and later at the Sorbonne and in his scholarly writings on antiquity the influence of his distinguished

teacher. Concentrating at first on the purely political phases of Roman history Guiraud shifted gradually to the economic and social history of Greece. In *La propriété foncière en Grèce jusqu'à la conquête romaine* (Paris 1893) he traces the evolution of landed property over a period of ten centuries, discovering three stages, each of which left its traces on civil law. In the first of these stages members of a family held land in common; then with the break up of the large families the land was gradually parceled out; and finally the rise of pauperism, consequent upon this parceling out, was conducive to the establishment once again of large holdings. The rapidity and the thoroughness with which these successive transformations took place varied from city to city, reflecting always the close interdependence between the economic system and the political institutions. *La main-d'œuvre industrielle dans l'ancienne Grèce* (Paris 1900), Guiraud's other outstanding work, traces the somewhat similar evolution of industry. Under the family each member in order to share equally in the common holdings was expected to contribute an equal share of labor. Under the city the attitude toward labor underwent modification. In the aristocracies manual labor was despised. Industry, carried on in small shops with only a slight division of labor, employed in the main slave labor. Although the democratic cities held labor in much higher esteem, their citizens, even the humblest, were so preoccupied with their political prerogatives and with the financial grants accompanying the exercise of them that they much preferred to turn over to the metics or to the slaves the confining responsibilities of a profession or a trade.

GUSTAVE GLOTZ

*Other important works:* *Le différend entre César et le sénat* (Paris 1878); *De legidurum cum romanis societate* (Paris 1879); *Les assemblées provinciales dans l'Empire romain* (Paris 1887); *Fustel de Coulanges* (Paris 1896); *Études économiques sur l'antiquité* (Paris 1905; 2nd ed. 1905).

*Consult:* Julian, C., in *Revue historique*, vol. xciii (1907) 325-26.

GUIZOT, FRANÇOIS PIERRE GUILLAUME (1787-1874), French statesman and historian. Guizot's efforts to reconcile the interests and ideology inherited from the *ancien régime* with the growing forces of democracy make him the most significant representative of the nineteenth century French bourgeoisie. He was descended from a bourgeois family of southern France, deeply devout in its Protestantism.

During his studies at Geneva he assimilated the prevailing philosophical doctrines, which sought to combine the rationalism of the French ideologues with the stern morality of Calvinism, and came at the same time under the influence of German and English writings. He departed for Paris in 1805 with the intention of becoming a lawyer but drifted gradually to literary criticism, then to journalism and finally in 1812 to a professorship of modern history at the Sorbonne. The influence of his colleague Royer-Collard gained for him an appointment in 1814 as secretary general of the Ministry of the Interior, and with only slight inclination of his own Guizot was launched upon a long career which was to make him an outstanding figure in political, intellectual and religious circles. In various governmental capacities under the Restoration government he supported, broadly speaking, a ministerial policy of moderation, although tending after 1820, with the rise of the ultraroyalists, to shift gradually to the left. He became the most erudite and spirited exponent of doctrine (*q.v.*) theory and program and as editor of the *Archives philosophiques*, the *Courier* and later the *Globe* and the *Revue française* he formulated even more precisely the political philosophy which in a period of confused theory singled out reason as the basis of sovereignty and capacity as the test for suffrage. His liberal program, which he aggressively defended against reactionary opponents in the period preceding the July revolution, was embodied substantially in the new constitution, and thereafter Guizot became the conservative mouthpiece of the economic interests and doctrines of the new bourgeois regime. He was minister of public instruction from 1832 to 1837 and devoted himself—notably in the inauguration of a system of primary education (1833)—to the task of creating for the newly admitted bourgeois class a broad intellectual and moral foundation as a safeguard against the eventuality, which he dreaded, of its being overturned by a recurrence of eruptive disorders such as those of 1830. As formally recognized head of the government from 1840 to 1848 he was able, both by his congeniality with Louis Philippe and by his prestige in parliament, to assure the smooth functioning of the parliamentary regime and to carry out a foreign policy of peaceful arbitration and colonial expansion. But his growing conservatism and intolerance of any reform overreached themselves and by provoking the Revolution of 1848 brought to an end his political career.

Guizot's methodology as a historian, revealed in *Essais sur l'histoire de France* (Paris 1823, 11th ed. 1866), deeply influenced contemporary historiography. Convinced of the necessity of the critical approach and direct use of original sources, he himself published many texts and chronicles, promoted and subsidized the enterprises of other investigators, organized the work of historical and archaeological scholarship, established or sponsored various new research centers and academic departments and helped found or reestablish a number of learned societies. In addition to being the first scientific historian Guizot was also the founder of the "philosophical school," which emphasized synthesis rather than mere exposition of facts and attempted, often abstractly, to show the dependence of institutional development on social and moral factors. His *Histoire de la révolution d'Angleterre* (2 vols., Paris 1826–27; tr. by W. Hazlitt, London 1846), an even more striking example of this philosophical approach than his earlier and more popular treatises on the history of civilization in France and Europe, has remained a model for subsequent historians. During his years of retirement following 1848 he experienced a resurgence of his earlier spiritual fervor and undertook the series of *Méditations* to reconcile the spirit of modern society with that of Christianity. In the controversy which arose between the orthodox and liberal factions in the French Reformed church Guizot, following a course similar to that which had characterized his earlier political career, became ultimately an uncompromising conservative.

CHARLES H. POUTHAS

*Important works:* Besides those referred to in the article: *Cours d'histoire moderne*, 6 vols. (Paris 1829–32), section on Europe tr. by W. Hazlitt as *History of Civilization*, 3 vols. (rev. ed. New York 1899); *Histoire des origines du gouvernement représentatif*, 2 vols. (Paris 1851), tr. by A. R. Scoble (London 1861); *Vie, correspondance et écrits de Washington*, 6 vols. (Paris 1839–40), introduction published separately as *Washington* (Paris 1841), tr. by G. S. Hillard (Boston 1840); *Sir Robert Peel* (Paris 1856); *Mémoires pour servir à l'histoire de mon temps*, 8 vols. (Paris 1858–67); *Histoire parlementaire de France*, a collection of his speeches, 5 vols. (Paris 1863); *Histoire de France . . . racontée à mes petits enfants*, 5 vols. (Paris 1870–75); *Méditations et études morales* (Paris 1852); *Méditations sur l'essence de la religion chrétienne*, 3 vols. (Paris 1864–68). See the list of his works in Pouthas, Ch. H., *Essai critique sur les sources et la bibliographie de Guizot* (Paris 1923).

*Consult:* Bardoux, A., *Guizot* (Paris 1894); Pouthas, Ch. H., *Guizot pendant la Restauration 1814–1830* (Paris 1923); Brush, E. P., *Guizot in the Early Years of the Orleanist Monarchy* (Urbana, Ill. 1920); Merriam, C. E., *The History of the Theory of Sovereignty* (New

York 1900) ch. v; Michel, H., *L'idée de l'état* (Paris 1895) p. 291-99; Fueter, E., *Geschichte der neueren Historiographie* (Munich 1911) p. 505-09; Soltan, R., *French Political Thought in the Nineteenth Century* (New Haven 1931) p. 43-50; Haynes, C. J., *Evolution of Modern Nationalism* (New York 1931) p. 139-47.

**GUMPOWICZ, LUDWIK** (1838-1909), Polish sociologist. Gumpowicz' interest in national, racial and social struggle is intimately associated with the circumstances of his life—his Jewish birth, his participation in the Polish patriotic uprising of 1863 and his career as a socially ostracized professor of law in the University of Graz from 1875 until when, stricken with cancer, he poisoned himself.

Gumpowicz views the history of civilization as an unending struggle between different elements: first, between the racially distinct primitive groups; then, between the states formed by the stronger groups which have conquered and subjected to themselves the weaker ones; and, ultimately, between the classes inside these states. He was influenced by Darwin's theory of the struggle for existence and Spencer's idea of evolution, which he incorporated into his monistic system. He recognized "syngenisism" and "amalgamation" as secondary factors of social life, the former as a natural solidarity which manifests itself in the spontaneous association of individuals into groups; the latter resulting when the conqueror and the conquered become welded together by language, religion and economic interests after protracted struggle.

Gumpowicz' reputation as one of the founders of sociology is due to his efforts to find the proper field of sociology by dividing it off from all kindred fields, to subject the social process to the same objective investigation as the natural process (in which discussion he adopted Comte's positive method) and to formulate sociological laws. His investigations were practically limited to groups and relations between groups, since he considered the group as the social element. His most prominent disciples were Ratzschhofer, who influenced Albion Small, and Oppenheimer. His works have been translated into many languages and were discussed by the foremost sociologists of his time, such as Ward, Tarde, Durkheim, Vaccaro, Colajanni and Simmel.

E. AND F. ZNANIECKI

*Important works:* *Rasse und Staat* (Vienna 1875); *Philosophisches Staatsrecht* (Vienna 1877; 3rd ed. published as *Allgemeines Staatsrecht*, Innsbruck 1907); *Der Rassenkampf* (Innsbruck 1883, 2nd ed.

1909); *Grundriss der Soziologie* (Vienna 1885, and ed. 1905), tr. by F. W. Moore (Philadelphia 1899); *System sociologii* (Warsaw 1887); *Soziologie und Politik* (Leipzig 1892); *Die soziologische Staatsidee* (Graz 1892, 2nd ed. Innsbruck 1902); *Sozialphilosophie im Umrisse* (Innsbruck 1910). See also selected works ed. by F. Oppenheimer, F. Savorgnan, and M. Adler, vols. i-iv (Innsbruck 1926-28).

*Consult:* Posner, S., *Ludwik Gumpowicz* (Warsaw 1911); Zebrowski, B., *Ludwig Gumpowicz, eine Biographie* (Berlin 1926); Oppenheimer, F., *Introduction to his edition of Gumpowicz' selected works*; Mirek, F., *System sociologiczny Ludwika Gumpowicza* (Poznań 1929); Barnes, H. E., "The Struggle of Races and Social Groups as a Factor in the Development of Political and Social Institutions" in *Journal of Race Development*, vol. ix (1918-19) 394-419.

**GUSTAVUS I** (Gustavus Vasa) (1496-1560), king of Sweden. Gustavus was related to the younger Sten Sture, whom he succeeded as leader of the Swedish independence movement. In 1520 he became the active head of the uprising against Christian II of Denmark and received financial aid from the Hanse towns Lübeck and Danzig. He was elected king of Sweden by the diet of Strängnäs in 1523 and was crowned in 1528.

Gustavus Vasa is considered the founder of the modern Swedish state. As a state builder he challenges comparison with the English Tudor kings. During his reign of thirty-seven years he subdued four rebellions by skillfully combining force and oral persuasion; in the Västerås diet of 1527 he secured the assent of nobles, merchants, miners and peasants to measures which placed church property and administration largely in his hands, enabling him to meet his Hanseatic obligations and maintain his regime at home. This was the beginning of the Lutheran Reformation. A series of astutely planned steps completed the change, and the nobles were encouraged to enrich themselves at the expense of the higher clergy, but Gustavus brought them to book and strengthened his hold on burghers and peasants. The Protestant ritual was not introduced until 1544. Although sincerely sympathetic with the Reformation he saw that the wreckage of the old church was a convenient quarry for materials essential to the new state. Lacking trained Swedish officials he brought in Germans, whose efficient but harsh fiscal measures stirred up open discontent. Although up to his death he was deeply suspicious of the Danes he joined forces with Christian III in "the counts' war" in Scania from 1534 to 1536 against his former ally Lübeck and destroyed the Baltic hegemony

of the Hanse towns and their control over Sweden. The impress of his strong personality was reflected in his administration and throughout his voluminous correspondence. He had a suspicious nature, was a severe taskmaster, a shrewd bargainer and withal a man of hard practical sense. He left a strong state and a well filled treasury to his son Erik.

#### WALDEMAR WESTERGAARD

*Consult:* Hildebrand, E., *Gustav Vasa* (Stockholm 1920); Watson, P. B., *The Swedish Revolution under Gustavus Vasa* (Boston 1889); Hallendorff, C., and Schück, A., *History of Sweden*, tr. from ms. by L. Yapp (Stockholm 1929) p. 110-63; Geijer, E. G., *Svenska folkets historia*, 3 vols. (Örebro 1832-36), tr. by J. H. Turner (London 1845) chs. viii-x; Almqvist, H., *Reformationstiden och stormaktstidens förra skede* (Lund 1922).

**GUSTAVUS II** (Gustavus Adolphus) (1594-1632), king of Sweden. The bases of the foreign policy of Gustavus Adolphus were the aim to secure control of the Baltic Sea and the waterways leading to it and the desire to establish Protestant supremacy in northern and central Europe. He began his reign with a Danish war from 1611 to 1613; he settled differences with Russia, securing Ingria by the Peace of Stolbova in 1617; and for twelve years he was in nearly constant war with Poland, which, as with Russia, he wished to keep from access to the Baltic. With no ambition to become emperor he aimed to form and lead a German Protestant union, somewhat on Dutch lines, with French aid as an anti-Hapsburg measure, and in 1630 he intervened in the Thirty Years' War.

As a military leader Gustavus Adolphus is significant as the founder of a new art of warfare. His armies had greater mobility, used lighter and more effective weapons, employed more musketry and fewer pikemen, more mobile artillery, smaller infantry units and cavalry squadrons better trained for rapid charges than had obtained hitherto.

Moreover, his interest in Sweden's internal affairs was unceasing. With the help and advice of his chief minister, Oxenstierna, he placed governmental responsibility on the representatives of the four estates and diminished the council's authority. New administrative and judicial organs were formed to care for a state grown increasingly complex. He fostered Sweden's domestic and foreign commerce, granted full privileges for foreign trade to thirteen towns, partial rights to others and practical monopoly of internal trade to the country towns,

despite Stockholm's protests. He dowered the University of Uppsala with fresh resources and founded a university at Dorpat and numerous *gymnasia*.

#### WALDEMAR WESTERGAARD

*Consult:* Wittrock, G., *Gustav Adolf*, tr. from Swedish into German by Toni Schmid (Stuttgart 1930); Paul, J., *Gustav Adolf*, 2 vols. (Leipzig 1927-30); Fletcher, C. R. L., *Gustavus Adolphus* (New York 1890); Reddaway, W. F., "The Vasa in Sweden and Poland," and Ward, A. W., "Gustavus Adolphus" in *Cambridge Modern History*, vol. iv (London 1906) chs. v-vi.

**GUTIÉRREZ, JUAN MARÍA** (1809-78), Argentine statesman, educationist and historian. Gutiérrez was co-author as well as an active propagandist of the principles of the Asociación de Mayo, the Argentine reform group, the members of which after the fall of the dictator Rosas played a large part in the reorganization of national life. He participated in the drafting of the basic constitution of 1853. As rector of the University of Buenos Aires from 1861 to 1873 and in similar offices he advocated free education correlated from the primary to the university grades, secondary education preparing for both university and non-university pursuits and university education broad in scope including particularly natural sciences and modern literature. Although these aims were only partially realized, his plan for the reorganization of the university had a considerable influence upon the university administration of the country. Most typical of Gutiérrez, however, is the investigation of literary and cultural production as a means of gaining intimate knowledge of Argentine and Latin American society and of furthering its development. Although he never produced anything but seemingly unrelated monographs and critical writings scattered through periodicals, they offer in the aggregate a fairly complete history of the intellectual activity of the Plata River region from the beginning of its colonization. Written at a time when hardly anything more than political history was produced, they make him the precursor of the historians of national ideas. As profoundly anti-Spanish as he was confident of the cultural development of Latin America, he eagerly sought to discover the intellectual accomplishments of the civilized aborigines and also published the first anthology of Latin American poetry (*América poética*, Buenos Aires 1846).

#### RÓMULO D. CARBIA

*Important works:* *Apuntes biográficos de escritores, ora-*

*dores, y hombres de estado de la República Argentina* (Buenos Aires 1860); *Bibliografía de la primera imprenta de Buenos Aires desde su fundación hasta el año de 1810* (Buenos Aires 1866); *Noticias históricas sobre el origen y desarrollo de la enseñanza pública superior en Buenos Aires* (Buenos Aires 1868, new ed. 1915); *Bosquejo biográfico del general D. José de San Martín* (Buenos Aires 1868); *Estudio sobre las obras y la persona del literato y publicista argentino D. J. de la C. Varela* (Buenos Aires 1871; new ed. with title *Juan Cruz Varela* . . . , 1918); *Estudio sobre la 'Argentina' y sobre su autor Don Martín del Barco de Centenera* in *Revista del río de la Plata*, vol. vi (1873) 287-334, 358-409, 648-89, vol. vii (1873) 111-37, 337-61 and vol. xii (1876) 610-39; *Críticas y narraciones*, with preface by J. B. Terán (Buenos Aires 1928).

*Consult:* Vicuna Mackenna, B., *Juan María Gutiérrez: Ensayo sobre su vida y sus escritos* (Santiago, Chile 1878); Alberdi, J. B., "Juan María Gutiérrez" in his *Escritos postumos*, 16 vols. (Buenos Aires 1895-1901) vol. vi, p. 5-163; Rodo, J. E., *El mirador de Prádepero* (3rd ed. Barcelona 1928) p. 201-07; Groussac, P., "Las bases de Alberdi y el desarrollo constitucional" in his *Estudios de historia argentina* (Buenos Aires 1918) p. 292-306; Piñero, N., and Bidau, E. L., "Historia de la universidad de Buenos Aires" in *Anales de la universidad de Buenos Aires*, vol. iii (1888) 3-431; Carbia, R. D., *Historia de la historiografía argentina*, vol. i- (La Plata 1925- ) p. 107-14, 177-78.

GUYAU, JEAN MARIE (1854-88), French philosopher. At seventeen Guyau received the degree of *licencié ès lettres*, at nineteen he received an award from the Académie des Sciences Morales et Politiques and at twenty he was placed in charge of philosophical studies at the Lycée Condorcet of Paris. Before his early death fourteen years later he wrote several important works on art, morals and religion. It was the social aspects of these phenomena that absorbed him. Reacting from the ethical point of view against the English utilitarians, and from the scientific point of view against the French mechanistic and deterministic school inspired by Taine, Guyau constructed as the metaphysical basis of his thought what might be called a dynamic naturalism. For him all phenomena, not only organic but social, were interpretable only in terms of the principle of life. Life was force and intensity, and within these properties was enveloped a faculty of universal expansion, of self-expression, through the most diverse forms. Hence every individual, far from being by nature an isolated, egoistic entity, was bound by ties of sympathy to all other creatures and achieved completeness only in union with them.

As applied to aesthetics in *Les problèmes de l'esthétique contemporaine* (Paris 1884, 11th ed. 1925) and *L'art au point de vue sociologique*

(Paris 1889, 8th ed. 1909) the philosophy of life became an attack upon the then generally accepted thesis of Schiller and Spencer that art was a manifestation of the play instinct. Guyau's theory, one of the greatest significance in the history of aesthetics and one which through making art a social phenomenon could demonstrate its compatibility with the development of science and industry, represented beauty as the expansion of life revealed by objects when they harmonize the emotions by arousing the feeling of solidarity.

In his principal ethical writings, *La morale d'Épicure* (Paris 1878, 3rd ed. 1886), *La morale anglaise contemporaine* (Paris 1879, 6th ed. 1902), *Esquisse d'une morale sans obligation ni sanction* (Paris 1885, 16th ed. 1921; tr. by G. Kapteyn, London 1898) and *Éducation et hérédité* (Paris 1889, 10th ed. 1908; tr. by W. J. Greenstreet, London 1891), Guyau criticized utilitarianism as failing to explain the transition from egoism to concern for the social good and the Kantian theory as narrowly rationalistic. In fact, according to Guyau moral obligations and sanctions were all superfluous, since morality was merely life manifested in a higher form, achieving its true expression in the spiritual community of men and in love. In the light of this theory the role of education, which must have in view the preservation of the race and the continuation of progress, is to develop the social instinct.

*L'irreligion de l'avenir* (Paris 1887, 21st ed. 1921; Eng. translation, London 1897) was an attempt to depict religion as a "universal sociological hypothesis" having as its basis the belief that all things could be explained by analogy with human society. Underlying this belief and so underlying all religions is the idea of a social bond, which besides uniting all men with each other links human society as a whole with a world of greater life. When the original content of religion should have become entirely transferred to the separate spheres of ethics, law, philosophy and science and when the non-religion of the future had risen in the place of all positive religions, this fundamental religious idea of an association between all beings of the cosmos would still survive, furnishing as in the past the ideal of humanity and at the same time the basis for its faith in progress. A poet as well as a philosopher, Guyau introduced the lyrical element into French philosophy. It is true that he exercised no direct influence on the evolution of its doctrines but he nevertheless helped to extend its horizons beyond the narrow limits



which had been the penalty of the merely scientific approach.

RENÉ HUBERT

*Consult:* Carlbach, Emanuel, *Guyaus metaphysische Anschauungen* (Würzburg 1896); Fouillée, A., *Le morale, l'art et la religion d'après Guyau* (4th ed. Paris 1901); Darlu, A., "Classification des idées morales du temps présent" in *Morale sociale* (Paris 1899) p. 17-36; Loewenstein, K., *J. M. Guyaus pädagogische Anschauungen* (Hanover 1910); Tarozzi, G., *Guyau e il naturalismo critico contemporaneo* (Milan 1890); Dauriac, L., "L'esthétique de J. M. Guyau" in *Année philosophique*, vol. i (1890) 191-225; Aslan, G., *La morale selon Guyau* (Paris 1906); Jankelevich, V., "Deux philosophes de la vie: Bergson, Guyau" in *Revue philosophique*, vol. xcvi (1924) 402-49.

GUYOT, YVES (1843-1928), French economist and publicist. Yves Guyot was bound by family, education and particularly by the extensive reading of his youth to the liberal and laissez faire tradition of the eighteenth century. When at twenty-one he arrived in Paris to take up his career as publicist he immediately identified himself with the republicans. From that time his militant individualism and his impassioned sense of public service gave unity to a long and varied career. As city councillor of Paris from 1876 to 1885 and in his writings on municipal politics and administration he fought untiringly against all abuse of arbitrary control and power. He was prominent also in national politics, as deputy from 1885 to 1893, as minister of public works from 1889 to 1892 and as political and economic journalist. But he was primarily a prominent economist and savant of his day, stating his economic theory in *La science économique* (Paris 1881; 6th ed. 1928) and writing on such questions of economic policy as the tariff, socialism, the railroads and currency and on such social problems as prostitution and alcohol regulation. But all his writing was unified by a pervasive defense of the liberty of the individual. He did not wish to separate his scientific teachings from his republican and democratic faith. He believed with the physiocrats in the reality of natural economic laws which economic policy could violate only at its peril. These laws he sought to ascertain inductively, but his economic method was actually in the main deductive. In the extreme individualism of his views he is associated with Molinari, and he succeeded Molinari as editor of the *Journal des économistes*, a position which he held from 1909 until his death. A redoubtable polemical writer, he sought to expose the "sophisms" and "economic fallacies" inherent in the socialist criticism of the

prevailing economic system, and the hopelessness of radical programs. He was a consistent free trader and an opponent of government control of industry, wishing to limit state intervention to the minimum required to maintain order.

Defeated as deputy in 1893 on his program of anti-interventionist individualism, Yves Guyot never again entered parliament. That defeat has symbolic value, as it underlines in the French democratic movement the transition from individualistic liberalism, which had dominated the nineteenth century, to the tendency of state intervention. This significant turning point marks the divorce of classical liberalism and contemporary democracy. The conscience of Yves Guyot in this regard never permitted the slightest concession, whence the fine doctrinal unity of his life.

ANDRÉ SIEGFRIED

*Consult:* Pirou, Gaëtan, *Les doctrines économiques en France depuis 1870* (Paris 1925) p. 110-15; Waha, Raymond de, *Die Nationalökonomie in Frankreich* (Stuttgart 1910) p. 98-102; Fiaux, Louis, *Yves-Guyot* (Paris 1921); Giretti, Edoardo, "Yves Guyot un grande campione della libertà" in *Riforma sociale*, vol. xxxix (1928) 97-109, containing a list of his important writings.

GUZMÁN-BLANCO, ANTONIO (1829-99), Venezuelan statesman. Guzmán-Blanco was the son of Antonio Leocadio Guzmán, one of the founders of the Liberal party and of its famous journal the *Venezolano*. He graduated from the University of Caracas and shortly afterward began his career in the diplomatic and other branches of the public service. He participated in a successful revolution and was rewarded by several cabinet posts and eventually by the vice presidency. His military ability carried him to the provisional presidency in 1870, and for the next nineteen years he dominated the country despite the fact that he was chief executive during only part of that period.

Although he was vain, arbitrary and capable of augmenting his private fortune at public expense Guzmán-Blanco was nevertheless an able and usually a patriotic administrator. His long rule was marked by peace, material growth and educational progress. He ruthlessly enforced order in Venezuela, often at the expense of liberty. Finances were systematized: the foreign debt was reduced by at least 75 percent despite large loans floated in Europe, and foreign trade and investments increased rapidly. Highways, railroads and telegraphs were constructed; steamship communications with the outside world

were encouraged. Public schools, academics and learned societies were founded and documents bearing upon the history of Venezuela were published at national expense. In foreign relations Guzmán-Blanco favored inter-American cooperation and revealed an enthusiasm for France. He assumed a somewhat defiant attitude toward England over the question of the boundary between his country and British Guiana.

J. FRED RIPPY

*Consult:* Simkins, F. B., "Guzmán-Blanco: an Appreciation" in *South Atlantic Quarterly*, vol. xxiii (1924) 310-18; Calderón, F. García, *Les démocraties latines de l'Amérique* (Paris 1912), tr. by Bernard Miall as *Latin America* (New York 1913) p. 105-12; Picón-Febres, G., *La literatura venezolana...* (Caracas 1906) ch. v; Gonzáles Guianán, Francisco, *Historia contemporánea de Venezuela*, 10 vols. (Caracas 1909-11) vols. ix-x.

GYPSES, who live as nomadic groups of one or more families in Europe, the Americas, Asia Minor and Egypt, are found in largest numbers in Rumania, Hungary, the Balkan States, Spain, the United States and England. Their total number has been variously estimated at from 1,800,000 to 4,000,000; it is probably more nearly the former figure than the latter. Whether or not they originally came from central or southeastern India is uncertain. It has been generally accepted, however, that their home immediately prior to their historical trek was the zone of the foothills and plains parallel to the Himalayas and that they migrated northward and westward, reaching Persia about 900 A.D. These original emigrants, called the Bhen, or Bheni, gypsies, divided into two groups: the Bhen, who are the ancestors of the Nawar of Palestine, the Karaci of Asia Minor, the Kurbat of northern Syria and Persia and the Halebi of Egypt; and the Phen, who are the ancestors of the Bosa, or Posa, of Armenia and southern Caucasia and of the Byzantine gypsies, from whom sprang the numerous groups of European and American gypsies. By the end of the fourteenth century gypsies seem to have been established in the Balkan Peninsula, whence many of them were driven into northern and western Europe by the Turkish invasion of the fifteenth century. Throughout most of central and southern Europe they are known by names which are variants of the form Atsigan; in France they are also called Bohemians and in northern Europe Tartars, Saracens, Egyptians and heathen. They call themselves Rom in Europe, Dom in Syria and Lom in Armenia. Their common language,

the only source of information as to their Indian origin, has retained many of its ancient constructions because of the cultural isolation of the gypsies, but the languages of the peoples among whom they have sojourned have contributed markedly to the composition of their vocabulary.

In Europe gypsies have been persecuted wherever they have appeared. Their strangeness and their nomadic habits have led the native populations to accuse them of crimes such as witchcraft, the poisoning of wells and of cattle, the abduction of children and even cannibalism. It is not unlikely that their occupation as smiths and workers in metal contributed toward the fear with which they were regarded by the native populations, for the smith has historically been looked upon with superstitious awe. In the England of Henry VIII gypsies were exposed to the danger of having their goods seized by any justice, sheriff or escheator, who was entitled to keep half for himself and required to turn the other half over to the king's Exchequer. The gypsies were driven out of the country, unless they settled down and exercised a lawful trade or placed themselves in the service of some "honest and able inhabitant." In Poland, Kurland, Lithuania, Hungary and Venice the gypsies were placed in charge of a native nobleman, referred to as the gypsy lord, who had the right to tax them twice a year and to whom they looked for protection. They are said to have had similar status in western Europe but the evidence is insufficient, except perhaps for Scotland, to establish that fact with certainty. They were slaves until they were set free in Hungary in 1781 and in Rumania in 1866.

Their social organization bears evidence of the influences of their nomadism and their isolation. Marriages of near kin, especially of cross cousins, are common, and they seem to have resulted in no physical degeneration. Levirate and sororate are found as well as the prohibition of marriage of a younger sister before the elder. Bride purchase generally prevails except among English gypsies, where the custom of testing the male suitor, particularly as to his prowess and skill, is found. Rumanian and Hungarian gypsies have taken over some of the marriage customs of the native population; a church wedding, however, is as rare with them as it is among English gypsies. The responsibilities of the family rest upon the wife, who through the proceeds from fortune telling is more often able to support it than the husband. This economic basis gives the

gypsy family a matriarchal cast except among the English and perhaps the American gypsies, where the influence of the male seems to be greater than on the continent. Burial customs retain the primitive trait of destroying the property of the deceased person.

The continental gypsies show the remnants of a political organization based on kinship groups; chieftains selected by the groups in turn elect a chief of all the groups—the famous gypsy king of romance. The supreme leader, selected by virtue of his wisdom, impartiality and physical strength functions now only temporarily on the occasion of the meeting of the gypsy tribunal, the Romani Kris, where decisions are made pertaining to the movements of the tribe, the wintering place and cases of the violation of certain tabus. In America the Kris is in addition called upon to decide questions of the repayment of obligations, the annulment of marriages and the return of the bride's purchase price. In America also the leader has often become a sort of padrone who stands between his people and the constituted municipal authorities in cases of transgressions, such as the failure to take out a peddler's license.

Gypsies, especially those of Balkan Europe, are exceptionally skilful as craftsmen, chiefly in copper work; as musicians they have achieved an enviable reputation as performers, particularly with the violin, which they are said to have introduced into Europe. Liszt's contention that all Magyar music is gypsy music has proved untenable. Under modern conditions the men are being compelled to give up their traditional occupations and to resort to casual labor, particularly in farming. In some regions gypsies resort to mendicancy.

The less nomadic among the gypsies may have been weeded out by settling and forsaking the group, leaving those temperamentally unfit for a sedentary life to continue their wanderings. There is also a possibility that they have attracted to their ranks other persons nomadically inclined in spite of the very strong feeling which they possess against marriage with a non-gypsy. The most probable cause for their continuity is found in the fact that they were an outcast group which maintained its internal cohesion, almost in proportion to the pressure of persecution applied to them from without. Now that the animosity against them is gradually subsiding and life under sedentary conditions without stigma has become possible, there is said to be a gradual decline in the gypsy tribal cohesion;

it is probable that they will eventually be completely submerged in the general population.

MAX SYLVIUS HANDMAN

See: NOMADS; MIGRATION; ETHNIC COMMUNITIES; ISOLATION; ALIEN; INTERMARRIAGE.

Consult: Pott, A. F., *Die Zigeuner in Europa und Asien*, 2 vols. (Halle 1844-45); Miklosich, Franz von, *Über die Mundarten und die Wanderungen der Zigeuner Europas*, 12 vols. (Vienna 1872-80); Bitaillard, Paul, *Sur les origines des bohémiens ou tsiganes* (Paris 1876); Leland, C. G., *The Gypsies*, ed. by E. R. Pennell (Boston 1924); Sampson, John, *The Dialect of the Gypsies of Wales* (Oxford 1926); Paspates, A. G., *Études sur les tchinghiens; ou bohémiens de l'empire ottoman* (Constantinople 1870); Popo Serboianu, K. J., *Les tsiganes* (Paris 1930); Borrow, George, *The Zinchi, an Account of the Gypsies in Spain* (9th ed. London 1901); Wislocki, Heinrich von, *Vom wandernden Zigeunervolke* (Hamburg 1890); Brown, Irving, *Gypsy Fires in America* (New York 1924) and "The Gypsies in America" in *Gypsy Lore Society, Journal*, 3rd ser., vol. viii (1929) 145-76; *List of Works in the New York Public Library Relating to Gypsies* (New York 1906); *Survey*, vol. lix (1927-28) 5-64; Black, G. F., *A Gypsy Bibliography*, Gypsy Lore Society, Monographs, no. i (London 1914). For periodicals see *Gypsy Lore Society, Journal* (1888-92, n.s. 1907-31), and *Monographs*, nos. i-v (London 1914-28).

HAAS, WILHELM (1839-1913), German co-operator. Haas was the son of a teacher in Darmstadt. He became a jurist and until 1900 was in the Hessian government service. Beginning in 1872 he organized and directed numerous Hessian agricultural cooperatives and unions and in 1883 played the chief role in establishing the Reichsverband der Deutschen Landwirtschaftlichen Genossenschaften. This, the largest union of agricultural cooperatives, amalgamated with nearly all other German agricultural cooperatives in 1930. Haas was instrumental in creating the Hessian Chamber of Agriculture, of which he became the first president. In 1881 he became National Liberal deputy in the Hessian second chamber, of which he was president from 1898 to 1911. Later he served as a member of the first chamber. He sat in the German Reichstag from 1898 to 1912.

A pupil of Raiffeisen, Haas made no attempt to develop a distinct ideology as did the former and his adherents, and unlike Raiffeisen he grew up in highly educated urban circles. When he entered the cooperative movement an appeal to the farmers' interests without ideological trimmings was sufficient. Haas took the Schulze-Delitzsch cooperative as a model and was also influenced by liberal and humanitarian currents. His most important accomplishment was in or-

ganization work, in which he was the leader in his field.

ERNST GRÜNFELD

*Consult:* Grünfeld, E., *Das Genossenschaftswesen, volkswirtschaftlich und soziologisch betrachtet*, Handbuch des Genossenschaftswesens, vol. i (Hallerstadt 1928) p. 249-53.

HAASE, HUGO (1863-1919), German socialist statesman. By vocation an attorney, Haase joined the Social Democratic party during the period of Bismarck's antisocialist legislation and from 1897 with few interruptions represented Königsberg in the German Reichstag. Beginning in 1904 with the Königsberg trial for high treason, lese majesty against the czar and infraction of the secret society laws, he appeared as defense attorney in numerous important political prosecutions. On the death of Paul Singer he became cochairman of his party with Bebel and upon Bebel's death his successor.

Haase ardently advocated world peace, especially in his address to the Extraordinary International Socialist Congress in 1912. With the French senator d'Estournelles de Constant he was cochairman of the 1913 Franco-German conference of parliamentarians. With Jaurès he led in the final attempt made at the Brussels session of the International Socialist Bureau on July 29, 1914, to effect international workers' action in opposition to war. On the opening of hostilities he advocated peace and the refusal of appropriations for war purposes but accepted the majority socialist decision to support a war of national defense and delivered the party's Reichstag statement in favor of war appropriations on August 4, 1914. In June, 1915, Haase, Eduard Bernstein and Karl Kautsky issued a manifesto, *Das Gebot der Stunde*, warning the party that the war was one of conquest rather than national defense and urging the cessation of support of the government policy. Unable to secure acceptance for his views, Haase in December led a minority of the Social Democratic members of the Reichstag out of the party and in 1917 in conjunction with Ledebour and Dittmann founded the Independent Social Democratic party, which advocated refusal of war credits and favored an early peace without reparations or annexations.

On the outbreak of the revolution on November 9, 1918, Haase became Ebert's cochairman of the council of people's representatives, withdrawing with other representatives of his party late in December. At the Weimar assembly he

avored signing the peace treaty. Thereafter he resisted attempts at royalist counter-revolution as well as the revolutionary communist policy. He died from an assassin's pistol wound.

RUDOLF HILFERDING

*Works:* *Reichstagsreden gegen die deutsche Kriegspolitik* (Berlin 1919).

*Consult:* Haase, Ernst, *Hugo Haase, sein Leben und Wirken* (Berlin 1929).

HABEAS CORPUS is a common law writ of ancient origin designed to bring about the speedy liberation of an illegally imprisoned individual. Blackstone refers to the writ as the most celebrated in English law. It is essentially a writ of inquiry, directed to the person who is alleged wrongfully to detain a prisoner, commanding him to produce the body of the prisoner before a court or a judge thereof at a designated time and place and to show the cause of the detention. There were originally several varieties of the writ but only one, the writ of habeas corpus *ad subjiciendum*, is of present importance. Since the writ issues in the name of the sovereign power and only upon proper cause shown to the court it is termed a high prerogative writ. It may issue from any court of general jurisdiction or, when the court is not in session, from a judge thereof. The proceeding is usually of a summary character and requires the immediate production of the prisoner before the designated court or judge. The writ of habeas corpus, however, is not designed to operate as a substitute for a writ of error or certiorari.

The origin of the writ of habeas corpus is uncertain. Although it may have antedated Magna Carta (1215), it seems that in the earlier mediæval period certain other writs designed to protect the liberty of the subject—notably *De homine replegiando*, *Mainprize* and *De odio et atia*—were in more general use, but these gradually fell into disuse after Magna Carta. Traces of the existence of habeas corpus are found in the reign of Edward III (1326-77), and by the time of Henry VI (1422-61) its employment seems to have been common. During the fifteenth century it was used, as an accompaniment of the writ of certiorari, to bring the proceedings in and the parties to an action in an inferior court, before the common law courts. It was also used as an accompaniment to a writ of privilege to release a litigant in one of the central courts of law who had been arrested by the process of an inferior court. It is certain that toward the end of the fifteenth century, when

the rivalry between the courts of common law and the Court of Chancery began, the former made frequent use of habeas corpus to assert their jurisdiction. The extensive employment of the writ by the common law courts resulted in its becoming independent, by the close of the sixteenth century, of both certiorari and privilege. Moreover, habeas corpus *ad respondendum*, the form used when a litigant had a cause of action against one who was confined by the process of some inferior court, came to be distinct from habeas corpus *ad subjiciendum et recipiendum*, the form employed when a person was detained on a criminal charge; and somewhat later the form *ad faciendum et recipiendum* was employed where a defendant in a civil action in an inferior court sought to remove the action into a superior court.

Thus the writ seems to have been utilized exclusively as a procedural device against private restraints and had less to do with constitutional liberties than with the attempts of the courts of common law to defend their jurisdiction, first against the inferior courts and later against the Chancery. But during the reign of Henry VII (1485-1509) occur the first instances of attempts to employ it as a constitutional remedy against the crown in the application of habeas corpus *ad subjiciendum* to persons committed to prison by the Privy Council. When so used it came to be associated with the inhibition of Magna Carta against imprisonment without due process of law. In other words, the writ was being employed, during the early Tudor period, when the powers of Parliament were undefined and the judges were under the crown's domination, to make effective the guaranties of Magna Carta.

Nevertheless, in the Stuart period the judges decided in Darnel's case [3 Howell St. Tr. 1 (1627)] that a return to a writ of habeas corpus which set forth that the prisoner was detained by warrant of the Privy Council was a sufficient answer to the writ. Parliament thereupon sought to remedy the situation by the Petition of Right [3 Car. 1 (1627)]. The act of 1641 abolishing the Star Chamber provided that if any person were imprisoned by any court exercising a jurisdiction similar to that of the Star Chamber or by the command of the king or of his Privy Council he should have granted unto him without delay, upon motion to the Court of King's Bench or Common Pleas, a writ of habeas corpus; the court was required within three days after the return to examine and determine the legality of such commitment (16 Car. 1, c. 10). This act

was to a large extent rendered nugatory by the refusal of the judges to issue the writ during vacation. In 1676, for example, one Jenkes was committed by the king for an alleged seditious speech and both the chancellor and chief justice refused to grant the writ in vacation. Shortly after this case Parliament passed the famous Habeas Corpus Act (31 Car. 11, c. 2, 1679), which not only authorized the issuance and hearing of the writ without regard to terms of court but imposed severe penalties on any judge who refused without good cause to entertain it and upon any officer or other person who failed to comply with it. It was the most powerful weapon yet devised for the protection of the liberty of the subject, not because it gave new rights but because it provided such an efficacious remedy for those already in existence. No order of the crown could thereafter be relied upon as superior to the authority of the court. The act was defective, however, in that it applied only to cases of commitment on charge of crime; in 1816 it was amended so as to extend to all cases of illegal confinement (56 Geo. III, c. 100).

The remedy of habeas corpus has been recognized and preserved in the United States by constitutional provisions and by various statutes reenacting and amplifying the essential provisions of the English act. The federal constitution (art. 1, sect. 9, subdiv. 2) provides that "the privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it," and the constitutions of most of the states contain provisions of a similar nature. In a few states the suspension of the writ in any case is forbidden. At the present time the law with respect to habeas corpus has been reduced to statutory form to increase its efficiency. As in England, habeas corpus is available to contest detention by public or private authority.

In England the writ has been suspended several times: by annual acts from 1794 to 1801 and again in 1817. In the United States President Lincoln suspended it by executive proclamation in 1861. Chief Justice Taney of the Supreme Court expressed the opinion that Congress alone possessed this power under the constitution [*Ex parte Merryman*, Fed. Cas. no. 9487 (1861)]; and his view has been generally accepted as correct, although Lincoln's position was defended by leading constitutional lawyers of his day. Later, in 1863, Congress authorized the president to suspend the writ whenever in his judgment the public safety might require it.

Under the provisions of this act a partial suspension took place, but it was held that the suspension of the privilege did not justify the courts in refusing to issue the writ but only suspended its further operation. In the famous *Milligan Case* a majority of the Supreme Court held that in a state where the civil courts were in full operation and the federal government was unopposed, trial by a military commission could not constitutionally be substituted for civil trial, nor could the privilege of the writ be suspended in such a state. The remaining justices held that Congress had not in fact made provision for the military tribunal in question, but maintained that it possessed the power to do so if it saw fit [*Ex parte Milligan*, 71 U. S. 2 (1866)]. The power of suspension has never been exercised by the legislature of any state except that of Massachusetts, which suspended the privilege of the writ from November, 1786, to July, 1787, on the occasion of Shays' Rebellion. The Confederate States suspended the privilege during the Civil War. But it should be noted that state supreme courts in Colorado, Idaho, Pennsylvania and West Virginia have gone far in denying all recourse to habeas corpus when state executives have declared martial law during strikes.

The jurisdiction of the federal courts in habeas corpus proceedings is prescribed by several acts of Congress. In 1833, as a result of the nullification controversy in South Carolina, Congress authorized federal courts to inquire into any commitment for an act done in pursuance of a law of the United States. In 1847 the power was extended to all cases where a person was restrained in violation of the constitution, laws or treaties of the United States. Thus the writ is available whenever a person is imprisoned by state authority in violation of federal right [*Ex parte Royall*, 117 U. S. 241 (1886); *Ex parte Yarbrough*, 110 U. S. 651 (1884)]. But the issuing of the writ is discretionary and it will not be used so as to obstruct the ordinary administration of the criminal laws of the state through its own courts. The power to issue writs of habeas corpus is expressly given to the Supreme Court of the United States but it will use this power only in its appellate character except in cases affecting ambassadors, other public ministers or consuls and those to which a state is party. Unless special circumstances are shown, the Supreme Court will not issue the writ where application might be made to a lower federal court [*Ex parte Mirzan*, 119 U. S. 584 (1887)]. A state court has no authority to issue a writ

for the discharge of a person held under the authority or claim and color of the authority of the United States by an officer of that government [*Tarble's Case*, 80 U. S. 397 (1871)].

Habeas corpus is employed in connection with a wide variety of miscellaneous matters, as, for instance, the passing upon the validity of international extradition or interstate rendition proceedings; the securing of the release of one illegally in the custody of the military or naval authorities; the testing of the jurisdiction of a court in committing a person for contempt; the reviewing of proceedings for the deportation or exclusion of aliens; the determining of the lawfulness of the detention of a person arrested in a civil action under mesne process or under execution against the person; the questioning of the legality of the detention of one held under quarantine or health regulations; the examining of excessiveness of bail in either a criminal or civil action; or the inquiring whether a prisoner committed to an institution after an acquittal of crime because of insanity is entitled to release. It is in connection with cases of this sort, particularly where the petitioner is granted a jury trial on the writ, that many abuses occur. Indeed the growing frequency of the use of habeas corpus in criminal prosecutions for the purpose of delaying the disposition of cases has contributed in no small degree to the ineffectiveness of the administration of justice in the United States. In England the writ issues in a centralized court system. But in the United States the fact that it may issue from a multiplicity of state and federal courts and from judges often amenable to sinister political influence has given rise to considerable adverse criticism and led to a demand in some quarters for legislation designed to restrict its uses in the administration of the criminal law.

In continental countries rights of personal liberty are formulated in constitutional guarantees but no procedure analogous to the Anglo-Saxon habeas corpus is available. The supremacy of the administration excludes it. The protection against arbitrary imprisonment depends primarily upon the provisions of the codes of criminal procedure which govern the actions of the police and judicial authorities, and it is by the adequacy of these procedural guarantees that the security of the individual must be judged. Their violation entails criminal responsibility of various degrees of severity in different countries. In this respect the continental system is repressive where the Anglo-American system attempts

to be preventive. Probably in the last analysis, however, individual liberty in continental countries, as in many modern constitutional states, depends upon the degree of independence of the judiciary and the responsibility of the administration. This is certainly borne out by the early history of habeas corpus in England.

The procedure of habeas corpus has led to a great deal of envy on the part of continental jurists, who have been shocked by instances of arbitrary imprisonment in their own countries; but probably they have romanticized the Anglo-Saxon institution as much as the Anglo-Saxon has tended to regard the European as the helpless victim of a bureaucratic state. The frequent lawlessness of American police officials would certainly seem to indicate that while habeas corpus is undoubtedly the most effective remedy yet devised against the dangers of unlawful imprisonment its operation is not always so automatic as the books make it appear. Probably the best proof of this is the situation in South American countries. Most of the larger and more important countries—Argentina, Brazil, Chile and Peru—have adopted the writ without even changing its name (*auto de habeas corpus*). In Argentina the writ is statutory but in the other countries it is constitutional. In Mexico the *amparo*, a writ of injunction, performs among other functions that of habeas corpus. But one hardly needs to read the complaints of Latin American publicists to suspect that habeas corpus is too often honored in the breach rather than in the observance. The habits of dictatorship undermine the supposed legal remedy.

In continental and Latin American countries the rights of personal liberty which are dependent upon constitutional guaranties may be suspended in time of war or domestic insurrection by the proclamation of a "state of siege." Civil authority may be displaced by the military and constitutional rights may be disregarded without fear of subsequent legal redress, although the actual displacement of the civil tribunals depends upon the extent of the emergency. While in some respects similar to the "suspension of constitutional guaranties," the suspension of the writ of habeas corpus has the sole legal effect of allowing the executive to defer the trials of persons charged with certain offenses during the period of the emergency. No new body of law is brought into operation and no constitutional rights are abrogated. If after the privilege of the writ has been restored it is shown that the imprisonment was legally unjustified, those re-

sponsible can be subjected to civil and criminal liability.

PENDLETON HOWARD

See: WRITS, LEGAL; PROCEDURE, LEGAL; CRIMINAL LAW; CIVIL LIBERTY; MARITAL LAW; ARREST; IMPRISONMENT; INSANITY, LEGAL.

Consult: Church, W. S., *A Treatise on the Writ of Habeas Corpus, with Practice and Forms* (2nd rev. ed. San Francisco 1893); Spelling, T. C., *A Treatise on Injunctions and Other Extraordinary Remedies*, 2 vols. (2nd ed. Boston 1901); Bailey, W. F., *Treatise on the Law of Habeas Corpus and the Special Remedies*, 2 vols. (Chicago 1913); Zolins, E. N., *Federal Appellate Jurisdiction and Procedure* (3rd ed. New York 1928); Holdsworth, W. S., *A History of English Law*, 9 vols. (3rd ed. London 1922-26) vol. ix, p. 108-25; Jenks, Edward, "The Story of the Habeas Corpus" in *Law Quarterly Review*, vol. xviii (1902) 64-77; Fox, J. C., "Process of Imprisonment at the Common Law" in *Law Quarterly Review*, vol. xxxix (1923) 46-59; Dicey, A. V., *Introduction to the Study of the Law of the Constitution* (8th ed. London 1915) ch. v; Garraud, R. and P., *Traité théorique et pratique d'instruction criminelle*, 6 vols. (Paris 1907-29) vol. iii, p. 116-20, and bibliography there cited; Hauriou, M., *Précis de droit constitutionnel* (Paris 1923) p. 120-22; *Die Grundrechte und Grundpflichten der Reichsverfassung*, ed. by H. C. Nipperdey, 3 vols. (Berlin 1929-30) vol. i, p. 316-67; Köhler, J., "Freiheitsberaubung im Amte" in *Vergleichende Darstellung des deutschen und ausländischen Strafrechts, besonderer Teil*, 9 vols. (Berlin 1905-07) vol. ix, p. 401-13; González Calderón, J. A., *Derecho constitucional argentino*, 3 vols. (Buenos Aires 1917-23) vol. ii, chs. ix and xii; Carrasco, J., *Estudios constitucionales*, 4 vols. (La Paz 1920) vol. i, p. 64-144.

**HABIT.** Habit is recurrent behavior not determined by heredity. This definition involves difficulties which are inherent in the concept itself. Organisms are never free from environmental influences, so that all conduct is a product of both inheritance and learning. Such considerations force a recognition of the relativity of the distinction between instinct and habit; habit is merely the relatively stereotyped aspect of conduct which bears relatively obvious imprints of the individual's life history.

Even the protozoa show a slight capacity for habit formation. In higher forms habit is chiefly dependent upon the brain; animals deprived of the cerebral hemisphere show very little learning. The brain may be regarded as a center for the formation of new connections between stimuli and responses. Brain injuries frequently destroy much of what has been learned and interfere with the ability to learn new things. It has been customary to regard learning as a matter of establishing new pathways within the brain and accordingly to consider the shifting of stimuli to new responses as a functional correlate of a

changed line of least resistance. Some experimental work has seemed to challenge this concept of the specific pathway for habit, but it has not substituted for it any definite conception of the nature of that shift in stimulus-response connections to which the term learning is applied.

The long and crowded history of theories of habit points to the immense significance attached to the problem. Hobbes in 1650 regarded habit as the tendency for one form of motion in the body to set going another. This was made more precise in 1749 by Hartley, who noting Newton's laws of the pendulum and Locke's "association of ideas" postulated that every higher mental process is a habit based upon the previous concurrent excitation of two or more brain areas. The resulting associationism became the dominant psychology of England. The education of John Stuart Mill is the classical instance of putting into practise the doctrine that the mind is simply a pattern of habits. The middle of the nineteenth century witnessed a sharp reassertion of the importance of instinct, since the doctrine of evolution meant the dominance of biological concepts which made man similar to the irrational and impulsive ancestors from whom he was held to be descended. Emphasis upon instinct was accompanied by Galton's studies of apparently innate individual differences in intelligence. Psychology in these years had its roots far more deeply in the biological than in the social sciences and came therefore to emphasize inherited individual differences.

About 1900 the experiments of Russian physiologists laid emphasis upon a form of learning which has seemed in some ways more fundamental than the associations previously emphasized. The concept of the conditioned reflex (*q.v.*) seemed a clue to the direct attachment of emotional and other socially important responses to stimuli which would not originally bring them out. Thus a racial antagonism might have its origin in some strongly emotional experience of childhood. Such conditioning experiences in childhood may be forgotten yet may function in a uniform way, not only in response to the stimulus which was originally concerned but in response to any which is similar to it; this is known as a transferred conditioned response. In this way antipathy to all Negroes might arise as a result of a bad fright from one.

The complexity of the human organism suggests that the transition from the reflex behavior of the infant to the integrated conduct of the

adult consists largely of the formation of habits. This is sometimes put forward as a sociological view as contrasted with what is known as the biological view, which traces all human conduct to the driving power of instinctive factors. Both statements are inadequate. A habit can never be formed except out of the raw material provided by innate responses and disappears if at any time the innately provided mechanism of the habit is destroyed, while the biological statement assumes that an instinctive entity which has been shaped and redefined during the span of life is in some way identical with the primitive quasi-mechanical response of infancy. Nevertheless, both views are valuable as working hypotheses when stated in the following form: not only the stimuli which call out instinctive responses but the very patterns of the instinctive responses themselves reflect the culture of which the individual is a part, while on the other hand certain basic organic needs are found in all human beings and despite variations in culture they express themselves in more or less similar form.

Since most innate responses seem capable of being conditioned, it is possible to schematize the entire structure of adult personality as a bundle of habits. The only true unity which personality would have on this basis would be traceable to such processes as the transferred conditioned response and to certain generalized physiological characteristics such as speed and strength; the former processes would be the more important. To be sure, one situation may call out simultaneously two or more responses (in so far as these are not physiologically antagonistic) and these groups of simultaneous responses to particular situations may come in time to comprise everything from a mannerism to a philosophy of life. Probably all later habits in human beings are to a considerable degree to be regarded as modifications of habits established in childhood. The latter tend to be techniques for satisfying wants and to be blindly carried over from one situation to another as the child grows older. Early habits may, on account of the child's lack of insight and relative helplessness in complicated social situations, prevent him from establishing in each new situation habits which could be built if previous habits were absent. The synthesis may sometimes, however, be broken down by new learning. Such a view is contrasted with the type theory, the conception of personality as a system of relations between traits, each one of which is so inter-



locked with the rest that none may be regarded as an independent variable.

Education may be conceived as a method for building habits from the raw material which nature provides; or, stated more broadly, it may be conceived as the task of eliminating certain responses and attaching other responses to stimuli which do not by nature evoke them. Educators have long explicitly recognized that a sound psychology of habits is essential to their work. The English associationists and the Herbartians in Germany were prominent exponents of the view that education is not merely the forming of associations but the arrangement of the educational program in such a way that each step would make use of the organized system of habits already achieved by the child. Since there is no sharp distinction between the learning of facts, of skills and of moral habits, such a theory of education is based upon a unitary theory of habit. In the same vein criminologists assert that the task of eliminating crime involves not merely the setting up of penalties but training which will so organize the entire personality in relation to acceptable goals that the incentive toward crime is unable to compete successfully with the existing habit organization.

Social control of all forms presupposes the relative dependability of human conduct and finds habit the basis for continuity in both personality and the social structure. Social control usually involves also some changing of habits but only within rather narrow limits, and the fixity of one group of habits is presupposed when the alteration of another group is attempted. It is not enough for the advertiser to know that the habit of fearing bacteria has become widespread; it is important to know what particular habits with reference to sanitation and cleanliness already prevail among the group which he wishes to reach. Propaganda, because in general its result must be prompt and extreme and because as a rule it is directed to a more heterogeneous population than that addressed by the advertiser, has to resort to more primitive emotional responses, those which can be presupposed as the universal property of all individuals addressed. When, however, either advertising or propaganda has worked sentiment to a certain pitch, one assumes that it has already formed new attitudes and that from this point on it is necessary only to prevent the incursion of interfering habits. But here too there is more than habit, since it is hard for an individual to admit that a stand once definitely taken is unwarranted.

Among habit forming agencies the newspaper and radio may be regarded as vehicles of propaganda as well as of information. Editors recognize the difficulty of sudden shifts of policy no matter how imperatively social conditions may demand a change; the reader must feel that the essentials of the policy remain unchanged. Schools are usually granted an even more important place in habit formation; yet they are ordinarily regarded as concerned chiefly with cognitive and motor habits, while the family is responsible for emotional and moral habits. Not only because of the great responsibility thus given it but because of the strength of emotional responses which survive from childhood into the adult period the family must be considered to be in western Europe and the United States the most important of habit forming institutions.

An inquiry into habit formation in individuals must confront the problem of imitation. The term imitation covers several distinct groups of psychological facts, but all of these may be shown to be capable of definition partly or entirely in terms of the principles of habit formation. Imitation serves among many species as a basis for the continuation of habits and traditions which the young take over from their parents. All birds and mammals have traditions; the young learn the ways of the old. They learn not only the techniques upon which food and escape from danger depend; they learn ways of avoiding collective disapproval in a manner similar to human response to ethical instruction. Just as punishment substitutes a withdrawing reaction for an approach reaction, so, by conditioning, the threat or scowl deters, until with repetition the symbols which may prove effective to restrain antisocial conduct may be but remotely related to those originally necessary. Again, primitive imitative tendencies in man tend to enlarge condemnation by a few into collective condemnation by all members of the group; what was once offense against an individual becomes in time the grave infraction of a social tabu. The interdependence between members of groups is so great that such codes may be maintained even during long periods of subjection by alien rulers. The analogy between habits and customs can, however, be overdone, since the continuity of personality is in the long run safeguarded more substantially than is the continuity of the ways of the group. Radical changes in adult personality are, except in case of mental disease, infrequent; radical changes in customs are commonplace, even when the

period during which such changes take place is shorter than the lifetime of an individual.

So too the child's acquisition of social habits and acceptance of group traditions are sometimes assumed to have a dynamic character and to guarantee social continuity exactly as instinct might guarantee it. Under conditions of absolute isolation this sometimes seems to be true, but under conditions of culture contact learned elements are much more likely to collapse than those relatively fixed by heredity. Customs moreover never operate mechanically, independent of the needs which they serve. The social inheritance of habit formation is then only superficially identical with the inheritance of an organic need.

Tradition has already been described as a mode of restraint, instrumental not merely for the inculcation of safe and dependable social ways but as a stabilizer of the social structure. Considerable discomfort is involved in breaking almost any habit, and the discomfort is multiplied when vigorous emotional responses rather than mere techniques are involved. In this way changes in basic ethical and religious customs tend to be slower and to encounter more resistance than changes in mere motor habits. The restraining effect of tradition, however, is largely due to the direct and unthinking condemnation of acts apparently in conflict with individual or social interest. The genuine importance of habit as a social stabilizer appears then not to reside so much in the sheer painfulness of forming new habits as in the attitude of condemning what one has condemned since childhood. Conservatism involves of course many factors besides habit—for example, the deliberate or half deliberate preservation of vested interests—but it must be conceded that the intense conservatism of many groups seems to have its origin in the conditioned response type of attitude toward new ideas or practices.

GARDNER MURPHY

See: PSYCHOLOGY; CONDUCT; INSTINCT; CONDITIONED REFLEX; IMITATION; CONVENTIONS, SOCIAL; EDUCATION; CRIMINOLOGY.

Consult: Hunter, W. S., "Experimental Studies of Learning" in *The Foundations of Experimental Psychology*, ed. by C. Murchison (Worcester, Mass. 1929) ch. xv, containing a bibliography of the experimental studies; Woodworth, R. S., *Psychology* (rev. ed. New York 1926) p. 176-79; Dewey, John, *Human Nature and Conduct* (New York 1922) p. 14-130, 172-80; Bernard, L. L., *An Introduction to Social Psychology* (New York 1926) ch. x; Young, Kimball, *Social Psychology* (New York 1930) chs. v-vi; Chevalier, Jacques, *L'habitude: essai de métaphysique scientifique* (Paris

1929). Among the older studies the following classics may be mentioned: James, William, *The Principles of Psychology*, 2 vols. (New York 1890) vol. i, ch. iv; Maine de Biran, Pierre, "Influence de l'habitude sur la faculté de penser" in *Oeuvres*, ed. by Pierre Tisserand, 5 vols. (Paris 1920-25) vol. ii, tr. by M. D. Boehm (Baltimore 1929); Dumont, Léon, "De l'habitude" in *Revue philosophique de la France et de l'étranger*, vol. i (1876) 321-66.

HADLEY, ARTHUR TWINING (1856-1930), American economist, political theorist and educator. From an academic family environment and a Yale training Hadley went to Germany, where he studied for two years (1877-79) under Adolf Wagner at the University of Berlin. He returned to a career of Yale teaching somewhat affected by the historical approach in economics and especially by the work of Knies, Cohn and Sax on transportation. His first book, *Railroad Transportation: Its History and Its Laws* (New York 1885), was notable for its use of the comparative method, its clarification of the theory of railroad rates and its orientation in regard to the question of state interference. Hadley had become acquainted with the state socialist position in his studies with Wagner, but his own conclusion was in favor of the maintenance of the individualistic principle belated by the development of responsibility within the industry. This view was retained and strengthened in the course of Hadley's subsequent contacts with the railroads: in his testimony before the Cullom committee on the Interstate Commerce Act (1885); his experience as associate editor of the *Railroad Gazette* (1887-89); and his service as chairman of the Railroad Securities Commission created by the Mann-Elkins Act (1910), whose work foreshadowed the Railroad Valuation Act of 1913. Hadley further explored the problem of the province of government in his second book, *Economics: an Account of the Relations between Private Property and Public Welfare* (New York 1896). In scope and emphasis this general exposition of economics responded less to the prevalent interest in marginal introspective theory than it did to the intense economic stress of the period. Hadley wrote it at a time when the exploitation of national wealth under private property was being increasingly challenged, while Populism on the one hand and socialism on the other were attacking capitalist enterprise. Although a textbook in form this work was in reality as intelligent an apology and as judicious a defense of the economic institutions of the day as the American literature contains. Its approach

was not from a theory of distribution, as was, for example, J. B. Clark's, but rather from what Hadley called a theory of prosperity. Conceding imperfections in the existing organization of economic individualism Hadley regarded them as departures from a norm or an ideal which in itself represented a tremendous advance in human history.

Hadley was now led by the logic of his position from an economic to a preponderantly ethical and political approach. He had to reconcile his reluctance to admit radical social change with his rather realistic perception of the extent to which the institutions of competition and representative government had broken down. He was first forced into denying the importance of all institutional constructions, asserting that men are saved "less by their institutions than by their characters" and treating institutions as merely scaffolding or machinery. Seeking some ultimate base for his thought—an *inconcussum quid* on which it could come to rest—he found it in the standards of morality and the public spirit which give substance to the scaffolding of institutions and furnish the power for the administrative machinery (*The Relation between Freedom and Responsibility in the Evolution of Democratic Government*, New York 1903; *Standards of Public Morality*, New York 1907).

Hadley's investigation in what we may call the dynamics of institutions took two directions. He studied the wheels and pulleys of the actual controls in society (*Undercurrents in American Politics*, New Haven 1915). In another direction and in a more hortatory mood he considered how these controls might be ethicized through the education of public opinion. This was his principal concern in all his writings and in his tenure as president of Yale University (1899–1921). His theory of education oscillated between the principle of freedom and the principle of responsibility as between two poles. On the whole, however, as a true follower of the Tory tradition of Burke, Alexander Hamilton and Walter Bagehot, his sympathies lay with social cohesion rather than with individual freedom, with tradition rather than with innovation. The worst form of irresponsibility was to Hadley's mind the pushing forward of the interests of a class or group to the detriment of the interests of the community (*Economic Problems of Democracy*, New York 1923). In his presidential addresses before the American Economic Association in 1898 and 1899 he advanced the thesis that since political representation had become

particularistic the true function of the economist lay in representing the widest interests of the public. A rejoinder by John R. Commons emphasizing the essential class basis of prevalent economic conceptions was an indication of the body of thought that was coming increasingly to challenge the thought for which Hadley stood.

MAX LERNER

Consult: Fisher, I., Raper, C. I., and Seligman, E. R. A., in *American Economic Review*, vol. xx (1930) 364–68; Fisher, I., in *Economic Journal*, vol. xl (1930) 526–33.

HAECKEL, ERNST (1834–1919), German biologist and philosopher. After studying with Johannes Müller, Virchow and Gegenbauer and after a biological expedition to Sicily Haeckel was appointed to a professorship of zoology at the University of Jena, which he held until 1909. His best known contribution to biology is his evolutionary interpretation of von Baer's biogenetic law. He contended that ontogeny is the epitome of phylogeny, that the individual recapitulates during the rapid and short course of its development the most important form changes which its ancestors traversed during the long and slow course of paleontological evolution. On the basis of this theory he arranged coexisting species in temporal succession in the form of a genealogical tree. These views are still the basis of much controversy; none the less they initiated the modern movement in comparative anatomy which stresses the utmost importance of comparative embryology. His recapitulation theory stimulated the evolutionary study of human culture, especially the approach to the study of primitive cultures and prehistoric periods which attempts a task of arranging existing forms into historical stages. It also influenced educational theory in the United States through the work of G. Stanley Hall, who proposed that child education be organized around the idea that a child must pass in epitome through the cultural periods of man's evolution just as the child in embryo repeated human biological history. Haeckel also propounded the gastraea and coelom theories of cell development which in a modified form remain the basis of the classificatory arrangement of multicellular animals. He was the outstanding apostle of Darwinism in Germany and bore the brunt of the violent attacks of its opponents.

Haeckel based his monistic system of philosophy upon his biological doctrines. He attempted to establish a scientific naturalistic view of the

world as well as a non-religious system of ethics. He regarded psychology as a branch of physiology and psychical activity as depending solely on physiological changes in the protoplasm of the organism and denied the immortality of the soul, the freedom of will and the existence of a personal God. His presentation had glaring inconsistencies; for example, his assertions that atoms have souls and that crystals have organic life. Monism as founded by Haeckel has had very wide popular support in Germany and to a lesser degree in other countries. It influenced among others Lester Ward, who was the first to popularize Haeckel's work in the United States.

KURT BREYSSIG

*Consult:* Hertwig, Richard, in *Deutsches biographisches Jahrbuch*, volume for 1917-20 (Berlin 1928) p. 397-412; May, Walther, *Ernst Haeckel, Versuch einer Chronik seines Lebens und Wirkens* (Leipzig 1909); *Festschrift zum siebenzigsten Geburtstag von Ernst Haeckel* (Jena 1904); *Was wir Ernst Haeckel verdanken*, ed. by Heinrich Schmidt, 2 vols. (Leipzig 1914); Ward, Lester F., "Haeckel's Genesis of Man" in his *Glimpses of the Cosmos*, 6 vols. (New York 1913-18) vol. ii, p. 64-140; Radl, Ermanuel, *Geschichte der biologischen Theorien* (Leipzig, pt. i, 2nd ed. 1913; pt. ii, 1909), tr. by E. J. Hatfield (London 1930) ch. xii; Nordenskiöld, Erik, *Biologiens historia*, 3 vols. (Stockholm 1920-24), tr. by L. B. Eyre (New York 1928) pt. iii, ch. xiv.

HAGEN, KARL HEINRICH (1785-1856), German economist. Hagen studied under Hoffmann and was subsequently professor of economics and technology at Königsberg. He was strongly influenced by the teachings of Adam Smith, and his book *Von der Staatslehre und von der Vorbereitung zum Dienste in der Staatsverwaltung* (Königsberg 1839, tr. by J. Prince-Smith as *System of Political Economy*, London 1844) is an attempt to apply the classical doctrines to the range of problems of old cameralism. Hagen's chief contribution, however, was his theory of foreign trade, elaborated in *Die Notwendigkeit der Handelsfreiheit für das National Einkommen mathematisch nachgewiesen* (Königsberg 1844). This work, written under the influence of Cournot's *Recherches sur les principes mathématiques de la théorie de richesses* (Paris 1838), presents one of the earliest attempts in German economic literature to apply the mathematical method to economic analysis. It attracted international attention and still merits consideration as an attempt at exact analysis and measurement of the effects of export and import duties with a view to formulating a national commercial policy. Hagen concluded that im-

ports are always advantageous; exports, only under certain circumstances. Consequently import duties as well as export bounties are injurious. The opinion, occasionally expressed, that Hagen considered import duties advantageous under certain conditions is erroneous.

WILHELM RÖPKE

*Consult:* Edgeworth, F. Y., "The Pure Theory of International Values" in his *Papers Relating to Political Economy*, 3 vols. (London 1925) vol. ii, p. 3-60, especially p. 51-52.

HAGGARD, SIR HENRY RIDER (1856-1925), English novelist and agrarian reformer. At the age of nineteen Haggard went to South Africa, where he remained except for brief trips until 1881, serving for a time as master of the Transvaal High Court. Apart from his legal activity his main interests there centered upon aspects of native life, later reflected in his novels *King Solomon's Mines* (1885), *She* (1886) and *Ayesha* (1905). After his return to England, feeling the desire to do something "more practical than the mere invention of romance upon romance," he turned his attention to the state of English agriculture and the rural population. He believed that one of the gravest problems that England faced was the rapid depopulation of rural districts. In 1899 he published *A Farmer's Year* (London) and this was followed by *Rural England* (2 vols., London 1902), an admirable survey of agricultural conditions based on a journey through twenty-seven counties of England. In 1905 as an appointee of the Colonial Office he also traveled in the United States and Canada to study the labor colonies founded by the Salvation Army. Subsequently he devoted himself almost exclusively to the social aspects of agrarianism. Visits to Denmark (*Rural Denmark and Its Lessons*, London 1911; rev. ed. 1913) and, during the World War, to all the British dominions for the purpose of collecting information about the future settlement of ex-soldiers occupied much of his time, and membership on royal commissions on labor, afforestation and coast erosion familiarized him with the opportunities for extending the amenities of rural life. Haggard's importance in agrarian reform lay not so much in any original approach to the problems involved or in any conspicuous success as in his great energy in studying and stating the conditions of rural life.

J. A. VENN

*Consult:* Haggard, Henry Rider, *The Days of My Life*, 2 vols. (London 1926).

**HAGUE CONFERENCES.** Although many international conferences have been held at The Hague in modern times, the term Hague conferences is generally applied to the International Peace Conference of 1899 and the Second International Peace Conference of 1907. After the lapse of a generation a high estimate must be placed on the importance of these conferences. They represented the only united effort which was made to deal with the general situation that led to war in 1914; they made a significant contribution to international legislation; and by achieving a measure of continuity and by establishing the Permanent Court of Arbitration (*q.v.*) they helped to pave the way for later international organization in the League of Nations and the Permanent Court of International Justice.

The Peace Conference of 1899 owed its origin to proposals made in August and December, 1898, by Count Muraviev in the name of the czar of Russia. The original proposal with its lofty and seemingly disinterested anxiety regarding the peace of the world was not universally accepted at its face value. After four months Count Muraviev deploring a turn for the worse in the political outlook of Europe issued a second note, in which the original vague allusion to "possible reduction of armaments" was replaced by a more precise recommendation for a limited military and naval holiday and by a definitive program of eight points, beyond which the projected conference should have no jurisdiction and from which were excluded "all questions which concern the political relations of states or the order of things established by treaties." The response to the second proposal was more satisfactory. Because of the obvious undesirability of holding the conference in the capital of one of the Great Powers it was decided that it should be held at The Hague; invitations were issued on April 6, 1899, by the Netherlands minister of foreign affairs to those governments which had diplomatic representatives at St. Petersburg and to Luxemburg, Montenegro and Siam. On May 18 one hundred and one representatives of twenty-six states convened at the House in the Woods, where during nine weeks they attempted with some measure of success to convert the rhetoric of idealism into binding international conventions.

Vague suggestions of a second conference were made in 1899, but events following the adjournment of the first conference, more particularly the South African and Russo-Japanese

wars, tended to darken the prospects for a resumption of the effort. Despite the spirit of disillusionment prevailing in some quarters, however, a resolution was adopted by the Interparliamentary Union at St. Louis on September 13, 1904, calling for a second conference. This resolution led President Roosevelt to urge "pushing forward toward completion the work already begun at 'The Hague.'" On October 21, 1904, Secretary Hay directed the representatives of the United States to ascertain whether other governments were prepared to act in this sense, and he received numerous affirmative replies. The conclusion of the Russo-Japanese War created a more favorable atmosphere; and on September 13, 1905, a few days after the signing of the Treaty of Portsmouth the Russian government assumed the initiative of calling the second conference, the date of which was set after some delay for 1907. In addition to the twenty-six nations represented in 1899 nineteen Latin American countries were now invited along with Ethiopia and Korea. States which had not been represented at the conference of 1899 had not become parties to the Convention for the Pacific Settlement of International Disputes of July 29, 1899, which was a closed convention in the sense that it was not opened to signature by all states; to remedy this a protocol was signed on June 14, 1907, by representatives of the states which had been represented at the first conference; and on June 15, 1907, or soon thereafter seventeen Latin American states adhered to the convention. The second conference was held from June 15 to October 18, 1907, with forty-four states represented. The work was mainly done in the four commissions and the six sub-commissions deliberating behind closed doors.

The major objectives originally formulated by the czar proved to be beyond the realm of practical accomplishment in either conference. The more important governments remained suspicious of any thoroughgoing limitation of armaments and were reluctant to make any real concession of national sovereignty to the principle of compulsory arbitration. Resolutions and *vœux* incorporated in the final acts of both conferences commemorated the intrinsic merit of these principles; but neither conference was able to incorporate them into formal conventions or signed declarations. In 1899 the limitation of armaments was declared to be *grandement désirable* and in 1907 *hautement désirable*. Despite the efforts of the American and British delegations in the second conference to carry through a

convention on compulsory arbitration, the conference was forced to content itself with reechoing the non-committal assertion of its predecessor that compulsory arbitration was commendable in principle, with a slightly more specific declaration "that certain disputes, in particular those relating to the interpretation and application of the provisions of international agreements, may be submitted to obligatory arbitration." The 1907 convention (xii) providing for an international prize court failed to secure a single ratification, a fate which likewise befell the Declaration of London of 1909 (*q.v.*) and the 1910 protocol designed to implement the original convention.

On the other hand, the permanent gains embodied in the three conventions of the first conference and in the thirteen conventions of the second may be regarded as more genuinely significant than the failures enshrined in the resolutions and *vœux*. Although compulsory arbitration was not made obligatory, the permanent machinery for promoting optional arbitration set up by the convention (i) of the 1899 conference, which was expanded and revised by the convention (i) of 1907, represented a significant step forward in the direction of international organization. These conventions also contributed greatly to clarifying the principles and procedure for good offices and mediation.

The labors of the two conferences also resulted in a valuable restatement of the somewhat inchoate laws of war and maritime neutrality. The lines of this development had been sketched in the Declaration of Paris of 1854, the Geneva Convention of 1864 and the St. Petersburg Declaration of 1868 and by the inconclusive Brussels Conference of 1874. The second and third conventions of the first conference, designed to eliminate in so far as possible unnecessary suffering on the part of combatants, non-combatants, neutrals and citizens of occupied territories, were supplemented by three declarations, binding for a period of five years, which proscribed aerial bombardment, asphyxiating gases and expanding bullets. Most of the conventions of the second conference concerned themselves with ramifications of the broad problems blocked out in 1899; the revision of the two earlier conventions and the extension of the earlier declaration regarding aerial bombardment "for a period extending to the close of the third peace conference" were accompanied by an exhaustive, ground breaking codification of principles governing the outbreak of hostilities, the rights and

duties of neutrals on both land and sea, the status of enemy merchant ships at the outbreak of hostilities, the conversion of merchant ships into warships, the laying of automatic submarine contact mines, bombardment by naval forces in time of war and the exercise of the right of capture in naval warfare.

A striking feature of the Hague conferences was their effectiveness in pushing through the adoption of binding international conventions by a large number of states throughout the world. Two of the conventions signed at the first conference were ratified almost immediately by the twenty-six signatories, while that regulating the laws and customs of war on land received twenty-three prompt ratifications and three subsequent adhesions. The percentage of ratifications of the 1907 conventions was somewhat lower, attributable primarily to the post-conference indifference of the Latin American group and to the later coolness of the states of southern Europe. The great majority of the conventions averaged around 60 percent of ratifications, going as high as 70 percent in the case of the convention relating to the opening of hostilities, as low as 50 percent in the case of the convention prohibiting the forcible collection of contractual debts and to zero in the case of the International Prize Court Convention. In addition to the provisions for ratification provision was also made, subject to certain limitations, for subsequent adhesion by non-signatory states, either those which had not signed at the conference or those which had not participated in formulating the conventions. Since 1919 several of the new European states have adhered to several of the conventions. Provision was made for reservations both in signing and ratifying. No explicit sanctions were set down in the 1899 conventions, but in the later revision of the convention regarding the laws and customs of war on land money penalties are prescribed in certain cases of violation. Should a state desire to abrogate its responsibilities under a particular convention, it is permitted to denounce the convention. Where an 1899 convention was revised by the second conference it was held to be superseded as between the parties by the later convention; but certain states which ratified the earlier conventions failed to ratify the later ones, so that a particular state may be bound by both conventions, *vis-à-vis* different states. Thus the United States and France are bound *inter se* by the convention of 1907 regarding the pacific settlement of international disputes, yet each of them :

bound to Great Britain and to Italy by the corresponding convention of 1899. Many of the conventions contain provisions limiting their application to a war in which all the belligerents are parties to the convention—a condition which was not fulfilled in the World War, since six of the nations involved, including Italy and Turkey, had failed to ratify any of the 1907 conventions. It is significant, however, that despite this weakness the conventions exerted a profound moral influence on the conduct of belligerents during the war, and they remain in force in spite of the war.

The Final Act of the 1907 conference contained a recommendation that a third conference should be held within eight years and that two years in advance a committee should be set up to make a thorough preparation. The Netherlands government took this recommendation seriously and soon began its own preparation for a third conference. It was commonly expected that a third conference would be held in 1915; but on June 22, 1914, when it was evident that preparations had not proceeded sufficiently, the government of the United States proposed the postponement of the conference to 1916. The outbreak of war in 1914 blasted the hopes for a third conference; and although a few people may have wished to revive the series in 1919, interest was then turned in a different direction. The place of the Hague conferences is now filled by the Assembly of the League of Nations, which meets, not at intervals of eight years, but annually. The most important contribution of the Hague conferences was the idea of a continuous dealing with international affairs through successive conferences.

MANLEY O. HUDSON

*See:* INTERNATIONAL ORGANIZATION; INTERNATIONAL LEGISLATION; INTERNATIONAL LAW; WARFARE; ARBITRATION; INTERNATIONAL; PERMANENT COURT OF ARBITRATION; PEACE MOVEMENTS; LIMITATION OF ARMAMENTS; MARITIME LAW; DECLARATION OF LONDON; EQUALITY OF STATES.

*Consult:* Hague, International Peace Conference, 1899, *Conférence Internationale de la Paix. La Haye 18 mai-29 juillet, 1899* (The Hague 1899); Hague, International Peace Conference, Second, 1907, *Actes et documents*, 3 vols. (The Hague 1908-09); Carnegie Endowment for International Peace, Division of International Law, *The Proceedings of the Hague Peace Conferences*, 5 vols. (New York 1920-21), and *The Hague Conventions and Declarations of 1899 and 1907*, ed. by James Brown Scott (3rd ed. New York 1918); Bustamante y Sirvén, A. S. de, *La segunda conferencia de la paz*, 2 vols. (Madrid 1908); Fried, A. H., *Die zweite Haager Konferenz* (Leipzig 1907); Higgins, A. P., *The Hague Peace Conferences and Other Inter-*

*national Conferences concerning the Laws and Usage of War* (Cambridge, Eng. 1909); Holls, E. L., *The Peace Conference at The Hague* (New York 1900); Lemonon, Ernest, *La seconde conférence de la paix* (2nd ed. Paris 1912); Pillet, Antoine, *Les conventions de La Haye* (Paris 1918); Schucking, W. M. A., *Der Staatserwerb der Haager Konferenzen* (Munich 1912), tr. by C. G. Fenwick (Oxford 1918); Scott, James B., *The Hague Peace Conferences of 1899 and 1907*, 2 vols. (Baltimore 1909).

HAGUE TRIBUNAL. *See* PERMANENT COURT OF ARBITRATION.

HAHN, EDUARD (1856-1928), German geographer and economic historian. Hahn taught at the Landwirtschaftliche Hochschule in Berlin and at the University of Berlin. Through the use of anthropological materials he discredited the theory of economic history then current, according to which man was first a hunter, then a shepherd and finally an agriculturist. He presented the evidence of early economic division of labor between men and women, proving that in the hunting stage while men hunted women collected fruits and small animals. He concluded that women in the neolithic age utilized their discovery that plants arose from seeds, pits and bulbs to insure a regular food supply. Hahn mistakenly classed this form of agriculture, performed with the digging stick, with the hoe farming engaged in by man and called it hoe culture. Because women obtained, prepared and conserved plant food, Hahn ascribed to them the origin of economic activity; he held man responsible for the establishment of the foundation of political, juridic and state affairs, for religious activity and for the major share of magic rites for increasing fertility.

Hahn distinguished between hoe culture, in which domesticated animals are not associated with land cultivation, and plow culture, in which oxen are used as draft animals. He believed that cattle were originally domesticated and milked for religious purposes and that their domestication came earlier than that of sheep and goats. He pointed out that plow culture, which he believed arose in Babylon, is always performed by man, while woman remains the caretaker of the garden. With Eugen Fischer, Hahn considered that man's biological type was determined by domestication, which influences him in much the same manner as it influences animals.

W. E. MÜHLMANN

*Important works:* *Die Haustiere und ihre Beziehungen zur Wirtschaft des Menschen* (Leipzig 1896); *Die Wirtschaft der Welt am Ausgange des XIX. Jahrhunderts*

(Heidelberg 1900); *Das Alter der wirtschaftlichen Kultur der Menschheit* (Heidelberg 1905); *Die Entstehung der wirtschaftlichen Arbeit* (Heidelberg 1908); *Die Entstehung der Pflugkultur* (Heidelberg 1909); *Von der Hacke zum Pflug* (Leipzig 1914); "Menschenrassen und Haustiereigenschaften" in *Zeitschrift für Ethnologie*, vol. xlvii (1915) 248-57; "Die Entstehung und geschichtliche Bedeutung der Wanderhirten" in *Zeitschrift für Sozialwissenschaft*, n.s., vol. i (1910) 419-33, 500-14.

Consult: Vierkandt, A., "Zum Andenken Eduard Hahns" in *Archiv für Geschichte der Mathematik, der Naturwissenschaften und der Technik*, vol. xi (1928-29) 225-39; Honigsheim, Paul, "Eduard Hahn und seine Stellung in der Geschichte des Ethnologie und Soziologie" in *Anthropos*, vol. xxiv (1929) 587-612.

HALE, SIR MATTHEW (1609-76), English judge. Hale acquired a great reputation soon after his admission to the bar, especially in matters of public law, and appeared for the defense in several state trials under Charles I. Although he was a moderate royalist, under the Commonwealth he felt it his duty to serve the existing government and sat as justice of the Common Pleas; at the Restoration he became chief baron of the Exchequer and in 1671 chief justice of the King's Bench, enjoying royal favor in spite of his Puritanism and his strong pleas for religious toleration.

Deeply learned in English law and history and in Roman law, equally at home in common law and in equity (his influence has been traced in Lord Nottingham) and remarkably impartial on the constitutional questions of his day, Hale was "the first of our great modern common lawyers." His *History of the Common Law* (London 1713; 6th ed., 8 vols., 1820) was the first attempt at such a work; *The Jurisdiction of the Lords' House* (London 1796) is a remarkably judicious treatment of a controversial subject and is still valuable; the second part of one of his essays, *De portibus maris* (in *A Collection of Tracts Relative to the Law of England*, ed. by F. Hargrave, London 1787, p. 1-248), described certain wharves as "affected with a public interest," a conception widely used by the courts during the last half century; and his *Historia placitorum coronae* (2 vols., London 1736; new ed. 1800), dealing with the criminal law particularly of treasons and felonies, enjoys very high authority. Among more abstract studies are his *Analysis of the Civil Part of the Law* (first printed with the *History of the Common Law*; 2nd ed. 1716), which was praised by Blackstone, who adopted its arrangement in writing his *Commentaries*, and a criticism from the historical standpoint of

Hobbes' attack on the common law (printed in Holdsworth, W. S., *History of English Law*, vol. v, p. 500-13). A number of his works were never published; a list of them will be found in the *Dictionary of National Biography*. To all these attributes of jurist and historian must be added a character of singular sincerity and piety, which entitled him to be regarded as something like a Protestant counterpart of Sir Thomas More.

THEODORE F. T. PLUCKNETT

Consult: Holdsworth, W. S., *History of English Law*, 9 vols. (London 1922-26) vol. v, p. 482-85, 500-13, and vol. vi, p. 574-95, for a full discussion of his life and works. See also McAllister, B. P., "Lord Hale and Business Affected with a Public Interest" in *Harvard Law Review*, vol. xliii (1929-30) 759-91; Hamilton, W. H., "Affection with Public Interest" in *Yale Law Journal*, vol. xxxix (1929-30) 1089-1112.

HALES, JOHN (died 1571), English reformer and economist. He was the spearhead of Somerset's ill fated attempt to check enclosure of commons and arable lands for sheep grazing and the author of *A Discourse of the Common Weal of this Realm of England* (published anonymously London 1581; ed. from MS. by E. Lamond, Cambridge, Eng. 1893). He held an Exchequer post under Henry VIII and Edward VI, sat in Parliament at least twice, bought monastic lands in or near Coventry and there founded what was probably the first free school in England. In 1548 increasing agrarian discontent led Somerset to appoint a royal commission to study the extent to which enclosure and the creation of parks had caused the decay of villages and houses, decline in arable area and growth of unemployment and poverty. Only the committee led by Hales worked seriously; it undid much of the work of enclosure and encouraged agrarian resistance. This brought on his head the anger and successful opposition of the landed gentry and the earl of Warwick, who accused him of fomenting strife and another peasants' war. To assist the poor and the unemployed Hales introduced three bills in Parliament, calling for the rebuilding of decayed houses, the maintenance of tillage, the encouragement of cattle grazing in order to increase the supply of beef and dairy produce and the checking of food speculation. All three bills were smothered, and when Warwick overthrew Somerset in 1549 Hales had to flee abroad. In exile he wrote his *Discourse*, revealing in dialogue form the contemporary conditions and ideas of England; but it was not published until ten years after his death and then under the initials of some other man. Hales did not oppose enclosure



when it led to better arable methods or was done with the consent of the farming population, as there was an enclosure movement among tenants for farming purposes, not sheep raising; but he had no mercy for "the gredynes of Grasyers and Shepemaisters," for they "destroie Townes, they pull downe houses, they enclose poore men's commens and take away all ther lyvynge." Hales was an economist considerably ahead of his time; in addition to vigorous attacks on the debasement of the currency he opposed exclusive corporations and trade restrictions and justified competition.

HERBERT HEATON

Consult: Tawney, R. H., *The Agrarian Problem in the Sixteenth Century* (London 1912) p. 166-67, 366-71; Curtler, W. H. R., *The Enclosure and Redistribution of Our Land* (Oxford 1920) p. 91-98.

HALIFAX, FIRST MARQUIS OF, GEORGE SAVILE (1633-95), British statesman and political theorist. During the reign of Charles II Halifax played an involved but not essentially inconsistent role, assisting in the overthrow of Clarendon, supporting the Cabal but welcoming the Test Act. When Danby came to power Halifax joined Shaftesbury in the opposition and in 1679 gained office for the first time. Although he disliked Catholicism wholeheartedly he was ready for the sake of peace to dedicate his brilliant oratory to the frustration of Shaftesbury's project for excluding the duke of York from the succession. He refused to take active part in the Revolution of 1688 and yet contrived to get on well enough with William III. After a short period as William's minister he retired to write a series of books, detached, witty and full of political wisdom. The most famous of them was his *Miscellaneous Thoughts and Reflections*, a series of aphorisms, many of which have become famous.

In an age when political discussion usually centered around such concepts as natural rights and the divinity of kings Halifax's political writings denounced all general principles and calmly defended changes of party allegiance on the plea of public expediency. Devoting his valued services to various governments, he was loyal only to a policy of moderation. Good partisans regarded him as a dishonest and corrupt "trimmer"—a nickname which he accepted as a compliment. In his *The Character of a Trimmer* (1684 or 1685) he not only defended his own career but elevated the traditional British love of compromise and moderation to the dignity of a political theory.

He eulogized the British constitution because it permitted Great Britain more liberty than any other monarchy, while it avoided the unrest which seemed to him inseparable from more popular governments. Anticipating Montesquieu, he argued that pure democracy demanded an impossibly high standard of wisdom and virtue in the common people. "Our Trimmer," as he described himself throughout his famous apology, was a friend both to Parliament and to the king. His defense of English monarchy although not substantially different from Locke's was predominantly aristocratic and skeptical in spirit. Whereas Locke supplied revolutionaries with a Bible, Halifax's type of moderation was only grist to the conservative mill. Above all Halifax hated the party system, which seemed to him to intensify differences and to crystallize extremes. He was a national government man. "The best Party," he wrote, "is but a kind of a Conspiracy against the rest of the nation." "Ignorance maketh most Men go into a Party, and Shame keepeth them from getting out of it."

Although he was reputed to hold atheistic opinions Halifax defended religion as useful both to the individual and to the state. He was careful, however, to draw a distinction between Catholicism and other religions, arguing in company with Locke that a religion which repudiated the keeping of faith with heretics could not expect to be tolerated by the heretics themselves. When James II came to the throne Halifax opposed the Declaration of Indulgence, warning Protestants in his *A Letter to a Dissenter* (1687) and in his *The Anatomy of an Equivalent* (c. 1688) of the danger of permitting toleration for Catholics as the price of toleration for dissenters.

KINGSLEY MARTIN

Works: *The Complete Works of George Savile, First Marquess of Halifax*, ed. with an introduction by Sir Walter Raleigh (Oxford 1912).

Consult: Foxcroft, H. C., *The Life and Letters of Sir George Savile, Bart., First Marquis of Halifax* . . . , 2 vols. (London 1898); Reed, A. W., "George Savile, Marquis of Halifax" in *The Social and Political Ideas of Some English Thinkers of the Augustan Age, A.D. 1650-1750*, ed. by F. J. C. Hearnshaw (London 1928); ch. iii.

HALL, CHARLES (c. 1745-c. 1825), English social reformer. Hall was a practising physician at Tavistock, and in 1805 he published his only book on social questions, *Effects of Civilization on the People in European States* (2nd ed. London 1813). He belonged to the natural law school of social philosophers who assumed that

there once existed a natural society whose members, occupied with agriculture and a few auxiliary handicrafts, regulated intercourse and exchange by equitable laws based on the principle that labor formed the only source and measure of possession. Inequality arose when greed induced the few to enclose public lands and deprive the many of their possessions; it grew by its own momentum. Nature gave way to civilized society, which, while it stimulated human activities, progressively enlarged the gulf between possessors and non-possessors, since wealth or capital gave its owners absolute power over the labor of the poor. Production became the function of the non-possessors, distribution and government the function of the possessors. The wealthy were not only keeping the poor in abject poverty but thrusting the smaller independent manufacturers into the ranks of the poor, and civilized society was being progressively divided into two classes whose interests were in direct conflict. Moreover, the extension of the dominion of the wealthy over foreign territories gave rise to international rivalries and wars. These effects of civilization or of manufacture, science, trade and commerce could not be removed unless the cause, unequal division of landed possessions, was removed. The cure of all those ills depended on the return to the equality of the pre-manufacturing era.

Hall viewed the capitalist not as an enterprising organizer but as a lender of capital to producers at usurious interest which left the latter just enough of the produce of their labor to enable them to go on producing wealth. While this view might have originated in the premanufacturing era when merchants were getting hold of the domestic industries through advances of capital, Hall's stress on the rise and development of class antagonism through the industrial revolution was new. Adam Smith viewed the opposition of interests between employer and employee as an ordinary commercial bargaining opposition between the buyer and seller of a commodity, in this case labor power. But with Hall it is an irreconcilable conflict between two classes, one thriving on inequality, the other aspiring to equality.

MAX BEER

*Consult:* Morgan, J. M., *Hampden in the Nineteenth Century*, 2 vols. (London 1834) vol. i, p. 20-21; Beer, Max, *History of British Socialism*, 2 vols. (London 1919-20) vol. i, p. 126-32, 197, vol. ii, p. 373; Menger, Anton, *Das Recht auf den vollen Arbeitsertrag in geschichtlicher Darstellung* (2nd ed. Stuttgart 1891), tr. by M. E. Tanner (London 1899) p. 47-50.

HALL, GRANVILLE STANLEY (1846-1924), American psychologist and educator. After studying at Williams College, Union Theological Seminary and in Germany, Hall taught at Antioch College, at Harvard University and at Johns Hopkins University before serving as president of Clark University from 1888 to 1920. He ranks with James and Ladd among the pioneers of psychology in America. Like them he had at first a deep interest in philosophy, but unlike them he devoted his mature years exclusively to psychology. Although in 1882 he founded the first laboratory of experimental psychology in the United States at Johns Hopkins University, after 1888 he never returned to experimental work and often manifested impatience with its caution and meticulous accuracy. He attached little value to quantitative methods but often expressed appreciation of intuitive insight. He retained a youthful zest for new trails, was a voracious reader and was gifted with imagination and an amazingly rich vocabulary. His work is thus marked by great volume and wide range, high suggestibility and literary charm, but it lacks exactness of definition, logical consistency and system.

Hall championed the genetic viewpoint; biological rather than physical principles were at the basis of his psychology. With his "psychonomic law," which was the recapitulation doctrine of von Baer and Haeckel applied to mental evolution, was associated acceptance of the doctrine of inheritance of acquired characters. He held not only that humans are influenced in their deeper, more temperamental dispositions by the life habits and codes of conduct of unnumbered hosts of ancestors but that the normal individual in his personal evolution recapitulates the cultural epochs of racial history. These somewhat mystical and now discredited doctrines greatly influenced his educational theories. Precocity was viewed as abnormal and portentous; criminality as atavistic reversion. He found in the "instinct-feelings" not only the more significant elements of the psyche but guides to right living superior to feeble rationality. He deeply influenced educational thought and practise from kindergarten to university. While he made contributions to every phase of psychology, especially those of childhood, adolescence, senescence, religion, sex, race, education, play, morale, war and the emotions, his fame rests equally, if not more, on his truly prodigious influence as teacher, lecturer, pioneer and stimulator of research in both psychology and education, organi-

izer and publisher. As a teacher he was extraordinarily stimulating; as an administrator he cultivated the individuality and independence of instructors and departments and preserved the freedom of faculty appointments from trustee interference. He led in the formation of the American Psychological Association in 1892. His wide interests and propagandist fervor led him to establish the *American Journal of Psychology*, *Pedagogical Seminary*, *Journal of Religious Psychology*, *Journal of Race Development* and the *Journal of Applied Psychology*.

FRANK H. HANKINS

*Important works:* *Adolescence; Its Psychology and Its Relations to Physiology, Anthropology, Sociology, Sex, Crime, Religion and Education*, 2 vols. (New York 1904), condensed as *Youth: Its Education, Regimen and Hygiene* (New York 1906); *Educational Problems*, 2 vols. (New York 1911); *Founders of Modern Psychology* (New York 1912); *Jesus, the Christ, in the Light of Psychology*, 2 vols. (New York 1917); *Morale; the Supreme Standard of Life and Conduct* (New York 1920); *Senescence, the Last Half of Life* (New York 1922); *Life and Confessions of a Psychologist* (New York 1923), with bibliography p. 597-616.

*Consult:* Wilson, L. N., *G. Stanley Hall* (New York 1914); Fisher, S. Carolyn, "The Psychological and Educational Work of Granville Stanley Hall" in *American Journal of Psychology*, vol. xxxvi (1925) 1-52; Starbuck, Edwin D., "G. Stanley Hall as a Psychologist" in *Psychological Review*, vol. xxxii (1925) 103-20.

HALL, WILLIAM EDWARD (1835-1894), English jurist. Hall was educated at Oxford and was called to the bar in 1861. He spent little time, however, in the practise of the law, preferring to devote himself to various outside interests, including the study of the military and social sciences. Occasionally he was entrusted with commissions by various government departments. He was an active member of the Institut de Droit International.

Hall achieved fame as a writer on international law. His first work was a monograph on *The Rights and Duties of Neutrals* (London 1874). In 1880 he published his masterpiece, *A Treatise on International Law* (Oxford 1880; 8th ed. by A. Pearce Higgins, 1924). This book was obviously the work of a keen student of history and of the social sciences, who had read much in many languages, traveled widely and mingled with men of different nations; it was at once recognized as an authoritative exposition of the subject. Adopting the standpoint of a positivist, Hall held that existing rules of international law are the sole standard of conduct in that field and that any betterment or change can be effected

only by growth in harmony with changes in the sentiments and external authority of the body of states. Furthermore, he held that international law is based ultimately upon the assumption that states have certain rights and that they are subject to duties which correspond to the facts of their postulated nature. Not the least valuable feature of Hall's work is his method of penetrating below the surface of the positive rules of the law of nations and examining and criticizing the principles on which they profess to be based. A systematic and precise treatise, it reflects the English standpoint, especially with regard to naval warfare; but it is nevertheless fair to the views of others.

In 1894 there appeared *A Treatise on the Foreign Powers and Jurisdiction of the British Crown* (Oxford). This extremely difficult subject had never previously been treated as a whole, and Hall's presentation of it is masterly. The book is also an exposition of some very difficult questions of the law of nations and of English constitutional law.

A. PEARCE HIGGINS

*Consult:* Holland, T. E., "In Memoriam, W. E. Hall" in *Law Quarterly Review*, vol. xi (1895) 113-17.

HALLAM, HENRY (1777-1859), English historian. Hallam's family circumstances, education and legal experience inclined him toward conservative historical views, but this conservatism was modified by a love of liberty and an unremitting sense of justice. His three histories, monumental in their themes, are: *A View of the State of Europe during the Middle Ages* (2 vols., London 1818; 11th ed., including a supplementary volume of notes added in 1848, 3 vols., 1855); *The Constitutional History of England from the Accession of Henry VII to the Death of George II* (2 vols., London 1827; 8th ed., 3 vols., 1855), his best work; and *The Introduction to the Literature of Europe in the Fifteenth, Sixteenth, and Seventeenth Centuries* (4 vols., London 1837-39; 5th ed. 1855). Primarily interested in the development of law, jurisprudence and political institutions, Hallam subordinated the role of the individual in history to that of the group and endeavored to substitute the natural association of related facts for the usual chronological narrative. On the technical side he set an example by the prodigious scope of his researches and his scrupulous fidelity to sources. Hallam was not dogmatic and disliked systems and theories untested by experience. His faith in a ruling Providence directing the course of

history with a purpose ultimately benevolent did not preclude a conviction of the inevitable decay of all human institutions. He admired the English constitution, believing that it best reconciled and insured order, liberty and wealth, which were the true ends of government. The two houses of Parliament should be equal in power, with competence still residing in the crown to mediate, harmonize and, under safeguards, modify their action. Although a Whig, Haller could not accept the idea of representation implied in the Reform Bill of 1832. He foresaw dangers to English liberty in the increasing tyranny of party, the rising tide of democracy, the mass and complications of the law and the inquisitions and coercions of executive government.

VIOLET BARBOUR

*Consult: Gooch, G. P., History and Historians of the Nineteenth Century (London 1913) p. 282-84, 292-94.*

HALLER, KARL LUDWIG VON (1768-1854), Swiss-German jurist and political theorist. Haller was the typical German literary representative of the social and political currents of the Restoration era. With his *Restauration der Staatswissenschaften* (6 vols., Winterthur 1816-34) he supplied an ideology to the conservatives in their struggle against the liberal tendencies of the time. The brilliant literary subjectivism of the romanticists was recast by him into a firm system of doctrine which laid claim to be both positive and objective as well as soberly realistic. It was this fact which commended Haller's static, prosaic and rigid system, rather than the dynamic and more imaginative flights of Adam Müller, to the interests of the feudal class. For this class sought to restore the pre-absolutist, patrimonial state in place of the modern sovereign state, which refused to tolerate the existence of any independent and privileged classes, and in place of the national state of the revolutionary and liberal bourgeoisie. Haller affirmed the existence of a "natural" relationship between ruler and ruled which was Christian in the mediaeval sense and based not only on right but on an association that was immediate, personal and patriarchal in character. To the state, which was becoming increasingly bourgeois, he opposed the idea of a society, hierarchically constituted and aristocratically dominated. Haller rejected the expansionist aspirations of both the absolutist and the national state. All he desired was the preservation or at most the restoration of power to the aristocratic and noble class with-

in society. In Catholicism with its idea of authority and with its institution of the church, whose political policy, at least in respect to the limitation of the power of the omnipotent state, was in accord with the interests of the aristocratic class, he saw the religious counterpart of his political philosophy. Haller's conversion to Catholicism as a dictate of his political conscience is thus typical of the intellectual world of the Restoration era, in which patriarchal and ecclesiastical tendencies were characteristically intermingled.

Although Haller's influence on political thought was very strong in the period following the Congress of Vienna, it was not of long duration. His political and journalistic activities under Charles X of France came to an end with the outbreak of the February revolution. In Austria his works were prohibited because of their anti-absolutist and Frondist tendencies. And in Prussia, as a result of the revival of great power aspirations and the recrudescence of the traditional state Protestantism, political thought tended more in the direction of favoring wider expansion of the powers of the state. Even such people as the brothers Gerlach and Stahl in the circle of Frederick William IV gradually turned away from the essentially pacific conservatism of Haller.

ALFRED VON MARTIN

*Consult: Meinecke, F., Weltbürgertum und Nationalstaat (7th ed. Munich 1928) ch. x; Sonntag, W. H. von, Die Staatsauffassung Carl Ludwigs von Hallers (Jena 1929); Mohl, Robert von, Die Geschichte und Literatur der Staatswissenschaften, 3 vols. (Erlangen 1855-58) vol. ii, ch. ix; Below, G. von, Der deutsche Staat des Mittelalters (2nd ed. Leipzig 1925); Salomon, G., Das Mittelalter als Ideal in der Romantik (Munich 1922) p. 81-85.*

HALOANDER, GREGOR (Gregor Meltzer) (1501-31), German jurist and humanist. Haloander is famous for his new editions of the law books of Justinian (Nuremberg 1520-31), which were based upon many years' study of the manuscripts in Italy and departed from the traditional mediaeval treatment.

In the *Pandects* he replaces the scholastic division in three parts with the original division. His arrangement of the text recognizes that there are other authoritative texts besides the Florentine, and among these he chooses eclectically. His completion of the inscriptions is new. The Institutes are collated with the text of the *Pandects*. In the *Codex* the scholastic division is also rejected. The subscriptions are new, but the

Greek constitutions are missing. The edition of the Novels for the first time contains the Greek texts although not all of them. Haloander added Latin translations of these (also of the Novels that existed only in the form of Greek summaries), distinguishing them from the vulgate text by means of different type.

Haloander's work of course is not in accordance with the critical principles of modern philologico-historical method. His primary purpose was to produce a readable, comprehensible and juristically useful text; and the edition thereby attained great historical importance. Even today it is recognized that Haloander was gifted with the intuition of genius.

FRANZ SOMMER

*Consult:* Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880-1910) vol. i, p. 180-203; Dirksen, H. E., "Zur Würdigung der Verdienste des Gregor Haloander um die Textes-Kritik der justinianischen Quellen" in his *Hinterlassene Schriften*, 2 vols. (Leipzig 1871) vol. ii, p. 506-45; Flechsig, E., *Gregor Haloander* (Zwickau 1872); Kühler, Bernhard, *Geschichte des römischen Rechts* (Leipzig 1925) p. 422.

HÄLSCHNER, HUGO (1817-89), German jurist. Hälschner was professor at the University of Bonn. His early writings were on international law. Political events led him to write a number of works on public law, in which he considered the problem of creating a constitutional state in Prussia; he also pleaded for the rights of Germany and the Augustenburg line to the succession in the duchies of Schleswig-Holstein in opposition to the claims of the Danish crown.

Hälschner's most significant contribution, however, is in criminal law, a subject which he explored in two systematic and complete treatises. One is devoted to Prussian criminal law and is based upon the Prussian criminal code of 1851. It endeavors to incorporate the Prussian law into the body of contemporary German criminal law and to trace its historical development. The second work gives an exposition of German criminal law with reference to the imperial German criminal code of 1871. Hälschner's fundamental point of view, arising out of speculative philosophy, is the "absolute" theory of criminal law, which holds that punishment serves justice, not utility, and is solely the reaction of the moral order, conceived in a religious-spiritual spirit, against the misdeeds of the criminal, whose moral guilt is based on free will.

ERNST VON BELING

*Important works:* *Das preussische Strafrecht*, 3 vols.

(Bonn 1855-68); *Das gemeine deutsche Strafrecht systematisch dargestellt*, 2 vols. (Bonn 1881-87); "Die Lehre vom Unrecht und seinen verschiedenen Formen" and "Nochmals das Unrecht und seine verschiedenen Formen" in *Gerechtigkeit*, vol. xxi (1869) 11-36, 81-114, and vol. xxviii (1876) 401-31.

*Consult:* Landsberg, E., in *Allgemeine deutsche Biographie*, vol. xlix (Leipzig 1904) p. 731-34.

HAMEL, GERARD ANTON VAN (1842-1917), Dutch criminologist and jurist. Van Hamel was a public prosecutor for several years and subsequently legal adviser in the Ministry of War. He successfully filled the chair of criminal law at the University of Amsterdam from 1880 to 1910, when he resigned in order to become a Liberal member of the lower house of Parliament—an office which he retained until his death. He was one of the founders of the *Tijdschrift voor strafrecht* (1886) and together with Liszt and Prius organized the Union Pénale Internationale (1889), which proposed to introduce modern criminological ideas into the criminal law. At his initiative the Vereinigung pro Juventute was established in 1896; this society played an important role in the enforcement of the child laws of 1905, which brought into existence an entirely new and separate penal code for juvenile offenders. He also helped establish the Psychiatrisch-juridisch Geselschap (1907), which improved considerably the relations between psychiatrists and lawyers, and participated in a prominent way in many international congresses.

Van Hamel was one of the leading scholars in the field of criminal jurisprudence. During his academic career he became deeply interested in criminal anthropology and in the general reform movement which held that criminality and the means of repressing it must be studied from the social as well as from the juridical point of view and that penology must utilize the findings of anthropological and social research. He was the author of a number of articles and speeches on the subject of criminal law and criminology, the most important of which were reprinted in his *Verspreide opstellen, 1870-1912* (2 vols., Leyden 1912). His greatest work was *Inleiding tot de studie van het nederlandsche strafrecht* (pt. i, Haarlem 1889; 4th ed. by J. V. van Dijk 1927), which deals with the general part of Dutch penal law and is used extensively as a textbook in the universities. Van Hamel's scientific work does not show great originality; his chief importance for the Netherlands lies in the fact that by his energetic and scholarly propa-

ganda he called attention to the new criminology and to its practical importance for criminal jurisprudence. His teachings have inspired a number of students of modern penal law.

WILLIAM ADRIAN BONGER

*Consult:* Liszt, F. von, in *Zeitschrift für die gesamte Strafrechtswissenschaft*, vol. xxxviii (1916-17) 553-60; Dahl, Frantz, in *Nordisk tidskrift för straffrätt*, vol. v (1917) 207-16, and in *Tijdschrift voor strafrecht*, vol. xxix (1918) 60-68.

HAMILTON, ALEXANDER (1757-1804), American statesman and political writer. After serving for four years during the revolution as Washington's private secretary and confidential aide Hamilton became in the critical period following the war the most tireless of the advocates of a vigorous central government. His service with Washington had convinced him of the grave dangers inherent in the feeble continental system, and as a New York delegate to the Continental Congress of 1782-83 he was even more depressed by the jealousies between states. He carried on a vigorous correspondence in behalf of a new constitution, went to the Annapolis Convention in 1786, joined Madison in inducing it to convoke the Federal Convention, was the leading New York delegate at Philadelphia and strenuously urged the adoption of a conservative and highly unified form of government. Later he made a signal contribution to the campaign for ratification by collaborating with Madison and Jay in the essays called *The Federalist*. As secretary of the Treasury in Washington's cabinet from 1789 to 1795 he not only organized the financial system of the nation with extraordinary grasp and wisdom but was the president's chief adviser in all matters of domestic policy. The least fortunate period of his public life was his service as a Federalist leader in New York, out of office and in opposition to President Adams. An even more acrimonious quarrel with Aaron Burr resulted in his death in a duel.

Hamilton's public work and teachings, which stand in direct contrast to Jeffersonian doctrines, rested upon a few simple and powerful ideas. Although not an original thinker he was clear, logical and realistically minded with a remarkable gift for applying his political ideas to the practical problems facing the new republic. He held a deep distrust of the common man or the "mob" and a conviction that governmental power should be concentrated and kept at a distance from the people. A native of the British West Indies, he had no attachment to any state, while his experience of the selfish anarchy en-

gendered by states' rights made him detest all looseness of authority. At the time of the Federal Convention he declared privately that he would gladly abolish all state lines. In his one important speech to the convention he advocated a president with a life tenure, an absolute veto on national legislation, and power to appoint all state governors, who should hold a similar veto on state legislation; and proposed a senate based on property qualification with life tenure. He knew these ideas to be impracticable and probably expressed them largely as a corrective to radical democratic tenets. Although the constitution was remote from his ideas, he accepted it in the belief that it might be molded into more conservative form. Distrusting democracy and holding that self-interest is always the predominant interest he was intent upon gaining the support of the well born and propertied elements. He laid careful plans also to create new classes of moneyed men and to give them a direct interest in federal stability. While Jefferson thought in terms of individual welfare and Madison in state terms, Hamilton thought in terms of national wealth, authority, orderliness, strength and security. He was professedly attached to republican forms, but he believed that "the only enemy republicanism has to fear in this country is in the spirit of faction and anarchy."

As a piece of political theorizing Hamilton's best single work is his *Federalist* series, which is the greatest commentary yet written on the constitution and did much to educate both his own and later generations in his ideas of government. But in practical effect the forcible papers which he published in the first years of his secretaryship were more important. The two reports on public credit in 1790 not only fixed a high standard of national honor in money matters but carried out his object of attaching powerful American groups to the new system. In the first (January, 1790) he insisted that the government debt must be paid in full, without discrimination against speculative buyers of depreciated securities, and that the debt contracted by the states for the common cause of independence should be assumed by the nation. He frankly avowed that the assumption measure would unite all the public creditors "in the support of the fiscal arrangements of the government." Both proposals were carried against stubborn anti-Federalist opposition. In his second report (December, 1790) he proposed to supplement the revenue from duties with an excise tax valuable in itself and for bringing the federal

authority home to every citizen. He also laid down a plan for a national bank, for which his arguments were so irresistible that the necessary bill passed at once. Near the close of 1791 he perfected his system by transmitting to Congress his famous report on manufactures. This expounded the doctrine of a well balanced national economy and a diversification of industry in the interests of independence and security; and running counter to Adam Smith it proposed the systematic fostering of manufactures by protective tariffs, with bounties to agriculture where necessary. The document, which later inspired some of Friedrich List's writings, has served to bulwark more extreme protectionist ideas than Hamilton would ever have countenanced. In 1793 Hamilton decisively defeated the political opponents who questioned his administration of the finances and in 1794 helped vindicate the authority of the federal government in the suppression of the Whisky Rebellion. His great work was then practically accomplished. He had established the national credit, given the nation an efficient financial system, stimulated general prosperity and done more than any other man except Washington to strengthen the union, while he bequeathed a set of ideas—including the doctrine of implied powers in the constitution, embodied in his argument on the national bank bill—which possess continuing vitality.

ALLAN NEVINS

*Works:* *Works*, ed. by H. C. Lodge, 9 vols. (New York 1885-86; new ed., 12 vols., 1904); *The Federalist*, ed. by P. L. Ford (New York 1898).

*Consult:* Hamilton, J. C., *History of the Republic of the United States of America as Traced in the Writings of Alexander Hamilton*, 7 vols. (New York 1857-64); Morse, J. T., *The Life of Alexander Hamilton*, 2 vols. (Boston 1876); Lodge, H. C., *Alexander Hamilton* (Boston 1882); Sumner, W. G., *Alexander Hamilton* (New York 1890); Oliver, F. S., *Alexander Hamilton: an Essay on American Union* (new ed. New York 1921); Beard, C. A., *Economic Interpretation of the Constitution* (New York 1913), and *Economic Origins of Jeffersonian Democracy* (New York 1915); Morse, A. D., in *Political Science Quarterly*, vol. v (1890) 1-23; Dunbar, C. F., "Some Precedents Followed by Alexander Hamilton" in *Quarterly Journal of Economics*, vol. iii (1888-89) 32-59; Lunt, E. C., "Hamilton as a Political Economist" in *Journal of Political Economy*, vol. iii (1894-95) 289-310.

HAMILTON, GEORGE GORDON, FOURTH EARL OF ABERDEEN (1784-1860), British statesman. Aberdeen was educated under the eye of his guardian, the younger Pitt, was early schooled to austerity by a succession of private sorrows and was deeply impressed by the miseries of

war as ambassador to Austria in 1813-14. As foreign secretary from 1828 to 1830 under the Duke of Wellington, "Athenian Aberdeen" in spite of his enthusiasm for classical antiquity acquiesced in his chief's grudging policy toward the newly independent Greek nation; but again at the Foreign Office from 1841 to 1846 under Peel his sympathy with the moderate Guizot did much to restore friendly relations with France and his spirit of compromise helped to secure the settlement of disputes with the United States about Maine in 1842 and Oregon in 1846. Aberdeen was like Peel a consistent opponent of Palmerston's "intermeddling" foreign policy and desired to keep on good terms with Russia, yet he was destined nevertheless first to be prime minister (December, 1852, to January, 1855) in a composite cabinet which drifted into war with Russia on the side of France and Turkey and then to give place to Palmerston, the leader of the war party among his colleagues. He died almost haunted by this climax to a career which aimed only at peace and moderation. Aberdeen had many private and public virtues but lacked ambition and decision in action. As a minister of parliamentary England in an age of aggressive nationalism his misfortune was to be a man with little sense of party and without national prejudice. A Conservative of liberal sympathies, he followed Peel in a period of transition and pointed the way to a more forcible politician than himself—W. E. Gladstone.

C. W. CRAWLEY

*Consult:* Stanmore, A. H. G., *The Earl of Aberdeen* (3rd ed. London 1906); Balfour, F., *The Life of George, Fourth Earl of Aberdeen*, 2 vols. (London 1922); Cecil, Algernon, *British Foreign Secretaries 1807-1916* (London 1927) ch. iii.

HAMILTON, ROBERT (1743-1829), Scottish economist and mathematician. Hamilton was at first a partner in a paper mill but resigned in 1769 and shortly thereafter accepted the rectorship of the academy at Perth. In 1779 he went to Marischal College, Aberdeen, where he taught natural philosophy for one year and mathematics thereafter, although he did not become titular professor until 1817. While at Perth he published his *Introduction to Merchandise* (2 vols., Edinburgh 1777-79; 5th ed. 1802) and in 1799 *An Essay on Peace and War* (reprinted in *Essays*, Aberdeen 1831). In 1813 he issued the *Inquiry concerning the Rise and Progress, the Redemption and Present State, and the Management of the National Debt of Great Britain* (Edinburgh; 3rd

ed. 1818). It is usually stated that he was the first to show the fallacy underlying the sinking fund idea. This is, however, a mistake. For his fundamental principle that "the excess of revenue above expenditure is the only real sinking fund by which public debt can be discharged" was expressed in almost identical language well nigh two decades earlier by Albert Gallatin in his published criticism of the American sinking fund which had been initiated by Alexander Hamilton in imitation of Pitt. As Gallatin was not known in England, it was primarily through Hamilton's clear exposition, reenforced by Ricardo, that the British sinking fund was soon abandoned.

Hamilton's other contributions to economics were a pamphlet on pauperism (*An Address . . . on the Management of the Poor*, Aberdeen 1822), called forth by the state of the poor in Aberdeen, and *The Progress of Society* (London 1830), which appeared posthumously with an introductory sketch of his career. This comprehensive work, dealing chiefly in broad generalizations and animated by the prevalent distrust of government interference, is interesting as containing one of the early attempts to estimate the amount and the distribution of the national income.

EDWIN R. A. SELIGMAN

HAMMER-PURGSTALL, JOSEPH VON (1774-1856), Austrian historian and orientalist. Hammer-Purgstall studied at the Oriental Academy of Vienna and passed a number of years in the diplomatic service. Education, residence and travel in the Near East from 1799 to 1807 gave him an intense, lifelong interest in Turkish, Persian and Arabic history and literature. He was a member of many learned societies and president of the Akademie der Wissenschaften in Vienna from 1847 to 1849. He edited *Fundgruben des Orients* and contributed to a number of periodicals.

Hammer-Purgstall was among the foremost European students of the Orient and the author of more than a hundred volumes. His masterpiece, the *Geschichte des osmanischen Reiches* (10 vols., Pest 1827-35; 2nd ed., 4 vols., 1834-36), was a history of the Ottoman Empire from its beginnings until 1774; it was the first work since the writings of Leunclavius in the sixteenth century which was based mainly upon Turkish sources, and consequently it became the standard authority for most subsequent western historians of Turkey. *Des osmanischen Reichs Staats-*

*verfassung und Staatsverwaltung* (2 vols., Vienna 1815), while incomplete and uncritical, is nevertheless a valuable study of the constitution and administration of the Turkish state. Hammer-Purgstall was also the author of histories of the Assassins, of the Mongols in Persia and the Kipchaks and of the khans of the Crimea. He published travel books, histories of Turkish poetry and of Persian and Arabic literature and a number of translations. His work in all fields was more extensive than profound; he remained a translator rather than an interpreter and judge, often transmitting the contradictions and errors of his sources. Despite obvious and glaring defects, however, his contribution to western knowledge of the Moslem peoples of the Near East is perhaps greater than that of any other scholar.

ALBERT H. LYBYER

*Consult:* Schlottmann, K., *Joseph von Hammer-Purgstall* (Zurich 1857); Wurzbach, C. von, *Biographisches Lexikon*, vol. vii (Vienna 1861) p. 267-89, containing a bibliography of Hammer-Purgstall's works.

HAMMURABI, CODE OF. *See* LAW, section on CUNEIFORM LAW; LAUGHERS; CODIFICATION.

HAMPDEN, JOHN (1594-1643), English parliamentary. Hampden was a borough member in the third Parliament of James I and in the first three parliaments of Charles I, where his ability, his moderation and his greatly respected integrity soon made him one of the most influential members of the antiprereogative party. Although, like his friend Sir John Eliot, a convinced monarchist to the end he maintained in both the Short and the Long Parliament, in which he sat as member from Buckinghamshire, an uncompromising attitude on ecclesiastical and political matters. Distrusting the king and supporting all measures to limit the royal prerogative he advocated the Grand Remonstrance and was one of the five members whom Charles I vainly tried to arrest in the House of Commons in January, 1642. His earliest opposition to the court was against forced loans, but his name is associated chiefly with the great ship money trial of 1637 and 1638 arising out of his refusal to pay an assessment made on his Buckinghamshire lands under the writ extending the levy to the inland counties. The question at issue was whether in time of national danger the king could take such measures and make such levies "as he shall think fit," to avert the danger; "and



whether, in such a case, is not the king sole judge, both of the danger and when and how the same is to be prevented and avoided." In what was probably the most important constitutional decision between 1603 and 1660 the majority of the judges in the Exchequer Chamber ruled in favor of the king. Although there was some legal precedent for the decision, it proved itself a dangerous weapon in the hands of Charles I and was one of the chief causes of the discontent which led in the year before Hampden's death to civil war.

C. H. McILWAIN

*Consult:* Grenville, George Nugent, *Some Memorials of John Hampden* (4th ed. London 1857); Macaulay, T. B., "John Hampden" in *Works*, vol. v (London 1866) p. 539-86; Forster, J., *Sir John Eliot*, 2 vols. (London 1864); Gardiner, S. R., *History of England*, 10 vols. (new ed. London 1893-95) vols. viii-ix, and *History of the Great Civil War*, 4 vols. (new ed. London 1893-97) vol. i; Firth, C. H., in *Dictionary of National Biography*, vol. xxiv (London 1890) p. 254-62.

IAN FEI-TZŪ (died 233 B.C.), Chinese politician and philosopher. A member of the princely house of the small state of Han, he is said to have studied under Hsün-tzū; he belonged to the School of Law. On a mission to Shih-huang-ti, emperor of Ch'in, he made such an impression that the latter supposedly fearing his abilities had him thrown into prison, where he committed suicide by eating poison sent him by Li Ssü, a former fellow student and minister at the court of Ch'in.

Although the background of Ian Fei-tzū's ideas was Taoistic, he was far from being a mystic. He was an eclectic who tried to reconcile the activist ideas of Hsün-tzū and the passivist ideas of Lao-tzū. His chief interest, good government by means of law, was the materialization of *tao*, the achievement of those ideal conditions in which non-action, non-interference (*wu-wei*), would be possible. Regarding man as bad by nature, however, he held it vain to rely on some specially gifted or virtuous man; the law should be severe and should work automatically in order to eliminate the human element as far as possible. This law is not based on ethics but is fixed by the prince in an entirely arbitrary and opportunistic manner. It is inexorable and, once published, the prince himself is subject to it. Good citizenship is its aim and it clashes with private standards of morality. "A good citizen cannot be a filial son and a filial son cannot be a good citizen."

The ideas of the School of Law, of which Han Fei-tzū is the best exponent, helped build up Chinese imperial administration, then in its formative stage, and, although the Confucian ideal of "government by virtue" theoretically prevailed, the influence of this school of thought has always been considerable. It became an important intellectual support of the absolute ruler.

J. J. L. DUYVENDAK

*Consult:* Kung-Sun Yang, *The Book of Lord Shang, a Classic of the Chinese School of Law*, tr. from the Chinese by J. J. L. Duyvendak with introduction and notes (London 1928); Wu, Kuo-Cheng, *Ancient Chinese Political Theories* (Shanghai 1928); Liang Chi-Chao, *History of Chinese Political Thought during the Early Tsin Period*, tr. from the Chinese by L. T. Chen (New York 1930).

HANCOCK, WILLIAM NEILSON (1820-88), Irish economist, statistician and social reformer. A barrister by profession, Hancock occupied the Whately chair of political economy in Trinity College, Dublin, from 1846 to 1851 and the chair of political economy and jurisprudence in Queen's College, Belfast, from 1849 to 1851. Combined with his pronounced theoretical talents was a reforming temperament which made him primarily interested in the application of economics as well as of statistics to the improvement of Irish economic and social conditions. In 1847 he played the leading part in the establishment of the Dublin Statistical Society, which became amalgamated with the Social Inquiry Society of Ireland in 1855 and under the name of the Statistical and Social Inquiry Society of Ireland has remained active to the present day. The society exercised considerable influence on Irish life and no member contributed more frequently to its transactions than Hancock, who was its honorary secretary from 1847 until 1881 and its president in 1881-82. In 1851 he also founded the Belfast Social Inquiry Society.

Hancock was a strong believer in laissez faire and never ceased to advocate the removal of all impediments to freedom of contract. The burden of responsibility for agricultural distress, which he early came to regard as the pivot of the Irish economic problem, he laid upon the land laws restraining free exchange and discouraging the application of capital to land. Among the essays and pamphlets in which he developed these ideas are *The Tenant-Right of Ulster Considered Economically* (Dublin 1845), *On Laissez-faire and the Economic Resources of Ireland* (Dublin 1848) and *Impediments to the Prosperity of Ireland* (London 1850). He also gave much

attention to the question of poor law reform, upholding the principle that family solidarity—society's most effective device for moral education—demanded the substitution of outdoor relief or boarding out systems for the workhouse. As solution of the fiscal situation he proposed the introduction of a single tax based on income and on successions treated as income. In politics he was a Unionist.

From 1851 on Hancock was active as secretary to many important commissions dealing with such matters as Irish education, law reform and railways; and at the government's request he prepared several statistical reports, among them those on the "supposed progressive decline of Irish prosperity" (1863), the "history of the landlord and tenant question in Ireland" (1866) and the "state of Ireland" (1874), as well as a number on Irish banking. He was coeditor of the first two volumes of the brehon laws (*Ancient Laws of Ireland*, 6 vols., Dublin 1865-1901).

GEORGE O'BRIEN

*Consult:* Ingram, J. K., in *Statistical and Social Inquiry Society of Ireland, Journal*, vol. ix (1885-93) 384-93; Millin, S. S., and others, *The Statistical and Social Inquiry Society of Ireland, Historical Memoirs* (Dublin 1920); Dodd, W. H., in *Belfast Literary Society, 1801-1901* (Belfast 1902) p. 105-08.

HAND-TO-MOUTH BUYING. *See* MARKET-ING; RETAIL TRADE.

HANDICRAFT is both a method of industrial production and a form of artistic activity. Each of these aspects supplements the other, but each produces its own particular problems in an analysis of the handicrafts past or present. In early civilizations there was little distinction between "fine art" and handicraft. The sculptural and architectural remains of ancient Greece represent the work of artisans. Much later the magnificent Chinese sculptures from the Wei, Sui and T'ang periods (386-907 A.D.) are anonymous and the work of craftsmen. Mediaeval stained glass windows are generally anonymous as to the individual workmen, although the guilds responsible are more frequently identifiable. In more recent times the "fine arts" have become more clearly differentiated from the "useful arts," but the latter in the hands of a good craftsman are still works of art. It is true that the old handicraft system also produced countless very ordinary products inferior to our own in utility, finish and even beauty of line and requiring many times as much labor. But in general the very process of handwork is con-

cive to the individual creativeness which produces a work of art.

Before the introduction of machinery every article of use was of necessity produced by hand. Among primitive peoples the handicrafts which we think of as typical—those connected especially with clothing, food and housing—developed very largely from women's work, although the men usually made the tools connected with their own activities, such as hunting, fishing and pilfering expeditions. Magic and religion had an important part in primitive handicrafts and in many activities the craftsman performed his work according to elaborate rituals and followed rules and usages which were believed to be divinely inspired. This is true also among many highly developed cultures, as, for example, those of ancient India, China and Japan. In the historical cultures, as social organization became more complex, specialization increased. If a craftsman did his job particularly well his aptitude was recognized and rewarded and perhaps he even acquired a patron who kept him in fairly continuous employment. In a gradually extending world the craftsman became the keystone of a developing commerce. He organized guilds which afforded him protection and security. He educated his sons in his trade, for there is a strong tradition of continuity by inheritance in the history of craftsmanship. Particular techniques passed down in families for generations, and even apprenticeship was a quasi-paternal relationship. Thus the craftsman increased gradually in individuality, security, scope and importance until the invention of machinery revolutionized industrial production.

Handicraft has by no means disappeared with the introduction of machinery but it has become considerably extended in meaning by the conditions of a machine age. A worker who produces an article by handwork is still a craftsman, even though his labor is facilitated by an electric motor, by machine spun yarns or by standard dyes made in big chemical plants. The technique of handicraft changes with the invention of new tools; its prevalence decreases as industry becomes mechanized; the status of the craftsman changes as he becomes part of a larger industrial polity. Despite these apparently inimical developments, however, handicraft remains an essential method of production in many lines of manufacture, not only because it is for some products artistically superior to machinery but also because it is in many cases essential for well made goods. Modern mechanization although of

fundamental significance is not the first economic change that the handicrafts have encountered.

Analysis of the various "stages" of handicraft economy is not invalidated by the fact that work representing all the stages went on at once, perhaps even in the same place, and does even at the present time, with the modifications engendered by modern technique and industrial organization. Such an analysis is intended only to indicate the various adaptations of handicraft economy to the gradual elaboration in the division of social labor and perhaps to suggest the general historical order of their appearance. N. S. B. Gras (*Industrial Evolution*) in an analysis made according to economic organization uses the suggestive term "usufactory" to describe that kind of manufacture whereby the article is made directly for the consumer from his own raw materials either by himself, his family or a craftsman working for wages. In Gras' analysis the next stage is the "retail handicraft." The retail handicraftsman is a familiar figure in our ancient and mediaeval histories, where we generally find him belonging to a *collegium* or guild. He may either make goods to order from his own raw materials or sell at retail things made up in advance. Often the same craftsman does both. He sells for a profit instead of working for wages. When he also makes things for the use of his family he represents two of the phases or stages at once; and some writers split the retail handicrafts into two stages, putting the sale of made up merchandisc from the shop into a later phase than the custom order. The same craftsman may be in still another of the stages—the "independent wholesale handicraft"—if he also makes articles for a merchant to export. Generally, however, in mediaeval European cities there was a fairly sharp separation of the craftsmen working directly for the local retail trade from those who made goods for more remote customers reached through wholesalers. The problems of regulation and the types of guild needed to meet them were different in the two cases. Gras' next phase—the "dependent wholesale handicraft"—represents a still more elaborate commercial development. In towns which had a very considerable export trade a few commercial middlemen practically dictated the kind and grade of product made up for them and might even control the processes of manufacture if interest so dictated, which it evidently did not as a rule.

An organization of dependent craftsmen working for the wholesale trade was more like a modern labor union than was a guild of independent

retail handicraftsmen. The practically closed handicraft economics of the towns were an obstacle to the growth of effective territorial specialization. Conversely, the potential economics of such specialization, sought by the organized merchant groups which monopolized the trade between towns and regions, tended to undermine the stereotyped local crafts by increasing wholesale exchanges. In this situation states grew up capable of affording protection and regulating tolls. Town autonomy being in the way of economy and of powerful interests was worn down. The state had no regulative machinery, such as the old combination of town governments with craft guilds, for intimate supervision of processes and materials. Having likewise no interest in local monopolies the central governments concentrated their attention on such simplified and territorially generalized regulations as stood some chance of enforcement from above. Thus the wholesale craftsman became part of a larger and more complex polity, but he lost his individual bargaining power and the intimate protection he had enjoyed during his independence.

The last of the so-called handicraft stages—the central workshop—represents centralized manufacture under supervision. In some trades and localities the distribution of work to successive craftsmen working at home failed to achieve a reliable production schedule or to avoid the theft and substitution of materials, and the central workshop arose to meet such difficulties of control in the putting out system, as the dependent wholesale handicraft organization is often called. These assemblages of craftsmen, especially of textile workers, on the same premises resembled the factories of the industrial revolution mainly in respect to discipline. Even here the handicraftsman was not of course paced by power machinery. As in unmechanized oriental workshops today, he could take his time; and an interruption to see the passing procession or even to celebrate a whole feast day did not leave much capital eating itself up at interest.

Although products of the highest order of utility and artistic merit continued to be made after the expansion of trade in the Middle Ages, the growing separation of producer from consumer increased the difficulty of preventing the appearance of cheaper grades. Formerly the workman had his place in the guild, which had its place in the town and protected his share of the monopoly along with those of the others. The main business of the craft organization had been to enforce minimum standards—to prevent

actually poor or dishonest workmanship—but with the decline of the guilds and the opening of broader areas of trade this supervision became less effective.

The most critical stage industrially as well as socially in the transition to machine processes was the second half of the nineteenth century. Difficult problems, such as that of power weaving, had been solved, driving craftsmen into machine processes out of the medium grades of craftsmanship, which had served as reservoirs of skill for the better and more original work. Sound and pleasing design was neglected for types of goods cheap to manufacture in large series; and for a time the old handicraft patterns, refined through centuries, were actually eschewed by fashion and threatened with extinction.

The reaction from this extreme took place in several countries almost simultaneously and was led by antiquarians and artists who appreciated the intrinsic merits of the older things. In England people like John Ruskin, William Morris, Walter Crane and Dante Gabriel Rossetti had long inveighed against the unnecessary ugliness of machine made products when the arts and crafts movement took shape in the last quarter of the nineteenth century. This movement spread to America just before 1900. In Sweden Arthur Hazelius led the handicraft revival by collecting fine old specimens and by his activity in promoting the famous Northern Museum at Stockholm, a repository of the cultural history of Scandinavia. The Swedish agricultural societies both national and local immediately became interested in handicraft as a cottage industry. This whole movement, which got well under way with the establishment of the Swedish Handicraft Association in 1899, has based itself on the reproduction of national handmade products of earlier times. All over Sweden there are local associations which exchange ideas and services through a Union of Swedish Handicraft Associations founded in 1912. The local association furnishes the raw materials, patterns and instructions, pays wages to the workers and receives the finished products, which it sells in its own sales-rooms and exhibitions. Much "nature" dye is used in the handicraft woolen textiles, and the yarn is hand spun. Commercially the movement has reached the stage of self-support, but its educational activities receive subsidies from the central government, the counties and the agricultural societies.

Germany's late industrialization preserved her handicrafts, and the struggle for markets already

largely preempted also put off in some branches of industry the mechanization which students of around 1870 took for granted. The organized hand workers kept up their long struggle for suitable government recognition, protection and supervision; and in 1897 an act was passed fixing the status of the *Innungen*, or guild types of handicraft organization. Of these there are free and compulsory associations. Membership in the first is optional for those in the crafts and districts concerned. By majority vote, however, one of these craft groups may establish compulsory membership with an elaborate code recognized and enforced by public law. Aside from the fact that their compulsory character rests upon a vote, these *Zwangsinnungen* are much like mediaeval guilds. Their laws govern apprenticeship, journeymanship, mastership, processes, quality, marketing propaganda, interrelations and discipline and may also provide for mutual aid and insurance. About three fourths of the independent craftsmen of Germany are bound together in these *Innungen*, the figure having grown from 477,345 in 1907 to 969,676 in 1930. Of the two types the "free," or looser, lost in membership during this period, while the highly regulated grew from 220,178 to 771,622. As farmers and as independent craftsmen the German hand workers have been aided in their competition with factories and with the larger marketing organizations, in which large-scale production units tend to excel, by the growth of the co-operative movement. Skilled handicraftsmen make up about a quarter of the membership of the Schulze-Delitzsch cooperative credit societies, especially in the towns. The effects of the Raiffeisen rural credit societies on handicrafts are less direct and more difficult to estimate exactly. In 1926, if members of families be included, nearly eight million people in Germany—12.6 percent of the total population—derived their living from handicraft work. If we add those engaged in handicraft but not directly employed in the handicraft enterprises, the fraction is around one fifth. In 1928–29 the money turnover of the handicraft undertakings was between 14 and 16 percent of that for the entire country.

The organization of craftsmen has proceeded along lines similar to these in practically every country of Europe. In general the primary units are the local societies. In addition to heads of craft enterprises and small industries these organizations include autonomous workers independent of any central workshop and also journeyman assistants and apprentices. The local

societies, which run into the thousands in most countries, are brought together for purposes of administration and unity into a national federation. These federations hold frequent congresses, often with delegates from other countries. In 1930 was held in Rome the first International Congress of Craftsmen, attended by delegates representing twenty craft organizations from fourteen European countries. The craftsmen's federations are largely cooperative in organization, and they are closely connected with the co-operative societies in the interests of credit, production and marketing. The principal activities of the craftsmen's organizations vary in different countries. For the most part they are directed toward improvement in technique and quality by means of education, supervision, competitions and exhibitions, modernization of methods and occasionally by a trademark guaranty; toward financial assistance in the form of credit facilities, craftsmen's banks, certain tax exemptions, sometimes even the offering of bonuses for migration; toward help in the marketing of products, mostly through cooperative marketing societies and through organized exhibitions and salesrooms; and toward effecting an improvement in general working conditions, stimulating production and trade, securing government representation of the interests of craftsmen and in general attaining a unity and organization which will allow the handicrafts the security they deserve.

One of the principal difficulties in securing statistics of the handicrafts is the question of definition. With craftsmanship ranging from the creative work of the artist to the combination of machine with hand work in factories, from highly skilled technique to routine repair work, from solitary labor in a home to the assistance of many others in a shop or factory, it is difficult to determine exactly the extent of contemporary handicrafts. Since craftsmen, however, usually work in small units, the difficulty has been met as well as possible by fixing an arbitrary size unit above which a productive enterprise will be considered large scale industry and not craft work. In most countries this unit is ten workers.

It seems obvious from available statistics that even in highly industrialized countries the retreat of craftsmanship before the machine has practically stopped. In some places and lines the tide has actually set in the other way. Even in Great Britain and the United States, although there are no statistics available, the handicrafts seem at least to be holding their own. In the less industrialized countries, as are most of the

smaller nations of Europe, there is a very high proportion of handicraft. There is a good deal of reason to believe that the countries now becoming industrialized, such as Japan, Russia and to a lesser extent China and India, will not carry mechanization to extremes. In the region of eastern and southeastern Asia, which contains half the world's population, long standing habits of consumption cling to goods which do not in all cases lend themselves to factory production. Factory regimentation is unwelcome, and a dense handicraft population is itself a brake on complete mechanization. In Japan, the most industrialized of oriental countries, the handicrafts are still more important industrially than the factories and there is a vast number of small workshops which produce some of the highest priced and most distinctive of Japanese goods. Even in the factories the large number of hand processes in comparison with English or American establishments is impressive.

In Russia before the World War and the revolution about two thirds of all industrial workers were engaged in the handicrafts; and for many products, such as leather shoes and tailored articles, the consumer's market was supplied almost entirely by the handicrafts. The attitude of the Soviet government toward the crafts is indicated in a decree of May 3, 1927, of the Council of People's Commissars: "For a long time to come large-scale industry will not be able to produce sufficient for the needs of the country, nor will it be able to absorb all the surplus labor. Small-scale handicraft industry will use this surplus labor, especially among the poorer strata of the peasantry, and will to a great extent satisfy the needs of both rural and urban markets. This explains its enormous importance for the national economy of the Union of Soviet Socialist Republics." In the Five-Year Plan the development of handicraft and the promotion of cooperation among craftsmen are given a great deal of emphasis.

The Russian Central Statistical Office includes handicrafts among those undertakings which employ thirty or fewer workers without motive power or fifteen or fewer workers with motive power. In a census for 1929-30 it was revealed that 60 percent of the total number of industrial workers were engaged in small scale industries; in 1928-29 the value of their production was 21.6 percent of that for the total industrial production of the country. Since the more important of these industries are concerned with such products as leather, textiles, wood,

clothing, pottery and small ironware, it is evident that craftsmanship has an important part in them. Moreover about 75 percent of the workers in these industries live in rural districts and in addition to making articles for the market manufacture many things for their own use. This combination of the farmer and the craftsman is extremely important in the national economy of Russia. It supplies a needed supplementary occupation to agriculture, and it is the means of furnishing practically all the manufactured articles, except machinery, which are needed by the countryside. From the point of view of value, however, the most important craft in the Soviet Union is the carpet industry of the Caucasus.

Cooperation in Russia, as elsewhere, is of particular importance to craftsmen and the government is making every effort to increase their membership in cooperative organizations. In 1929-30 about 25 percent of the workers in small scale industry belonged to these societies and membership is constantly increasing. The central organization is the All-Russian Federation of Craftsmen's Cooperative Societies (*I'seko-promsoyuz*) organized in 1922, which supplies the subsidiary cooperative societies (*artels*) with raw materials, semimanufactured goods, machinery and tools and distributes for them their finished products.

Whether the craftsman fares well or ill under modern production methods depends on too many conditions to be settled arbitrarily. The independent craftsman of the present day has certainly a greater freedom of technique because of modern inventions. On the other hand, he faces more difficult competition because of modern standardized production and cheaply made imitations, although this difficulty can be met to a large extent by the facilities of cooperative purchasing, credit and marketing. In many countries craftsmen's organizations give him a large measure of the security and protection he previously received from the guilds, although since he is not technically a wage earner he is still in most countries debarred from many of the advantages of social legislation, such as sickness and old age insurance, which might reasonably be considered his right. The dependent craftsman is confronted with all the problems of modern labor and frequently also with restrictions on his product effected by the pressures of money making and fashion; but even before machinery revolutionized the nature of his work the whole-sale craftsman had to a considerable extent lost

his freedom of design and found himself largely at the mercy of the merchant.

On the other hand, it is easier to decide whether the consumer has lost in other values what he has gained materially through the modification of handicraft by the factory. Potentially he stands to benefit. There would be obviously no advantage save cheapness in the substitution of hand for machine work on jobs involving routine repetition or on products which are all the better for a high degree of uniformity or on processes in themselves laborious and unnecessary. And when hand labor is cheaper it is nearly always because of low standards of living, not efficiency. On jobs where standardization means sacrifice of subtlety, on products which deserve careful design, on processes which require individual technique, there is still the possibility of cooperation between the hands of the craftsman and the machinery of the factory. One of the important activities of the *Rationalisierung* movement in Germany is the scientific reduction of lost motion in handwork, coupled with a determination of the rational line of substitution between hand and machine, and an exploration of the field in which the two might combine to get the best results of each.

But this ideal cooperation remains potential. Actually in spite of tremendous improvement in the adaptation of the handicrafts to modern production methods products of the ordinary commercial grades, which very largely fix and reflect public taste and which should have at least the supervision and cooperation of the craftsman, are produced in standard wholesale lots by factories. Questions of design are too often settled by the foremen of larger plants or the owners of smaller ones on the basis of cheapness to produce. It is generally agreed that much of the ugliness of line and color could be improved practically without cost by a long time, rational planning of industry so as to combine in the same persons some trained ability at designing and a technical knowledge of the methods and costs of embodying the designs in finished goods with present day equipment. The consumer who might theoretically refuse to buy slipshod adaptations of current modes, often second or third hand bad imitations of good old patterns, is often careless of other considerations than price, and the range and character of his purchases remove him farther and farther from the technical capacity to judge quality for himself. No successor to the old guild system has so well solved the problem of protecting the consumer from de-

fects in materials and workmanship. French industry is evidently better than most in this respect, but this may be largely a matter of the slow progress of mechanization and of historic concentration on lines of goods in which original design and variety of finish are of more than average importance. Certainly there is no dearth of flimsy, awkward and even ugly products in France, not to mention many which cost more than they need to because of inefficient production technique.

On the whole there is less of the sentimental, "arty" imitation of an older order than there was during the first vehement reaction to the machine in the latter part of the nineteenth century. Of the definite "handicraft movements" the most effective—except perhaps in the way of educational significance—have been those ultimately concerned with broader issues than the mere revival of handicraft for its own sake. The Swedish movement, for example, has been a means of giving profitable occupation to rural sections where large scale industry would be impossible. The high proportion of handicraft enterprise in Germany is a survival of an older type of industry found because of particular conditions to be still effective in the modern world. And the craftsmanship which still survives in certain industries in all countries exists because handwork is still as essential as it ever was in order to make certain products satisfying. If public taste becomes more discriminating as to what it considers satisfactory, handicraft will have an even wider field; but in order to have true significance in the modern world it must respond to a real desire, not a faddish whim, and it must make intelligent use of present day industrial technique.

MELVIN M. KNIGHT

See: ORGANIZATION, ECONOMIC; INDUSTRIAL ARTS; ART; GUILDS; JOURNEMEN'S SOCIETIES; APPRENTICESHIP; RURAL INDUSTRIES; HOMEWORK, INDUSTRIAL; COOPERATION; FACTORY SYSTEM; INDUSTRIALISM; MACHINES AND TOOLS.

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HÄNEL, ALBERT (1833-1918), German jurist and political figure. As a teacher Hänel lives in the memory of contemporaries by virtue of his work at the University of Kiel in Schleswig-Holstein, where he was professor from 1863 to 1911. He was much attached to this province, his adopted home, and served it upon many occasions both as a political and legal publicist and as legislator. He was largely responsible for the provincial ordinance of 1869. His services were particularly valuable because he was steeped in the history of German law, the field in which he had begun his juristic work. A study of the system of proof of the *Sachsenspiegel* and a collection of the legal sources of the town of Goslar (*Decisiones consulum goslariensium*, Königsberg 1862) are his two most important efforts as a German legal historian.

Hänel's career as a jurist fell in the period of the rise and fall of the German Empire and he did his most important work in the field of public law. With Laband, whose teaching he supplemented while opposing it in many particulars, he became the most representative advocate of the theories of public law of the time. Among the constitutional problems of the new empire the most outstanding was the question of its juristic nature—a question whose answer must always depend upon how the relation of the empire to the states is conceived. Hänel impressively opposed the compact theory, the danger of which had been recently demonstrated by the American Civil War. In this he was in essential agree-

ment with Laband. On the other hand, he never admitted the latter's almost unanimously accepted distinction between law in a formal sense, as a legislative act, and law in a material sense, i.e. law with a normative content. The problem agitated the jurists of the time because the new constitutional organization tended to stress the formal rather than the historical aspects of law-making.

As a political figure Hänel adhered to liberalism, which he espoused for many years as a member both of the Reichstag and the Prussian *Abgeordnetenhaus*. His goal was the reconciliation of liberty with authority, and Baron vom Stein was his ideal of a German politician. Although his views often brought him into conflict with Bismarck, he continued to cling to them. He defended at all times the rights of the Reichstag, which seemed to him to stand for the interests and freedom of the people.

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HANNA, MARCUS ALONZO (1837-1904), American business man and politician. Hanna accumulated a fortune in the wholesale grocery trade, in the mining and selling of coal and iron and in banking and railways. His interests turned increasingly to politics, until in 1895 he retired from active business to devote his entire energy to pushing the political fortunes of his intimate friend William McKinley. As chairman of the National Committee of the Republican party Hanna directed the strategy of the party in the campaigns of 1896 and 1900, obtained large monetary contributions from corporations frightened by Bryanism and was more responsible than any other individual for frustrating the uprising of western agrarianism which culminated in the campaign of 1896. He was rewarded by an interim appointment as senator from Ohio and was regularly elected in 1898 and again in 1904. Hanna frankly represented the business man in politics and was never afraid to identify himself

with the cause of corporate aggrandizement. As head of the Republican National Committee and close friend of President McKinley he occupied an influential place in the government but seldom spoke from the floor of the Senate. A notable exception to this was his strenuous advocacy of the Panama canal route as against the Nicaraguan route, a battle in which he finally won over the Senate to his point of view. He waged a consistent but unsuccessful campaign for revival of the American merchant marine by means of ship subsidies. Although opposed to the Spanish-American War and dubious about imperialism Hanna supported both in 1900 for strategic political reasons. Bitterly assailed in the opposition press as the agent of "big business" in politics, caricatured in cartoons as a bloated millionaire covered with dollar signs, he was nevertheless widely esteemed and respected and in his later public life achieved the proportions of real statesmanship. Hanna believed that organized labor was a natural corollary of organized capital, devoted much time during his last years to the conciliation of labor disputes, especially in the great coal strikes of 1900 and 1902, and served as the first chairman of the National Civic Federation's committee of conciliation. A product and a symbol of the new industrial and financial order which bloomed in the late nineties, he was, as far as his attitude toward labor was concerned, ahead of the majority of his contemporaries. Neither an idealist nor a reformer, Hanna took over the methods current in politics at his time and used them effectively.

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HANSEATIC LEAGUE. The Hanseatic League, or the league of the cities *van der du-deschen hense*, was an economico-political organization of German commercial towns guaranteeing to its members the enjoyment of trading privileges obtained by the league. This organization was not definitely formed as a league of cities until 1358. Before that time the term *hansa* (Gothic, Old High German and also the Latinized form; Low German, *hense*; Middle High German, *hanse*) designated a company or fellowship



of individuals rather than of cities. It came into general use in northern Europe at a time when mercantile enterprise was conducted by groups of merchants traveling with their wares from market to market and it evolved in connection with their status in the places which they visited. Thus the German merchants engaging in trade in England or Flanders were organized into guilds; and those who made commercial voyages in common formed a hanse of this guild. The first German merchants in England, those from Cologne, were accorded privileges by the English and granted legal status as the Cologne hanse. When merchants from other German cities, particularly Hamburg and Lübeck, penetrated into England they were also treated as hansas of their particular native cities, until toward the end of the thirteenth century a uniform legal status was established in England for all German merchants, who as the *mercatores de hansa alemanie* had common rights and duties and a joint establishment at London called the Guildhall, later the Steelyard. In the following century the English and Norwegians used a collective term, *mercatores de hansa theutonicorum*, not merely for the Germans in England but for all the German merchants trading outside of Germany, whether in England, Flanders, Scandinavia, in the Baltic states or in northwest Russia. Such a development was the more natural, since at this time all these merchants were actually organized into a *universitas communium mercatorum* exclusively for natives of the German, or Holy Roman, Empire. The *universitas* had its headquarters on the island of Gotland in the Baltic and a number of local branches, the most important next to the Guildhall being at Bruges, Bergen and Novgorod. These branches were independent; this was true, for instance, of the Bruges branch until 1356, when it found itself in difficulties with which it was unable to cope. Representatives of the German cities most immediately concerned intervened in its affairs. In this connection there occurs for the first time in 1358 the term *hansa* as the name of the association of towns on the coast and inland from the lower Rhine north to Riga, Reval and Dorpat which were interested in maritime trade in the Baltic and North seas. When in 1366 the enjoyment of the Hanseatic privileges abroad became dependent upon citizenship in one of the towns of the *hansa teutonica*, the league had attained its definitive character and the term *hansa* its final meaning. The privileges obtained by the league throughout its foreign trading area com-

prised freedom and security of traffic for the citizens of Hanseatic towns as well as customs rebates. In England, for instance, Hanseatic merchants were allowed in 1350 certain customs privileges in the export of undyed cloth, and elsewhere their trade was often entirely free of duty. Particularly in cities such as Bergen and Novgorod where they were permitted to establish themselves as individual alien merchants they received the privilege of autonomous jurisdiction within their settlement.

The peculiar position of the Hanseatic League can be explained only in terms of the economic role which the towns of the Hansa had come to play in European life. The emergence of this role in its turn depended upon the conditions prevailing in northern Europe in the twelfth century. During this century Germans of all tribes and callings began to migrate across the Elbe-Saale line, the previous eastern limit of German civilization, and to take up their abode, usually with the consent of the Slav rulers, in the sparsely settled Slav territory beyond, where they cleared the forests and broke the heavy soil which had defied the primitive agricultural implements of the Slavs. At this time there already existed in western Germany, in Westphalia and along the lower Rhine a highly developed town life. The dominant social class in these towns consisted of merchants engaged in foreign trade who had penetrated across Schleswig to the Baltic coast traveling on foreign ships, for the Baltic was still a Scandinavian-Slavic lake, and thence to Novgorod on Lake Ilmen, a famous fur mart sought by Scandinavians, Greeks and even Arabs. When the German colonization in Slav lands began, these commercial pioneers, fully aware of the prizes to be won in the east, plunged into it with vigor. It was they who really founded and built the eastern towns, receiving in their enterprise the protection of the local rulers. Lübeck, the first and most famous settlement, was refounded in 1158 under Henry the Lion, the great Guelph prince. A line of cities sprang up in the twelfth and the early thirteenth century—Visby on Gotland, Riga, Dorpat and Reval on the eastern coast of the Baltic—all pointed toward the magnetic market of Novgorod, while the southern rim at the same time and later became dotted with other German towns, like Wismar, Rostock, Stralsund and Danzig. After a brief peaceful competition with the peasant traders, particularly the natives of Gotland, who had formerly plied that region, the German merchants acquired economic control of the Baltic.

One factor responsible for their speedy success was the nature of their municipal organization, which was modeled on the old German plan and thus directed toward the sole purpose of facilitating foreign trade; another was the fact that the Germans had developed a craft peculiarly adapted to the carrying trade, the *Kogge* with its capacious hold for cargo. Western Germans from Cologne, Soest, Dortmund and Münster joined those from the newly settled eastern towns in exploiting the Baltic trade; and the centrally located island of Gottland became the seat of the all German *universitas*, which preceded the Hanseatic League. The significance of this monopoly was that it enabled the Low German merchants in the thirteenth century to become the first and soon the indispensable commercial link between Flanders and England in the west and the Baltic coast in the east and to wring concessions from the western towns and countries which they served. Flanders in particular, overpopulated and more highly industrialized than any other region of Europe, was so dependent upon the grain and raw materials of the east that rather than jeopardize its supplies its towns and rulers willingly granted extensive privileges to the Easterlings, as the Hanseatic merchants were called in the west. England, then a producer of raw wool for the use of Flemish weavers, also favored them above other merchants.

The transition from the *universitas* of German merchants to a league of Hanseatic cities took place about 1300 under the leadership of Lübeck, which occupied a crucial position in the Hanseatic trade route; at this port the eastern wares left the Baltic to be transported across the narrow isthmus of Holstein to Hamburg and thence to the west. Its leadership among commercial towns was due also to the extraordinary political sagacity and energy manifested by the council of Lübeck in the face of great difficulties. The geographical position of Lübeck devolved upon it the formidable task of protecting Holstein against the southward push of Danish imperialism. By capturing Holstein the Danes would have completely crippled Hanseatic trade, for they controlled The Sound between Scandinavia and Denmark, which was the chief water passage from the Baltic to the North Sea, and had this control further fortified by the possession of Skåne, the southern tip of Sweden. So important for the political destiny of the Hansa were the relations with Denmark that practically its entire foreign policy revolved about that problem. Following its formation of a coalition

which repelled the Danish imperialistic wave on the field of Bornhöved in Holstein in 1227, Lübeck pursued a continuously brilliant policy of alliances, which eventuated in its official recognition as the leader of the Hanseatic cities. Because of this position, combined with its constantly growing economic importance as the center of the east-west trade route, Lübeck was able at the end of the thirteenth century to silence forever the claims of the Gottland *universitas* to hegemony over the German merchants. The development of the definitive Hanseatic League was temporarily impeded at the beginning of the fourteenth century by a fresh Danish invasion, which eclipsed Lübeck's power until after the death of the Danish king Erik Menved. But by the latter half of the century Lübeck had completely recovered, and in the years following 1358 the league was organized not as a political and military alliance but as an economic-political association.

The league rose to the proud apogee of its power and influence almost as soon as the work of organization had been completed, as the result of the brilliant termination of its first great military test in the Danish wars of the 1360's. To meet the aggressiveness of the famous king Valdemar Atterdag a great number of the Hanseatic cities formed a special political alliance known as the Cologne Confederation of 1367, which under the leadership of Brun Warendorp, burgomaster of Lübeck, concluded the second of the wars with the triumphant Treaty of Stralsund. The political victory was signalized by the terms of the treaty providing that Denmark relinquish to the allied cities for a period of fifteen years two thirds of the very important tolls from Skåne to Helsingborg on The Sound, that this indemnity be guaranteed by the cession of strong castles located on The Sound and that the cities be awarded a veto power in the choice of Valdemar's successor. Economically the treaty resulted in the guaranty and extension of the league's trading privileges abroad.

The exact identity of all the towns belonging to the league is difficult to determine because of its nature as a loose and fluid economic-political alliance rather than a political union with fixed territorial boundaries. A town acquired the distinctive characteristic of a Hanseatic city by obtaining for its citizens the right to enjoy commercial privileges abroad; and this right might be at any time granted, withdrawn or renounced. Hence, although it is customary to speak of seventy-seven Hanseatic towns, the

number enjoying Hanseatic privileges at one time or another was much greater. It was, however, a fixed rule that only towns with German population could join the league. From Lübeck, always the undisputed leader, and the so-called Wendish towns grouped about it—Wismar, Rostock, Stralsund, Kiel, Hamburg and Lüneburg—the line of Hanseatic cities extended along the coast through Pomerania and Prussia to the Baltic states. In Prussia Danzig, Thorn, Elbing and Königsberg were the most important; but the activity of the Teutonic Knights, who not only had created a network of commercial towns throughout Prussia but as an order were engaged in mercantile enterprise and were shipowners on a grand scale, had made virtually the entire land dependent upon the Hansa. Riga, Reval, Dorpat and Pernau were the principal towns in the Baltic states with Vishy on the Baltic Sea itself. Stockholm and Kalmar, the development of both of which was connected with the foundation of German towns on the Baltic, were, although loosely, affiliated with the league; at least in the fourteenth century Stockholm's commercial interests are scarcely distinguishable from those of the Hansa. In the far west certain towns of the province of Gelderland in what is modern Holland belonged to the league and many towns along the lower Rhine from Wesel to Kampen and Zwolle. The leader of this group was Cologne. In Westphalia besides the important cities of Soest, Münster and Dortmund there were a great number of tiny Hanseatic towns and villages. The league also had many members inland in lower Saxony and Brandenburg, the lower Saxon towns finding their outlet to the sea through Bremen. Others like Cracow and Breslau were located still more remotely inland.

Periodic Hansa diets were held to settle the major problems of the league, but participation in them often entailed heavy cost and was exacted only from the larger towns. The latter served as representatives of the smaller towns in their region. In addition there existed local assemblies, such as the Prussian town diets, to which all the Hanseatic towns in the territory sent representatives. Invitations to the Hansa diets came from Lübeck, whose councillors also presided over the diets and conducted all the correspondence of the league. In the intervals between assemblies Lübeck was the recognized spokesman of the other towns. The league had no permanent periodically recurrent revenues. The cost of embassies was covered by individual cities, while the expense of maintaining offices

and factories in foreign countries was defrayed out of fees paid by Hanseatic merchants who used them. For extraordinary expenditures such as those entailed by war special import and export duties, called poundage, were imposed on ship cargoes. The register of such duties, introduced in 1368-71 to pay for the cost of the Danish war, constitutes at present one of the most valuable sources for the study of mediaeval commercial history.

In Hanseatic history two great stages can be distinguished, the period when it was dominated by the drive to expansion and that of stagnation and decline. The first may be dated from approximately 1150 until the Treaty of Stralsund. During the first century of this early Hanseatic period, while the merchants were still carrying their wares from port to port and sharing the risks of foreign travel with a group, or hanse, of their comrades, their enterprise was motivated by a cooperative spirit. But after about 1250 the compulsion became individualistic and for the next hundred and twenty years there was manifested an unrestrained quest for private gain far surpassing that evidenced at any other period in Hanseatic history. The new stimulus to commercial activity was provided by the changes accompanying the introduction of writing, which enabled the merchant to operate on an efficient basis. Instead of being forced to undertake trading voyages in person the merchant from 1250 onward could and did establish a central office, the *skrivekumere* or *Kontor*, from which he conducted business with all the towns in the sphere of his interests by means of written documents. At the central office he maintained a bookkeeping system; remarkable examples of these early books have been preserved. The employment of assistants, partnership contracts and agreements with commission agencies were introduced and grew constantly more common, widening the potentialities of commercial activity at the same time that they made it more complex.

During this period the citizens of the Hanseatic towns who aspired to wealth, power and prestige had to seek them through the avenue of commercial success; profit from real estate held only secondary attractions. In general whoever failed to exploit the commercial innovations as they presented themselves became submerged beneath the stratum of *homines novi*. Merchants like Bertram Mornewech (d. 1286), whose, for the time, astounding fortune is attested by the fact that his widow was able to purchase in the form of annuities real estate equivalent to about

1,500,000 modern marks, had a dominating position in Lübeck by 1300. They ruthlessly bought out the descendants of the old Lübeck mercantile élite who had prematurely retired to living on their incomes. Since municipal government in the Hanseatic cities was so organized that the members of the governing council were recruited from the wealthy, those who lost their fortunes concomitantly lost their political power. This identity of political and economic responsibility, which placed the towns under the political leadership of its most enterprising citizens, helps to explain the vitality of the Hanseatic League.

As a natural reflection of the hegemony of the successful merchants the councils bent all their energies to the promotion of trade. Toward the end of the thirteenth century they began to pursue an unscrupulously aggressive foreign policy. The Lübeck merchants invaded Norway and opened it to world commerce. Whatever ultimate benefit their activity may have conferred upon Norway, the immediate effect was to force it at the risk of antagonizing the formidable power of the leader of the Hansa to accept the commercial dictatorship of Lübeck and to yield to it unquestioned control of the principal articles of export, dried codfish and butter. Not content with the ingenious system by which it preserved and developed its indispensable position in the exchange of eastern raw materials for the finished products of the west, Lübeck thus set itself to seize also the north-south routes. It acquired a monopoly of the rich northern fisheries, of the herring from Skåne as well as of the cod from Bergen. For a while all of northeastern Europe depended upon the salt which the Lübeck merchants brought from Lüneburg. With their fish they exploited the southern consumers' market as far to the east as Prague and beyond the Alps, taking full advantage also of such routes into the German interior as that through Frankfurt to the upper Rhine region, to Erfurt and later even to Nuremberg.

In their domestic policy the councils neglected no means of tightening the bonds by which the merchants held the artisans in subordination to their interests. The achievement of their object involved little difficulty in view of the artisans' dependence upon the commercial class through the latter's ownership of real estate. The homes of the artisans, their workshops and their market stalls were at first owned outright by the families of mercantile entrepreneurs and later with the same result were controlled in part by the councils. Those who manufactured for export—shoe-

makers, coopers, amber workers—were even more immediately subjected to the merchants.

The Treaty of Stralsund marked the beginning of the period of stagnation and decline because by this time the Hansa had already exceeded the limits which it could easily maintain. It is the sign of a high state of political development that Lübeck clearly evaluated the growing forces of resistance against the league and, renouncing a policy of further expansion, concentrated after 1370 entirely upon preserving the position already achieved.

Part of the danger arose from the emergence of commercial competition. In the latter part of the fourteenth century England, which had formerly sent its wool to Flanders to be manufactured, began to make the cloth itself. Unlike the Flemish, the English cloth producers sought their own markets on the Baltic. As a result Bruges, the chief western outpost of the Hanseatic system, lost importance. Simultaneously the "bay salt" obtained along the western coast of France acquired a more extensive market in the Baltic region, impairing the value of the Hanseatic monopoly of Lüneburg salt. These two developments were less ominous in themselves than because they contributed to the increased use of the *Umlandfahrt*; that is, the direct water route from the North Sea to the Baltic around the Jutland peninsula and through The Sound. Of all the league's problems this deflection of traffic from Lübeck constituted the gravest. As the power controlling The Sound Denmark gained inversely as Lübeck suffered. It became the much sought and obliging ally of the league's other rivals, first of the English and then principally of the Dutch, whose Baltic trade grew rapidly from the fifteenth century on. Lübeck was, however, often successful in supervising and confining the voyages of the Dutch, until her valiant efforts to do so and her political power finally collapsed in 1535.

A variety of converging factors after the Treaty of Stralsund resulted also in the progressive disruption of the internal unity of the league. The problem of The Sound, for instance, wore an entirely different aspect for Lübeck and her neighbors on the one hand and for the eastern Hanseatic towns on the other. The latter had much to gain from the increase of the all water trade in the Baltic and could hardly be expected to deplore the entry of Lübeck's English and Dutch competitors. With the stagnation of eastern colonization, attributable in part to the havoc wrought by the Black Death, the estrangement

became further intensified. The old ties which blood relationship had cemented between east and west grew slack, and local interests began to take precedence over those of the league.

The momentous changes in the political structure of Europe accompanying the transition to the modern era had a pernicious effect upon the Hansa, whether they be considered from the point of view of the emergence of national states outside of Germany or from that of the simultaneous virtual disappearance of the Holy Roman Empire. The first gave new and ever more portentous strength to the league's rivals. At the end of the fifteenth century the English bourgeoisie and monarchy united in promoting an aggressive foreign policy against the privileged Hansa; a similar development took place in the Scandinavian countries, while behind the Dutch merchants was arrayed the impressive power recently acquired by the house of Burgundy. Although in any case an organization so loose as the Hansa must have eventually succumbed to these forces, the inevitable result was hastened by the fact that each of the numerous small principalities in the Holy Roman Empire was endeavoring to deprive the towns in its area of the independence which had made their participation in the league possible and to subordinate them to its own government.

Until 1400 the Hanseatic towns because of their superior political organization still possessed greater military resources than the principalities; the supremacy of their fleets on the sea, their command of artillery and of mercenaries, rendered whatever campaigns the princes hazarded futile. But in the fifteenth century they met with less success. So proud a city as Stendal was forced along with all the other Hanseatic towns in Brandenburg to sever connections with the league. At the same time the towns remaining in the narrowing Hanseatic circle began to be rent by internal dissensions. Conflicts between the merchants and the councils, on the one hand, and the craftsmen protesting against what they considered an unjust distribution of the tax burden, on the other, paralyzed their political vigor. Commercial competition grew constantly more intense and less manageable during the century. When Nuremberg, whose commercial prosperity was rapidly increasing during this period, organized separate connections with Flanders and Antwerp in the west and Posen, Latvia, Breslau and Galicia in the east it terminated the Hanseatic monopoly of the exchange of Flemish cloth for eastern furs.

In desperation the league resorted to a series of petty measures against its rivals, multiplying obstacles in the way of merchants who were not citizens of the Hanseatic towns and inaugurating an equally xenophobic policy in staples. These measures so far defeated their intention that they caused Nuremberg to make retaliations, in the course of which Lübeck was superseded by Leipsic as the intermediary in the fur trade. Another decisive factor was the rupture of Hamburg with the league and its concurrence in the establishment of a branch within its walls by the English Merchants Adventurers.

The fact that the Hanseatic League could maintain a brave front in the face of these events was due primarily to the effectiveness of its diplomatic leadership, which continued to arouse awe because it continued to be successful. After every solid economic support of the league had decayed, it enabled the Hanseatic merchants to reap the fruits of the achievements of their daring ancestors. The catastrophe was postponed until the sixteenth century, when the Scandinavian countries, soon followed by England, officially abolished the Hanseatic privileges. But this action amounted to no more than the formal declaration of a fact long recognized, that Europe no longer required the Hanseatic merchants as middlemen. The last Hanseatic diet which assembled in 1669 brought to Lübeck only the representatives of Hamburg, Bremen, Danzig and Brunswick.

Thus the downfall of the Hansa is to be explained entirely by developments within Europe. Contrary to the frequently repeated hypothesis, the power of the league had been broken before the discovery of America and that of the sea route to India began to manifest their effects. After the century of Iberian commercial monopoly they led to a great revival of trade in the Baltic, but it was Holland not the Hansa which profited. The Hanseatic towns were affected by the discoveries only to the extent that they found some compensation for their loss of the northern trade in traffic with Spain. This occurred, however, at a time when they were bereft of all political importance and were playing a minor role in European economic life in the shadow of other powers.

For centuries the Hanseatic League had succeeded in welding northern Europe into an economic unit, although one which never attained complete homogeneity. Its work was primarily but not entirely economic. Even today the aspect of the towns from Soest to Dorpat, particularly

of their churches and town halls, testifies to the extraordinarily close cultural bonds forged by the league. The blood relationship of the populations of these cities has endured through the centuries. From the lower Rhine to the Baltic states the Hanseatic merchants spoke the same Low German tongue. As the leader Lübeck naturally had the most impressive church, the Marienkirche, which served as a model for numerous churches in the east. Lübeck's position as the carrier of all important civilization to Scandinavia and the Baltic states is proved by the large number of altars of Lübeck origin. In turn Lübeck itself owed much to Flemish but later to High German influence. Lübeck, Hamburg and Bremen were received into the German Empire as free cities by virtue of their Hanseatic origin. The administration of these cities retains to this day the characteristic features of the Hanseatic constitutional form—the senate and the governing burgomaster at the head and alongside them the representation of the citizenry. The Hanseatic tradition was also a contributory factor in the creation of the free state of Danzig after the World War.

FRIEZ RÖRIG

See: INTERNATIONAL TRADE; COMMERCE; LAW MERCHANT; CHARTERED COMPANIES; HOLY ROMAN EMPIRE; COMMUNE, MEDIAEVAL.

Consult: The recent elucidation of the facts of Hanseatic history is to be credited primarily to the Hansischer Geschichtsverein, founded at Lübeck in 1870. This organization has published the *Hanserecense*, 24 vols. (Leipzig 1870–1913), and the *Hansisches Urkundenbuch*, 9 vols. (Halle 1876–1905). It also issues the *Hansische Geschichtsblätter*, published annually in Leipzig since 1871.

See also Schäfer, Dietrich, *Die Hanse* (Leipzig 1903); Vogel, W., *Kurze Geschichte der deutschen Hanse*, *Pfingstblätter des hansischen Geschichtsvereins*, vol. xi (Munich 1915); Daenell, E., *Die Blütezeit der deutschen Hanse*, 2 vols. (Berlin 1905–06); Röhrig, F., *Hansische Beiträge zur deutschen Wirtschaftsgeschichte* (Breslau 1928); Brinkmann, C., "The Hanseatic League, a Survey of Recent Literature" in *Journal of Economic and Business History*, vol. ii (1929–30) 585–602; Röhrig, F., "Les raisons intellectuelles d'une suprématie commerciale, la hansa" in *Annales d'histoire économique et sociale*, vol. ii (1930) 481–98, with a classified bibliography; Nash, E. G., *The Hansa* (London 1929); Zimmern, Helen, *Hansa Towns* (London 1899). For complete bibliography see Dahlmann, F. C., and Waitz, G., *Quellenkunde der deutschen Geschichte* (9th ed. by H. Haering, Leipzig 1931).

HANSEMANN, DAVID JUSTUS LUDWIG (1790–1864), German capitalist and politician. Hansemann was prominently identified with the movement during the middle of the nineteenth

century for the political liberation and economic development of Germany. He started business life as a small wool merchant in the Rhineland, but the scope of his interests broadened under the influence of economic expansion. He was a pioneer in the organization of fire insurance companies, played a leading part in promoting the great railroads of western Germany and made important contributions to the principles which should guide banks of issue. He served for a short time as president of the Preussische Bank and in 1851 organized the Diskonto-Gesellschaft, one of the first big credit banks in Germany (now combined with the Deutsche Bank). In his political activity and his writings Hansemann fought for relaxation of the absolutism which hampered economic development. He served in the provincial Landtag, strongly influenced the movement for a German customs union and advocated a modified constitutional regime. In 1848 he urged the Prussian monarch to place himself "at the head of German liberty and independence" and served for a few months as minister of finance in the government which "accepted the revolution." Hansemann was a moderate liberal, his objective a constitutional monarchy with strong representation for the propertied middle class.

WILHELM RÖPKKE

Important works: *Die Eisenbahnen und deren Aktienäre in ihrem Verhältnis zum Staate* (Leipzig 1837); *Über die Ausführung des preussischen Eisenbahnsystems* (Berlin 1843); *Die deutsche Verfassungsfrage* (Frankfurt 1848); *Das preussische und deutsche Verfassungswerk* (Berlin 1850).

Consult: Bergengrün, Alexander, *David Hansemann* (Berlin 1901).

HANSEN, GEORG (1809–94), German economist and historian. Hansen was born at Hamburg. He studied economics and finance under Rau at Heidelberg and August Niemann at Kiel and became a lecturer at the latter university in 1833. After three years in the Danish government service he became professor at Kiel and later taught at Leipzig, Göttingen, Berlin and from 1869 again at Göttingen.

Distinguished both as a statistician and a teacher—among his students were many celebrated German economists of the second half of the nineteenth century—his posthumous fame is based chiefly on his studies in agrarian history. His first interest in the subject arose out of a desire to bring about moderate reforms in his native province. He blazed new trails by emphasizing close observation of the contemporary agri-

rian legal and social conditions as the starting point in explaining historical development—a method followed by Meitzen, Inama-Sternegg, Knapp, Sering and others. The results of his studies on the forms of agricultural settlement, the history of field systems and the abolition of serfdom have been incorporated in the generally recognized scientific material of agrarian history.

AUGUST SKALWEIT

*Important works:* *Agrarhistorische Abhandlungen*, 2 vols. (Leipzig 1880–84); *Das Amt Bordesholm im Herzogthume Holstein* (Kiel 1842); *Historisch-statistische Darstellung der Insel Fehmarn* (Altona 1832); *Die Aufhebung der Leibeigenschaft und die Umgestaltung der gutsherrlich-bäuerlichen Verhältnisse überhaupt in den Herzogthümern Schleswig und Holstein* (St. Petersburg 1861); "Lebenserinnerungen" in *Zeitschrift der Gesellschaft für schleswig-holsteinische Geschichte*, vol. xl (1910) 1–180.

*Consult:* Skalweit, August, "Georg Hanssen," *Schleswig-Holsteinische Universitätsgesellschaft, Veröffentlichungen*, no. 27 (Breslau 1930); Knapp, Georg Friedrich, "Georg Hanssen" in *Ausgewählte Werke*, 3 vols. (Munich 1925–27) vol. i, p. 328–49.

HARBORS. *See* PORTS AND HARBORS.

**HARDENBERG, KARL AUGUST VON, PRINCE** (1750–1822), Prussian statesman. Hardenberg came from an old Hanoverian family. After serving in the courts of Hanover and Brunswick he achieved fame through his enlightened administration of Ansbach and Bayreuth from 1791 to 1798. As the leading minister of Prussia, after the Prussian defeat at Jena he continued the war against Napoleon on the side of the Russians. But the fatal issue of the campaign forced him on the conclusion of the Peace of Tilsit to retire from the government at Napoleon's command.

Hardenberg is chiefly known as the originator, together with Baron vom Stein, of the Stein-Hardenberg reforms in the regeneration of Prussia. After a short year of service Stein was removed from office by Napoleon, and when the successors of the great minister proved to be incapable Hardenberg was appointed chancellor in 1810 and until his death he conducted Prussia's entire policy. Hardenberg's political and social views were the result of a combination of the principles of a government of enlightened absolutism, of the economic views of Adam Smith and the physiocrats and of the ideas of the French Revolution. He continued to carry on Stein's reforms but adhered more closely than his predecessor to the doctrines of 1789. The guilds were abolished and freedom of trade was introduced.

Equality in taxation was enforced by the introduction of a land and a business tax. The *Regulirungsedikte* of 1811 did away with statute labor and effected the allotment of free property to the peasants. The Jews received equal rights in 1812. The greatest advantages from these reforms were gained by the bourgeois capitalists, while they aroused the fierce opposition of the gentry and the traditionalists.

Hardenberg succeeded in guiding the state through all the dangers of foreign policy by refusing to take a definite stand with regard to Napoleon. Even in 1812 he provided auxiliary troops against Russia, but then at the right moment he made a treaty with it and brought about the War of Liberation. At the Congress of Vienna he gained a great extension of territory for Prussia and restored it to its position as a first rate power. He continued to maintain an amicable cooperation with Austria and Russia and for this reason was reproached by the patriots with having made Prussia a vassal of Metternich. Hardenberg strove to steer a middle course between the system of Metternich and the wishes of the patriots. In 1815 he caused the king to hold out the prospect of the introduction of a Prussian parliament, but he did not succeed in redeeming the royal pledge and the execution of the reforms came to a standstill. Many decrees for reform were altered in a reactionary spirit, thereby causing serious differences between Hardenberg and Wilhelm von Humboldt, the leader of the reform party. Worn out by old age and dissipation, Hardenberg offered in the last years of his life no further resistance to the reactionaries.

FRANZ SCHNABEL

*Consult:* Hardenberg, K. A., *Denkwürdigkeiten*, ed. by Leopold von Ranke, 5 vols. (Leipzig 1877); Hartung, Fritz, *Hardenberg und die preussische Verwaltung in Ansbach-Bayreuth von 1792 bis 1806* (Tübingen 1906); Meier, Ernst, *Die Reform der Verwaltungsorganisation unter Stein und Hardenberg* (Leipzig 1881); Winter, Georg, *Die Reorganisation des preussischen Staates unter Stein und Hardenberg*, vol. i— (Berlin 1931—); Schnabel, Franz, *Deutsche Geschichte im neunzehnten Jahrhundert*, vol. i— (Freiburg 1929—) p. 458–78; Haake, Paul, *Der preussische Verfassungskampf vor 100 Jahren* (Munich 1921).

**HARDIE, JAMES KEIR** (1856–1915), British labor leader. Hardie went to work in the coal mines before his tenth year. At the age of twenty-four he was elected secretary of a Lanarkshire miners' union and soon became the most influential leader among the Scottish miners. His intellectual and spiritual development involved a temporary affiliation with the Evangelical Union,

the reading of Carlyle, Ruskin and Mill and as a final spur the writings of Henry George. He combined journalism with his trade union work, editing the *Cummock News* from 1882 to 1886 and then the *Miner*, which was founded in 1887, was changed to the *Labour Leader* and in 1893 became the official organ of the Independent Labour party.

By 1887 Hardie, who began life as a radical, became convinced of the necessity of an independent labor party and in that year attacked the older trade union leaders at the Swansea trades union congress. In 1888 he fought Mid-Lanark as a Labour candidate for the House of Commons, in 1889 founded the Scottish Labour party and in 1892 was elected as one of the first Independent Labour members in Parliament, representing West Ham until 1895. In 1893 he took the leading part in founding the Independent Labour party, which under his inspiration set out to win over the trade unions to socialism and Independent Labour representation in Parliament; it succeeded in 1900 through the formation of the Labour Representation Committee, which in 1906 emerged as the Labour party.

Hardie was a powerful speaker and an excellent journalist with a pungent and homely style. The *Labour Leader* shared with Robert Blatchford's *Clarion* the position of being the most widely read labor journal of its day, and his pamphlets were also of wide influence. His vigorous if simple conception of socialism made a deep impression on the British working class. His socialism was mainly a denunciation of capitalism and an insistence on the human rights of ordinary men and women. He could hit hard and made plenty of enemies; and he had a love of shocking bourgeois opinion, as when he appeared in the House of Commons in his early days in a cloth cap and workman's clothes. A most skilful organizer, he built up the Independent Labour party into a real power and widened the appeal of socialism by abandoning the theoretical language of Marxism for a simple appeal which fitted in with the British tradition and was readily intelligible to all. As a parliamentary leader he was less successful; for in spite of his shrewdness and tactical ability he was essentially a propagandist. At first leader of his party in the House, he was later replaced by Ramsay MacDonald; with the latter, against the majority of the Labour party, Hardie opposed the war in 1914. But the creation of the Labour party on the basis of an alliance between trade unionism and socialism was primarily his work. He re-

mained one of its most influential members and was virtually leader of its Left wing. More than any other man he remains the traditional hero of British labor.

G. D. H. COLE

*Consult:* Stewart, William, *J. Keir Hardie, a Biography* (London 1921); Glasier, J. B., *James Keir Hardie, a Memorial* (Manchester, Eng. 1915), containing a complete list of Hardie's works; Beer, Max, *History of British Socialism*, 2 vols. (London 1919-20) vol. ii, chs. xv-xvi.

**HARDWICKE, FIRST EARL OF, PHILIP YORKE** (1690-1764), lord chancellor of England. Hardwicke held the great seal from 1737 to 1756 and after 1743 was the most powerful member of the government. In 1754 he was created earl and he retired in 1756. To his work as lord chancellor Hardwicke brought a thorough knowledge of the Roman civil law, upon which he could draw in cases without precedent. He also made a study of the historical development of the equitable jurisdiction of the chancellor, which was of great value to him in the exercise of his office. Although he was active in political matters he did much to rescue the administration of justice from the bad conditions into which it had fallen. Nevertheless, as Kerly observes in his history of equity, he did a disservice to his court in delaying important judgments for long periods of time in order to hear fresh arguments, with the result that he accumulated an insuperable arrear of cases. It is in connection with the development of equity as a system of law that Hardwicke's influence was the greatest. Lord Ellesmere and Lord Nottingham, who preceded him as chancellors, had taken some steps toward introducing into equity the idea that decisions were to be based upon principles derived from prior decisions, but it was only under Hardwicke's able administration that this movement really took definite shape. In a letter to Lord Kames, written after Hardwicke had resigned the chancellorship, is to be found a good statement of his views of the regulated discretion of the chancellor. When he had finished his work nearly all the great branches of equity jurisdiction were fairly mapped out. In the reports of his decisions authority is found on most of the important problems of equity, authority that was the chief reliance of subsequent chancellors until after the time of Lord Eldon.

WALTER WHEELER COOK

*Consult:* Campbell, John, *Lives of the Lord Chancellors*, 12 vols. (7th ed. Jersey City 1881-85) vol. v;



Harris, George, *Life of Lord Chancellor Hardwicke*, 3 vols. (London 1847); Kerly, D. M., *An Historical Sketch of the Equitable Jurisdiction of the Court of Chancery* (Cambridge, Eng. 1890); Yorke, P. C., *The Life and Correspondence of Philip Yorke, Earl of Hardwicke, Lord High Chancellor of Great Britain*, 3 vols. (Cambridge, Eng. 1913); Birkenhead, F. E. S., *Fourteen English Judges* (London 1926) p. 143-67.

HARET, SPIRU (1851-1912), Rumanian educational and agrarian reformer. Haret was born at Jassy, the son of a minor official. In 1878 he was the first Rumanian to get a doctorate in mathematics at the Sorbonne. He became professor of mechanics in the University of Bucharest, held various educational positions and was thrice minister of education. He combined his mathematical training with social interests in *La mécanique sociale* (Paris 1910), a discussion of the use of mechanistic principles in the study of social evolution.

In 1884 as inspector of schools he submitted a devastating report on the prevailing educational system. Under his influence and later under his direction Rumanian secondary education was systematically overhauled by the law of 1898 on lines which in general still persist. He encouraged the creation of technical schools and his reports form the best critical history of Rumanian education.

The formal changes which Haret introduced were less important than the social content which he instilled into education. He looked upon the school as an organ of the nation's life, deriving inspiration from it and contributing directly to its enrichment. He sought to raise the standard and status of the teachers and to encourage extramural activities. He urged rural teachers to combat ignorance in the village as well as in the school and instituted teachers' regional conferences. Realizing that educational effort was wasted on a materially miserable population he became a pioneer of peasant cooperation. Whereas previously village teachers had been persecuted and even imprisoned for cooperative activities, Haret sent several abroad to study the movement and appointed others to teach cooperative principles to rural schoolmasters.

His attitude developed into a championship of the cause of the oppressed peasantry. He advocated the settlement of the peasants as tenants with the possibility of later becoming owners through direct purchase. In a famous pamphlet in 1905 he predicted their revolt. The accusation was made against him by many that he was morally responsible, together with his

reforming teachers, for the great peasant rising of 1907.

DAVID MITRANY

Consult: Titeica, G., "Din vica si activitatea lui Spiru Haret" in *Academia Româna, Discursuri de receptiune*, vol. xlii (1914) 3-27.

HARMEI, LÉON (1829-1915), French industrialist and social worker. In 1841 Harmel's father, Jacques-Joseph, founded a factory at Val-des-Bois near Reims, where he endeavored to establish along with numerous philanthropic and social enterprises a strong Catholic discipline among the workers. As director of the factory after 1854 Léon Harmel became convinced that in social work the initiative of the workers rather than authority must be appealed to, since the workers would not interest themselves in benevolent movements unless given a responsible share in directing them. Harmel therefore established numerous associations, all strictly Catholic in principle but each directed by a council of workers.

Harmel was in touch for several years with Albert de Mun, the principal inspirer of the Catholic workmen's circles founded on the authoritative idea of protection of the workers by the controlling classes, and did much to bring him toward more democratic ideas. Harmel sought papal approval and, although Pius IX praised his work, it was chiefly Leo XIII who throughout his pontificate publicly approved and encouraged him. Bishops from all countries visited and admired Val-des-Bois. To strengthen the popularity of Leo XIII, Harmel organized pilgrimages of French workmen to the Vatican in 1887, 1889 and 1891. He greeted the encyclical *Rerum novarum*, dealing with the condition of the working class, as the consecration of his ideas and approved Leo XIII's advice to Catholics to support the French Republic.

In his factory he supplemented departmental workmen's councils by a *conseil d'usine*, which gave instruction in the general management of the enterprise. He approved legislation on industrial accidents and compulsory retirements. With the aid of Cardinal Langénieux of Reims he organized Christian working men's congresses in that city in 1893 and 1894. Popular among social Catholics, Christian democrats and the Sillon group, to whom he was *le bon père*, he was repeatedly attacked by conservative Catholics for encouraging advanced ideas of Christian democracy and by royalist Catholics for supporting the republic. Some church leaders were dis-

quieted by new tendencies appearing among the young clergy, and Bishop Turinaz of Nancy held Harmel chiefly responsible for them. Finally, although some Catholic capitalists regarded his ideas as an excellent bulwark against the spread of socialism, the well organized northern Catholic industrialists criticized his factory system and his attitude toward social legislation. When Pius x, the successor of Leo XIII, condemned almost all the organizations Harmel supported, he bowed as always to the wishes of Rome. Although the pope treated him thereafter with much consideration, Harmel never regained his former influence. Shortly before the death of Pius x in 1914 he went to Rome to defend the Christian trades unions.

GEORGES WEILL

*Important works:* *Manuel d'une corporation chrétienne* (Tours 1877, 2nd ed. 1879); *Le catéchisme du patron* (Paris 1889), adapted translation by Virginia M. Crawford as *A Key to Labour Problems* (London 1896). *Consult:* Guittou, Georges, *Léon Harmel 1820-1915*, 2 vols. (Paris 1927); Lecanuet, É., *La vie de l'église sous Léon XIII* (Paris 1930); Moon, P. T., *The Labour Problem and the Social Catholic Movement in France* (New York 1921).

HARNACK, ADOLF VON (1851-1930), German church historian. After teaching at the universities of Leipzig, Giessen and Marburg, Harnack was called to Berlin in 1888 at the personal request of Prince Bismarck. There he came to be regarded as one of the chief representatives of German science during the reign of Emperor William II. He was a prominent and influential member of the Preussische Akademie der Wissenschaften, the history of which he wrote, and was director of the royal library and president of the Kaiser Wilhelm-Gesellschaft zur Förderung der Wissenschaften. He was a man of wide learning. In his special field he proceeded from a most detailed philological interpretation of texts to an analysis of the thoughts and ideals of an epoch. His historical studies have a philosophical character which reflected the German religious tradition of his day. The nature of this tradition he analyzed in his lectures *Das Wesen des Christentums* (Leipzig 1900; tr. by T. B. Saunders, 3rd rev. ed. London 1904). In *Reden und Aufsätze* (4 vols., Giessen 1904-23) he treated problems of history and sociology and various contemporary questions and attempted to demonstrate the important place of Christianity in the evolution of the human race. His famous *Lehrbuch der Dogmengeschichte* (3 vols., Freiburg 1886-90, new ed. Tübingen 1909-20;

tr. by N. Buchanan and others, 7 vols., London 1895-99) discussed the influence of Greek thought on Christian dogma of the fourth and fifth centuries and showed that it had been amalgamated with Christian thought in liturgy, church constitution, dogma and morals—not as apostasy, but as a necessity for a religion which was ambitious to conquer the Roman Empire. In *Die Mission und Ausbreitung des Christentums in den ersten drei Jahrhunderten* (Leipzig 1902, 4th ed. 2 vols. 1923; tr. by J. Moffatt, 2 vols., 2nd rev. ed. London 1908) he discussed the structure of the early Christian communities, treating especially the necessity for church law and the ideas of the early Christians concerning social work and property. As president of the Evangelical-Social Congress from 1902 to 1912 he was active in social work.

W. KÖHLER

*Consult:* Smend, Friedrich, *Adolf von Harnack, Verzeichnis seiner Schriften* (Leipzig 1927), with bibliography; Richards, G. W., "The Place of Adolph von Harnack among Church Historians" in *Journal of Religion*, vol. xi (1931) 333-45.

HARNEY, GEORGE JULIAN (1817-97), English journalist and political agitator. Harney began his revolutionary career as a shopboy for the radical journalist, Henry Hetherington, and was imprisoned for selling unstamped literature. In 1838 he was one of those who withdrew from the London Working Men's Association, after a quarrel with more moderate leaders, to form the Democratic Association; and he wrote fiery editorials for the London *Democrat*. He became editor of O'Connor's *Northern Star* in 1843. In 1847 he won the nomination as Chartist candidate against Lord Palmerston. Although one of the most prominent Chartist leaders in the "physical force" wing from the beginning of the movement to the end Harney was not one of the ablest. He lacked the intellectual distinction of William Lovett and Thomas Cooper among the moderates or of James Bronterre O'Brien and Ernest Jones among the radicals, and he never enjoyed a personal ascendancy such as fell to the lot of O'Connor. But more than any other agitator of the time he represented a combination of the Jacobin tradition of the continent and the trend of English working class radicalism toward the formulae developed by Marx.

Even more than most Chartists Harney was keenly interested in contemporary revolutionary movements. He joined the communist German

Working Men's Club and was an organizer of the international Society of Fraternal Democrats (1845-53), with which Marx and Engels at first cooperated. After 1848 his emphasis on foreign events led to a quarrel with O'Connor and he eventually started organs of his own, the *Democratic Review* and the *Red Republican*, later the *Friend of the People*, which published the first English translation of the *Communist Manifesto*. Harney's communism was that of his sometime friend Ernest Jones. After their quarrel in 1852 his activities met with failure and in 1860 he emigrated to Boston. Communist historians such as Rothstein consider him a forerunner of the First International.

PRESTON W. SLOSSON  
INEZ POLLAK

*Consult:* Hovell, Mark, *The Chartist Movement* (Manchester 1918); Rothstein, T., *From Chartism to Labourism* (London 1929), especially p. 124-66; Rosenblatt, Frank F., *The Chartist Movement in Its Social and Economic Aspects* (New York 1916); Slosson, P., *The Decline of the Chartist Movement* (New York 1916).

HARRIMAN, EDWARD HENRY (1848-1909), American railroad magnate and financier. Harriman played a conspicuous role in the consolidation of American railroads. He bought a seat on the New York Stock Exchange in 1870 and some years later became a director and vice president of the Illinois Central Railroad. The many railroad bankruptcies of the period, caused mainly by financial exploitation and mismanagement, provided Harriman with an opportunity to enlarge his interests by the reorganization of several bankrupt railroads. By secret opposition and manipulation he forced himself in 1897 into the syndicate reorganizing the Union Pacific, of which he retained control and which he developed into an extremely efficient and profitable enterprise. He used the Union Pacific's large resources as well as the resources of banks, insurance companies and trust companies under his influence to secure control of other lines until the Harriman system included 60,000 miles of railroads. This system, the largest of its kind, was held together by consolidations, interlocking directorates and "community of interest." His operations assumed an international character; he secured a concession to build a railroad in Mexico, waged an aggressive struggle against Japanese interests for control of the South Manchuria Railway (in which he had American diplomatic support) and projected a ship and rail line encircling the world.

The rise of Harriman met with the opposition of rival interests. A struggle with the Morgan-Hill group for control of the Northern Pacific resulted in the disastrous stock market panic of 1901—an episode which strengthened the public demand for more stringent government regulation of the railroads. Harriman became the target of increasingly numerous attacks, part of the growing public revolt against combinations and trusts. He was severely criticized in a report of the Interstate Commerce Commission, which accused him of "indefensible financing" and of "crippling" and "scuttling" the reorganized Chicago and Alton Railroad Company; the commission declared, however, that no existing law had been violated. President Roosevelt, with whom he had been on friendly personal and political terms, denounced Harriman as an "undesirable citizen" and an "enemy of the Republic." A government suit broke up the Harriman system by compelling the Union Pacific to divest itself of stocks in five other railroads.

Harriman was probably the ablest of the railroad magnates; his consolidations were usually sound and he encouraged operating efficiency. But the system he created was primarily financial in character; and his predatory manipulations, characteristic of the age, constituted a strong influence in the development of more comprehensive regulation by the Interstate Commerce Commission.

LEWIS COREY

*Consult:* Kennan, George, *E. H. Harriman*, 2 vols. (Boston 1922); United States, Interstate Commerce Commission, "In the Matter of Consolidations and Combinations of Carriers" in *Reports*, vol. xii (1907) p. 277-306; Corey, Lewis, *The House of Morgan* (New York 1930).

HARRINGTON, JAMES (1611-77), English political philosopher. Although a convinced republican Harrington remained neutral during the civil war and from 1647 to 1649 was in personal attendance on Charles I in his captivity. His chief work, *The Commonwealth of Oceana* (London 1656), is a treatise on comparative politics—partly philosophic, partly utopian, partly historical. The utopian model of a commonwealth which it presented exerted great influence. The "constitution," set up by a special constituent body, consisted of an elective "senate," which alone might debate, and "the People," or elected deputies, who alone might decide broad questions put to them by the senate or the executive councils, appointed by indirect election. The whole system was based on election,

rotation, the use of the ballot and the separation of functions. It was superimposed upon an elaborate organization of local government and an equal division of landed property. Harrington laid particular stress on agrarian conditions and on the changes in the balance of power consequent upon redistribution of land. The Tudors, he believed, had provoked the civil war by throwing the balance of property into the hands of the middle classes. No man ought to receive more than £2000 in land by bequest, and family lands ought to be equally divided. For the small landowner Harrington showed little concern; he was an aristocratic republican with a strong belief in "the genius of a gentleman." He had a far reaching conception of empire. "To ask whether it be lawful for a Commonwealth to aspire to the empire of the world, it is to ask whether it be lawful for it to do its duty, or to put the world into better condition than it was before." Harrington's political thought appears to have owed something to Plato's *Latos*, much to Machiavelli and to Bacon, much also to his general historical reading and knowledge of contemporary European politics. He is original in that he makes no use of the social contract, and his whole attitude toward Hobbes is one of hostility. Locke's theory of property probably owes something to Harrington.

It was in America that Harrington's influence was strongest. The written constitution, the unlimited use of the elective principle and the separation of powers are all points which may have been derived directly from the *Oceana*, while all the minor points of machinery, rotation, checks and balances, popular ratifications and special protection for the constitution seem to have been first formulated by Harrington. His influence is best seen in the early constitutions of the proprietary colonies, Carolina, New Jersey, Pennsylvania. Although incapable of direct proof it seems a "moral certainty," according to Russell Smith, that Penn derived his leading ideas direct from Harrington and not from an independent study of continental parallels. Harrington's favorite devices did not prove a success in the separate colonies, but there was a sharp recrudescence of his influence in the American Revolution, when his principles were esteemed more highly than his devices. A few years later his works were translated into French and read by some of the revolutionary leaders, notably by Sieyès; some of his practical ideas, such as the ballot, were ultimately worked out by the English radicals; and thus he serves

to link together four revolutions of very different types. The most valid criticism of Harrington is that he makes no adequate definition of the end toward which a state should strive; or, as Montesquieu put it, "for want of knowing the nature of real liberty, he busied himself in the pursuit of an imaginary one."

A. E. LEVETT

*Works: The Oceana, and Other Works*, ed. by John Toland and Thomas Birch (3rd ed. London 1747).

*Consult: Russell Smith, H. F., Harrington and His Oceana* (Cambridge, Eng. 1914), with bibliography; *James Harrington's Oceana*, ed. by S. B. Liljegren, Skrifter utg. av Vetenskaps-societeten i Lund, no. iv (Heidelberg 1924); Levett, A. E., "James Harrington" in *Social and Political Ideas of the Sixteenth and Seventeenth Centuries*, ed. by F. J. C. Hearnshaw (London 1926) ch. viii; Dwight, T. W., "Harrington and His Influence upon American Political Institutions and Political Thought" in *Political Science Quarterly*, vol. ii (1887) 1-44; Gough, J. W., "Harrington and Contemporary Thought" in *Political Science Quarterly*, vol. xiv (1930) 395-404; Koehner, Richard, "Die Geschichtslehre James Harringtons" in *Geist und Gesellschaft*, 3 vols. (Breslau 1927-28) vol. iii, p. 4-21.

HARRIS, JOSEPH (1702-64), British monetary theorist. Harris is said to have been a blacksmith in his native village. He moved to London at an early age, where he became known as a writer on navigation, trigonometry, optics and astronomy. He was appointed assay master in 1748. His contribution to monetary theory is contained in his *Essay upon Money and Coins* (2 vols., London 1757-58), which deals with the general theory of money and exchange and with evils of debasement. It is clearly and intelligently written and reflects Harris' familiarity with current theory and practise, but his views on the fundamental questions show no great originality. In the excellent introductory chapter on the nature of wealth and commerce there are indications that he was acquainted with the work of Cantillon and other liberal critics of traditional mercantilism; in the chapters on money the influence of Locke is more marked.

Harris was strongly in favor of silver monometallism. Gold coins may be used as a medium of payment but not as standard money; copper may be used for subsidiary coins in strictly limited amounts. He adopts Locke's version of the quantity theory but holds that the cost of producing the money metal is also a factor in its value, although less directly than in the case of other commodities. Production at the mines is checked by the falling value of bullion. The supply of money adjusts itself automatically to the

needs of a trading country, but something in excess of this amount may well be held as a "dead stock" for emergencies.

A. E. MONROE

*Consult:* Monroe, A. E., *Monetary Theory before Adam Smith*, Harvard Economic Studies, vol. xxv (Cambridge, Mass. 1923).

HARRIS, WILLIAM TORREY (1835-1908), American educator. Harris was the author of many philosophical papers and a book on Hegel's logic. He translated writings of Hegel and other European philosophers, edited the *Journal of Speculative Philosophy* from 1867 to 1893 and held several administrative posts.

Harris was less of a philosopher than a teacher and educational administrator. Although he favored some pronounced changes in education—the higher education of women, science in the school curriculum, learning through investigation and discovery rather than textbook cramming, reconstruction of the curriculum, better training of teachers, better school buildings and organization—in making his case for such reforms he always stressed the conservative factors involved. He was in educational theory primarily a classicist, in morals a puritan, in theology an orthodox Christian, in philosophy an absolutist. In social, political and economic theory he was a Hegelian institutionalist, a pronounced nationalist, a strong individualist and a defender of the status quo of the economic order.

His philosophy, in effect a rationalization of the more generally accepted moral, social and political standards of his times, failed to appreciate the needs of the future. But he did important service in his day by stimulating the minds of his generation to fundamental thinking and by interesting a wide and varied audience in pedagogical problems, especially through his addresses before the National Education Association, of which he was a leading member, and his reports made as superintendent of schools in St. Louis from 1867 to 1880 and as national commissioner of education from 1889 to 1906. The numerous practical improvements which Harris introduced into the school system of St. Louis were very widely copied throughout the United States.

R. B. RAUP

*Important works:* *Doctrine of Reflection, Being a Paraphrase and a Commentary Interpolated into the Text of the Second Volume of Hegel's Larger Logic Treating of "Essence"* (New York 1881); *Introduction to the Study of Philosophy*, ed. by Marietta Kies (New York 1889); United States, Bureau of Education, *Report of*

*the Commissioner of Education, 1889-1906* (1890-1907).

*Consult:* *The St. Louis Movement in Philosophy*, arranged and ed. by Charles M. Perry (Norman, Okla. 1930) p. 51-68, and bibliography, p. 96-140; Roberts, John S., *William T. Harris* (Washington 1924).

HARRISON, FREDERIC (1831-1923), English humanitarian jurist and man of letters. Following a decade of law practise Harrison gave himself to an abounding activity as a publicist. His long and full life was externally uneventful, as he neither sought nor accepted public honors. The strict Anglicanism in which he had been reared, shaken by his education at Oxford, gradually gave way to Comte's religion of humanity based on a positivist (scientific) philosophy of a progressive society. Harrison's place in English positivism was pivotal; for twenty-five years he was president of the English Positivist Committee; he was one of the founders of the *Positivist Review*. Positivism, "the real business" of his life, was to Harrison a social religion and a religious socialism. It stimulated him to manifold humanitarian activity and to the propagation of broad views that became increasingly accepted with the years.

His legal interests were important for a time. For many years he was a lecturer to the Inns of Court on jurisprudence and international law, and he assisted in the digest of the law. His *On Jurisprudence and the Conflict of Laws* (Oxford 1919) was influenced by Sir Henry Maine and did much to dissolve the extremely analytical character of English legal thought. His legal career came to an end, however, in the early seventies because of too keen an advocacy of the trades unions. He was a member of the Royal Commission on Trades Unions from 1867 to 1869 and author of the minority report, and he was largely responsible for the legal position granted the unions in the seventies. But he was not a socialist in the accepted sense. Marxian doctrines seemed to him "utterly incoherent"; Harrison's vehemence for social reconstruction was not revolutionary.

Broad in his international viewpoint, Harrison consistently advocated the rights of "little peoples" and subject races. The Sepoy Mutiny made him an anti-imperialist and he boldly opposed the occupation of Egypt, the dismemberment of China, the Boer War and the coercion of Ireland. To the jibe "little Englander" he retorted by accusing the "prancing" imperialists of the "low-bred pride of being big." Yet he was a deeply patriotic islander, whose popularity in

his old age was enhanced by his enthusiastic espousal of the cause of the Allies in the World War. It should be added that he vigorously denounced a peace based on annexations and indemnities.

Harrison's voluminous articles and books have been widely read; in them sound judgments, historical, social and literary, are joined to a clear and vigorous style of writing. His reminiscences, the most valuable of which are *The Creed of a Layman* (London 1907), *Autobiographic Memoirs* (2 vols., London 1911, with a bibliography of his writings) and *De senectute* (London 1923), reveal him as one of the last of the great Victorians.

HOWARD ROBINSON

*Consult:* Harrison, Austin, *Frederic Harrison; Thoughts and Memories* (London 1926); Pollock, Frederick, "Frederic Harrison, Jurist and Historian" in *English Review*, vol. xxxvi (1923) 410-13.

HARRISON, JANE ELLEN (1850-1928), English archaeologist and comparative religionist. Jane Harrison, who had been for some time an interested student of classical antiquity, especially Greek art (*Myths of the Odyssey in Art and Literature*, London 1882; *Introductory Studies in Greek Art*, London 1885, 3rd ed. 1894; *Mythology and Monuments of Ancient Athens*, with M. de G. Verrall, London 1890; *Greek Vase Paintings*, with D. S. MacColl, London 1894), turned to the study of Greek religion "with the definite hope," she says (*Prolegomena*, p. viii), "that I might come to a better understanding of some forms of Greek poetry." Her literary interest never left her and it adds to the charm of her style and the piquancy of her arguments. Her first important work in her new field, *Prolegomena to the Study of Greek Religion* (Cambridge, Eng. 1903; 3rd ed. 1922), was widely read and exercised a great influence: it perhaps turned the attention of English scholars to the earlier forms of Greek cult and thought more than any other book, even the works of Andrew Lang. At that time under the inspiration of E. B. Tylor's theory of animism the influence of the school of "philological ethnologists," including such men as Usener, Rohde and Dieterich, was strong. It is thus not surprising that Jane Harrison was led to trace much in popular Greek cult to the worship of ghosts and other underworld spirits. It is also significant that a second work, *Themis; a Study of the Social Origins of Greek Religion* (Cambridge, Eng. 1912; 2nd ed. 1927), appeared in the same year as Durkheim's *Les*

*formes élémentaires de la vie religieuse*, for the hypotheses of his school play a great part in *Themis*. In it Jane Harrison endeavors to deduce certain Greek rites from initiation ceremonies and to trace the gods worshiped in them to "projections" from the worshipping community which embody its hopes for a prosperous year. The World War turned her attention to Russian studies but she returned to her main interest in *Epilegomena to the Study of Greek Religion* (Cambridge, Eng. 1921), which shows the influence of the Freudian school. Despite hasty conclusions and uncritical survey of material her work forced students of Greek and comparative religion "to reexamine and deepen the foundations of their thinking."

H. J. ROSE

*Consult:* Murray, Gilbert, *Jane Ellen Harrison* (Cambridge, Eng. 1928).

HART, SIR ROBERT (1835-1911), administrator in the Chinese service. Hart was a native of Ireland. After he had attended school in Belfast and had served in the British consular service in China from 1854 to 1859 Hart entered the Chinese Imperial Maritime Customs, becoming in 1863 inspector general, an office he held until his death. He organized and developed the service, drawing on all the competing European nationalities for his subordinates. He had the confidence of both the imperial Chinese and the foreign governments and was honored by both for his services. He centralized and standardized maritime customs administration. Although hampered by a low rate treaty tariff he increased the revenue and made it the most dependable security for government borrowing. Hart made the maritime customs an instrument for modernization. The coast was lighted and the river channels buoyed. A customs postal service grew into the national post office. A school of European languages became a national university. His port physicians developed a public health service. Staff researches produced important historical and economic studies. The customs statistics were and are the most reliable obtainable upon Chinese affairs.

Consulted by the Chinese government in every great emergency, Hart's memorials dealt with political as well as fiscal matters. He was largely responsible for the appointment of the Burlingame Mission and the establishment of Chinese legations and consulates abroad. His influence was always exerted in behalf of peace and friendly relations with the West. In 1885

he declined the post of British minister to China. He died while on leave in England.

E. T. WILLIAMS

*Works:* "These from the Land of Sinim" (London 1901).

*Consult:* Bredon, Juliet, *Sir Robert Hart* (London 1909); Drew, E. B., "Sir Robert Hart and His Life Work in China" in *Journal of International Relations*, vol. iv (1913-14) 1-33; Morse, H. B., *The Trade and Administration of China* (3rd ed. London 1920) p. 390-96, 408-10, and *The International Relations of the Chinese Empire*, 3 vols. (London 1910-18) vols. ii-iii. See also publications of the Shanghai Statistical Department of Customs.

**HARTLAND, EDWIN SIDNEY (1848-1927)**, English anthropologist. Although a busy lawyer practising at Swansea between 1871 and 1890 and later serving as registrar of the County Court at Gloucester, Hartland was one of the leading British anthropologists of his generation. His work comprises an earlier period, during which he was mainly concerned with the history of folk tales, and a later, when he went on to explore primitive culture not so much as a key to its survival in folklore as for its own sake. He was associated with the Folk-lore Society from the time of its inception in 1878, was a frequent contributor to its organ *Folk-lore* and published a number of books on fairy tales and mythology. In his very valuable *The Legend of Perseus* (3 vols., London 1894-96) he not only discusses that folk story in the light of its diffusion but likewise labors to connect each incident with some trait of a preexisting primitive culture. His later books on the origins of the family, *Primitive Paternity* (2 vols., London 1909-10) and *Primitive Society* (London 1921), vigorously support the theorists who maintain the priority of mother right to father right. In *Ritual and Belief* (London 1914) he showed himself to be an eminently judicious thinker, thoroughly abreast of the best and latest work on comparative religion. His *Primitive Law* (London 1924), in which he regards primitive law as the totality of the customs of the tribe, provides a helpful compact outline of a difficult subject. Hartland's friendliness, moderation and tact endeared him to all who knew him and inspired his coworkers to maintain the unity and direction of their common studies.

R. R. MARETT

*Consult:* Haddon, A. C., in *Folk-lore*, vol. xxxvii (1926) 178-80, and bibliography based on Hartland's own record, 180-92; Marett, R. R., in *Folk-lore*, vol. xxxviii (1927) 83-85; Myres, J. L., in *Man*, vol. xxvii (1927) 143-47; Goldenweiser, Alexander, in *American Anthropologist*, n.s., vol. xiii (1911) 598-606.

**HARTLEY, DAVID (1705-57)**, English psychologist. Hartley was educated at Jesus College, Cambridge. He planned to follow his father's profession as a clergyman but deterred by doctrinal scruples became a physician. Hartley is recognized as the founder of the English association psychology. Taking from John Locke the notion of mental association and from John Gay the idea of its potency he elaborated in his epoch making *Observations on Man, His Frame, His Duty and His Expectations* (2 vols., London 1749; ed. with biography and commentary by D. Hartley, Jr., 3 vols., 1791) a theory of association based on brain activity and nerve physiology. He was the first to formulate a general law which interpreted all mental phenomena (except sensation) and all voluntary activities as the result of association working through temporal contiguity. He developed his theory in the manner of Spinoza in a series of formal propositions followed by expositions. The physiological basis of association he explained by an elaborate theory of brain vibrations. In the second volume of the book he applied the association psychology to ethics and theology.

Hartley's work at first received scant notice in England, but it had great influence on English psychology in the nineteenth century as the source of the association psychology of James Mill and his successors.

HOWARD C. WARREN

*Consult:* Bower, G. S., *Hartley and James Mill* (New York 1881); Brett, G. S., *A History of Psychology*, 3 vols. (London 1912-21) vol. ii, p. 278-86; Warren, Howard C., *A History of the Association Psychology* (New York 1921) p. 50-64.

**HARTMANN, EDUARD VON (Karl Robert) (1842-1906)**, German philosopher. After military training and five years' service as an army officer Hartmann resigned his commission because of a knee infection which kept him an invalid for long periods during his life; he then studied at Rostock, whence he returned to his birthplace, Berlin. Although Hartmann's philosophy suggests psychoanalysis and in a sense he must be regarded as the forerunner of Freud, he was primarily a metaphysician. Just as Schopenhauer's Will was not a psychological entity but a cosmic principle, so Hartmann's Unconscious corresponded to the Absolute working itself out in every human endeavor through the individual and becoming more and more conscious in the process. Hartmann's important work, *Die Philosophie des Unbewussten* (Berlin

1869; tr. by W. C. Coupland, new ed. London 1931), was a synthesis of the systems of Hegel and Schopenhauer. With Hegel, Hartmann believed that the Absolute is idea in essence; with Schopenhauer he invested this idea with will. At the same time he insisted upon the principle of the unconscious, which runs throughout Schelling's transcendentalism. Hartmann styled his own system transcendental realism on the supposition that he had completely veered from the subjective idealism of his predecessors. In his theory of knowledge he drew the distinction between category concepts and category functions.

The keynote of Hartmann's ethics, which resembled Schopenhauer's because both were imbued with oriental mysticism, was pessimism. While, however, Schopenhauer bitterly flouted the illusion of happiness, Hartmann urged it as a substitute. He explained pain and misery through the relationship between the will and the idea; the *summum bonum* of man he conceived to be only in the denial of the individual in order to serve the purpose of the Unconscious—a self-denial which made for the abolition of the Absolute and the final release from the wretched condition of existence. Hartmann's own physical suffering was undoubtedly responsible for this philosophy, in terms of which he considered Christianity an early stage in the development of a true religious consciousness.

Hartmann, especially conversant with contemporary biology and psychology, prepared the way for neovitalism. He served as a storm center in philosophical circles for a quarter of a century, wielding influence in Russia, France and England and in Scandinavian countries.

A. A. ROBACK

**Works:** Von Hartmann's selected works have been published as *Eduard von Hartmanns ausgewählte Werke*, 13 vols. (vol. i 3rd ed., vols. ii-vii 2nd ed., vols. viii-xiii 1st ed. Berlin and Leipzig 1885-1901).

**Consult:** Überweg, Friedrich, *Grundriss der Geschichte der Philosophie*, 4 vols. (11th-12th eds. by T. K. Oesterreich, Berlin 1923-28) vol. iv, p. 331-41, with bibliography; Drews, Arthur, *Eduard von Hartmanns philosophisches System im Grundriss* (2nd ed. Heidelberg 1906); Fischer, J. C., *Hartmanns Philosophie des Unbewussten* (Leipzig 1872); Hessen, Johannes, *Die Kategorienlehre Eduard von Hartmanns* (Leipzig 1924); Kappstein, T., *Eduard von Hartmann* (Gotha 1907); Koeber, R., *Das philosophische System Eduard von Hartmanns* (Breslau 1884); Petraschek, K. O., *Die Logik des Unbewussten*, 2 vols. (Munich 1926); Plümacher, Olga, *Der Kampf ums Unbewusste* (2nd ed. Leipzig 1890); Steffes, J. P., *Eduard von Hartmanns Religionsphilosophie des Unbewussten* (Mergentheim 1921); Hall, G. S., *Founders of Modern Psychology* (New York 1912) p. 181-243.

**HARTMANN, LUDO MORITZ** (1865-1924), Austrian historian, sociologist and statesman. Hartmann began his scholarly career under the influence of Mommsen with a work on Roman history. Later, influenced by Sicking and Scheffer-Boichorst, he turned to early mediaeval history, especially that of Italy. His *Untersuchungen zur Geschichte der byzantinischen Verwaltung in Italien* (Leipzig 1889) revealed all the qualities of Hartmann's later work: complete mastery of available sources, a keen critical sense, clear exposition, able synthesis and the desire to place social and economic problems in the forefront. Hartmann edited many sources and published numerous monographs and popular works on mediaeval and modern Italian history. His most important historical work, however, was his *Geschichte Italiens im Mittelalter* (4 vols., Leipzig and Gotha 1897-1915; vol. i, 2nd ed. Gotha 1923), which treats of the period between the fall of Rome and the year 1018 and is especially illuminating on the policy of Justinian, on the relations between the Byzantine and western empires and on the internal organic weaknesses of the Carolingian empire. In 1893 Hartmann together with Stephan Bauer, Carl Grünberg and Emil Szanto founded the *Zeitschrift für Sozial- und Wirtschaftsgeschichte*, which in 1903 became the *Vierteljahrsschrift für Sozial- und Wirtschaftsgeschichte*, and he remained until his death one of its editors and most active contributors. He was also the editor of the *Weltgeschichte in gemeinverständlicher Darstellung* (vols. i-vii, x, Gotha 1919-25), to which he contributed the sections on the early history of Rome and the decline of the ancient world.

As a sociologist Hartmann was interested in the problems of nationality, political action and the sociology of revolution but above all in the principles of historical method and research. As a young man he believed that there were demonstrable laws in history but later he spoke rather of historical tendencies. Inspired by Marx, Darwin and Mach he wrote his *Über historische Entwicklung* (Gotha 1905), in which he developed the fundamental idea that the law of history is the extensive and intensive development of socialization. The destiny of a state is determined not by the deeds of individuals but by forces deeply rooted in the people.

Hartmann was not content with a life restricted merely to scholarship and research. The ideas of a republic and of democracy, impressed upon his mind from his earliest youth and providing the basis for his social outlook, inspired his activity



as popular educator, organizer and political leader. He was a prominent socialist and particularly active in attacking clericalism and limitations on the freedom of research. He organized the Freie Schule, the Volksbildungsverein, the Athenäum für Frauen and the Volksheim—all of them institutions where the working classes of Vienna could satisfy their thirst for culture. After the collapse of the empire Hartmann became director of the national archives and made possible the first publication of the diplomatic documents concerning the outbreak of the World War. He was the first ambassador of the Austrian Republic to Germany and worked until his death for the union of the two countries.

ALFRED FRANCIS PRIBRAM

*Consult:* Bauer, Stephan, in *Neue österreichische Biographie*, ed. by Anton Bettelheim, sect. 1, vol. iii (Vienna 1926) p. 197–209; Stein, E., Cicciotti, E., Salvioli, G., and Bauer, S., in *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*, vol. xviii (1924–25) 312–39, with a list of Hartmann's historical works.

HARVEY, GEORGE BRINTON McCLELLAN (1864–1928), American publicist and diplomat. Harvey was reared in poverty in a Vermont village and learned early to admire material success. After some journalistic work on the Springfield (Massachusetts) *Republican*, then a good training institution, and on Chicago newspapers he became managing editor of the New York *World* and was influential in the 1892 campaign for the nomination and election of Cleveland. Leaving the *World* he was enabled through William C. Whitney and Thomas F. Ryan to acquire a considerable competence through speculations in electric traction lines and thereafter to buy the *North American Review*. He was chosen by the elder J. P. Morgan to manage the publishing firm of Harper's, whose bonds the house of Morgan had underwritten. He manipulated the nomination of Woodrow Wilson as governor of New Jersey in 1910 and as editor of *Harper's Weekly* assisted in his election. Making a shrewd analysis of Wilson's "availability" as a presidential candidate Harvey groomed him and boomed him as "predestined" for the presidency in a manner which showed his mastery of the technique of publicity and of convention tactics. A break occurred, however, between Harvey and Wilson. Harvey, mercurial politically, jumped to the Republicans and established in connection with the *North American Review* a "war weekly" which dealt candidly with the origins of the World War and the ideals of the belligerents. As *Harvey's Weekly* it be-

came a venomously personal anti-Wilson sheet, written in the tone and temper of certain early English pamphlets, and waged a bitter and effective fight against American entrance into the League of Nations. Harding, whom Harvey helped to the presidency, appointed him ambassador to Great Britain, a post in which his audacity caused frequent embarrassment to his government.

As president maker, political analyst and strategist and master of publicity and public relations Harvey had considerable significance despite the fact that his influence on American thought was essentially destructive. He was politically unpredictable but had the capacity for marshaling all sorts of factions in support of the idea which obsessed him at the time. He illustrates as well as any figure in American history what results when an intelligent and irresponsible journalism that knows what it wants projects itself into the realm of national and international affairs. In the main Harvey identified the drives of his personality with the destinies of the nation.

SILAS BENT

*Consult:* Gilbert, C. W., *The Mirrors of Washington* (New York 1921) p. 49–63; Dodd, William E., *Woodrow Wilson and His Work* (4th rev. ed. New York 1921) ch. v; Johnson, W. F., *George Harvey* (Boston 1929).

HASBACH, WILHELM (1849–1920), German economist. Hasbach studied at the universities of Münster, Bonn and Tübingen; his later studies in Berlin brought him under the influence of Gustav Schmoller and Adolf Wagner. He was lecturer at the universities of Greifswald and Königsberg and from 1893 to 1906 professor at Kiel. Hasbach's significance lies in the field of modern English economic history. His work *Die englischen Landarbeiter . . . und die Einhegungen* (Leipzig 1894, tr. by Ruth Kenyon as *A History of the English Agricultural Labourer*, London 1908) is a masterpiece of historical research. It is an original study of agrarian changes in the England of the eighteenth century, the social effects of the enclosures and the origin of the landless rural working class. Equally significant are *Das englische Arbeiterversicherungswesen* (Leipzig 1883), a treatise on social insurance in Great Britain; *Die allgemeinen philosophischen Grundlagen der von François Quesnay und Adam Smith begründeten politischen Ökonomie* (Leipzig 1890) and *Untersuchungen über Adam Smith* (Leipzig 1891), two penetrating studies of the

driving force of the philosophy of Smith and its relationship to the philosophies of the seventeenth and eighteenth centuries. As a theorist Hasbach failed, however, to show that gift of criticism which distinguished him so highly in the writings on economic history and the history of economic thought; he was less successful in his study of commodity consumption and production, *Güterverzehrung und Güterhervorbringung* (Jena 1906). In his last work, *Die moderne Demokratie* (Jena 1912, 2nd ed. 1921), he showed himself to be an outspoken enemy of parliamentarism and an unconditional adherent of constitutional monarchy resting on a strong bureaucracy. The book reveals the conservative influence of his teachers Schmoller and Wagner. These two, however, in their aversion to democracy never expressed themselves so openly and sharply as did Hasbach.

HERMAN LEVY

HASTINGS, WARREN (1732-1818), British colonial administrator. After a brilliant career at Westminster School, Hastings in 1750 went out to Calcutta in the East India Company's service. Distinguished by the purity of his conduct, he became governor of Bengal in 1772. He introduced numerous reforms into the administration, but his conduct of external policy was open to criticism. In 1774 he became governor general under the Regulating Act, the well intended but unwise provisions of which involved him in a number of acute conflicts. The new council at once attacked not only his external policy but also his internal administration, accepting at their face value the uncorroborated accusations of the Brahman Nandakumar. When Nandakumar was tried and executed on a charge of forgery, Philip Francis, the leading spirit of the opposition, sought to represent this as a judicial murder. But this charge although accepted by Macaulay was rejected by the House of Commons and is discredited by modern research. Hastings' conflict with Francis was one of principles as well as of personalities. Francis believed that the establishment of a good administration was impossible. He would have restored Clive's system of a dual government, desiring that the English should do nothing but restrict the amount of revenue collected and maintain a strong army. Hastings tried to unify the government under English control, preserving all its traditional forms and changing as little as possible of its ideas, but inspiring it with a new spirit of efficient integrity. He was handicapped, however,

by the ill defined authority of the supreme court, which interfered with the collection of the revenue and with the decisions of tribunals not subject to its jurisdiction. The Regulating Act had further subjected the external policy of Bombay and Madras to the supervision of the governor general and his council but without giving the latter sufficient authority. The result was a series of differences over the conduct of the wars which broke out with the Marathas and with Haidar Ali of Mysore. In 1778 these difficulties were enhanced by the war between France and Great Britain. Hastings had to employ the resources of Bengal to maintain the other presidencies without being able to control their conduct. Under the pressure of these circumstances he resorted to those expedients which formed the basis of the main charges later brought against him. On returning to England in 1785 he was impeached, mainly owing to the intrigues of Philip Francis, but was acquitted after a prolonged trial. He was entrusted with the government of British India under a vicious system, which disappeared immediately after his retirement and which would have broken down completely if it had not been for Hastings' extraordinary tenacity, judgment and resource.

H. H. DODWELL

Consult: Gleig, G. R., *Memoirs of the Life of . . . Warren Hastings*, 3 vols. (London 1841); *Selections from the . . . State Papers Preserved in the Foreign Department of the Government of India, 1772-85*, ed. by G. W. Forrest, 3 vols. (Calcutta 1890); Weitzman, Sophia, *Warren Hastings and Philip Francis* (Manchester 1929); *British India, 1497-1858*, ed. by H. H. Dodwell, Cambridge History of the British Empire, vol. iv (Cambridge, Eng. 1929); Jones, M. F. M., *Warren Hastings in Bengal, 1772-1774*, Oxford Historical and Literary Studies, vol. ix (Oxford 1918); Low, S., "Clive, Warren Hastings and Their Biographers" in *Edinburgh Review*, vol. cccix (1919) 379-404.

HAUCK, ALBERT (1845-1918), German historian. Hauck was born in Wassertrüdingen. From 1864 to 1866 he studied theology at Erlangen under Hofmann and Thomasius and in 1866-67 theology and history at Berlin, where the personal and scientific influence of Leopold von Ranke settled him in his life work. On the basis of his publication of *Tertullians Leben und Schriften* (Erlangen 1877) he was appointed to the faculty of the University of Erlangen in 1878. In 1889 he went to the University of Leipzig, where he taught ecclesiastical history until his death. In 1881 he began his investigations into the mediaeval German church, which is his particular province as a historian. Although he

died too soon to carry his *Kirchengeschichte Deutschlands* down to the Reformation, the five completed volumes extending to 1437 (vols. i-v, Leipzig 1887-1920; vol. v, pt. ii. ed by H. Boehmer; 3rd-4th ed. 1911-20) constitute a standard work cautious in treatment and laying particular emphasis upon the interweaving of international and national elements in the evolution of the German church. He was co-editor of the second edition (1877-88) and independent editor of the third edition (1896-1913) of Herzog's monumental *Realencyclopädie für protestantische Theologie und Kirche*. Among his other publications are included *Der Kommunismus in christlichem Gewande* (Leipzig 1891), *Die Trennung von Kirche und Staat* (Leipzig 1912; 5th-6th ed. 1919), *Deutschland und England in ihren kirchlichen Beziehungen* (Leipzig 1917), *Die Reformation in ihrer Wirkung auf das Leben* (Leipzig 1918) and a fourth revised edition of H. Schmid's *Lehrbuch der Dogmengeschichte* (4th ed. Nordlingen 1887).

Hauck is the most magistral delineator of German ecclesiastical history. Although as theologian he belonged to the conservative Erlangen tradition, his *Kirchengeschichte* shows that as historian he was, as he always acknowledged himself to be, the pupil of Ranke. Hauck was in fact the most faithful of Ranke's disciples. Remaining in the field of ecclesiastical history, unlike most of the other important members of Ranke's school, he kept alive during the time of Bismarck and his epigoni Ranke's scientific conception of history and Ranke's idea that the investigator must have the point of view of a universal historian. As early as 1877 Hauck wrote: "The history of the past is the teacher of the future. For those who stand in the flux of life nothing is so essential as a calm, unbiased judgment which does not permit itself to be seduced by contemporary party sentiment. History beyond anything else teaches how to make such judgments." He concludes with Ranke: "The history of the world is unaffected by the deliberate decisions and chance deeds of individuals; its course is rather determined by the evolution of spiritual forces or tendencies . . . by which individuals, however mighty, are always swept along." The only great historian of Ranke's school who was also a theologian, he preserved Ranke's world view, which was basically religious, and in a certain sense, by substituting faith in a purposeful God for Ranke's attitude of resignation, he completed it. The *Kirchengeschichte*, however, failed to inaugurate a new epoch of scientific history.

Nor has Hauck's insistence upon facts and their indisputable consequence had adequate repercussions upon the theological conceptions of the conservative theologians with whom he was affiliated, although he has exerted some influence upon their work in the specific sphere of ecclesiastical history.

ERNST BARNIKOL

*Consult:* Boehmer, H., "Albert Hauck, ein Charakterbild" in *Beiträge zur sächsischen Kirchengeschichte*, vol. xxxiii (1920) 1-78, containing bibliography of Hauck's writings; Buer, Karl, in *Die Religion in Geschichte und Gegenwart*, vols. i-iv (2nd ed. Tübingen 1927-30) vol. ii, col. 1647; Below, Georg von, *Die deutsche Geschichtsschreibung*, *Handbuch der mittelalterlichen und neueren Geschichte*, pt. i (2nd ed. Munich 1924) p. 75.

HAURIOU, MAURICE (1856-1929), French jurist and sociologist. Hauriou was professor of law at Toulouse from 1883 until his death. The sociological doctrines of his early works are applied in his later, principal works relating to legal philosophy and theory. A traditionalist seeking to base his doctrines on Catholic dogma, he undertook above all else the defense of individualism. The "individualistic order," the primary importance of private enterprise with its corollaries of private property and civil liberty, is for him the immutable natural law, the sole path of progress for any society. The state has no other function than to guarantee and support this natural right and laws contrary to it should be void. In the political order the idea of individualism implies the recognition of and respect for the supremacy and autonomy of the executive, whose staff forms an élite by reason of its ability and the eminent value of its will and who has therefore a right to command. The people, who wish to rule for the sake of ruling but lack ability to do so, and their representative, parliament, should limit their activities to a control of the actions of the executive without hampering his freedom. There is a strict correlation between these doctrines and Hauriou's theoretical concepts. He adheres to the social philosophy of Tardé: social evolution is entirely the work of powerful individualities—men of genius, leaders who transmit their ideas to others. The social environment determines nothing; its role is confined to resistance or consent. The state is bound up with the individualistic regime and is incompatible with a socialist or communist society. Hauriou's name has become associated with a "theory of institution," which would seem to reduce itself to the statement of the importance

in the structure and evolution of society of the permanent organizations which serve the collective interest. In their totality they constitute the individuality of the state.

CHARLES EISENMANN

*Important works:* *La science sociale traditionnelle* (Paris 1896); *Principes de droit public* (Paris 1910, 2nd ed. 1916); *Précis de droit constitutionnel* (Paris 1923, 2nd ed. 1929).

*Consult:* Eisenmann, Charles, "Deux théoriciens du droit: Duguit et Hauriou" in *Revue philosophique, de la France et de l'étranger*, vol. cx (1930) 231-79; Platon, Georges, *Pour le droit naturel, à propos du livre de M. Hauriou: les principes du droit public* (Paris 1911). Hauriou has himself summarized his theories in an article, "An Interpretation of the Principles of Public Law" in *Harvard Law Review*, vol. xxxi (1917-18) 813-21.

HÄUSSER, LUDWIG (1818-67), German historian. Häusser was born in Alsace, studied at the universities of Heidelberg and Jena and was influenced chiefly by the enlightened liberalism of F. C. Schlosser. His first important historical works were *Über die deutschen Geschichtsschreiber vom Anfang des Frankenreichs bis auf die Hohenstaufen* (Heidelberg 1839) and *Die Geschichte der rheinischen Pfalz* (2 vols., Heidelberg 1845). Beginning in 1846, however, Häusser combined an absorption in the political problems of his own time with his historical research. He set forth the German national view of the Schleswig-Holstein problem in his *Schleswig-Holstein, Dänemark und Deutschland* (Heidelberg 1846) and in 1847 joined with Gervinus in the founding of the *Deutsche Zeitung* to further the cause of German unification under the leadership of Prussia with the exclusion of Austria. He was a member of the Erfurt parliament in 1850 and of the upper house in Baden in 1848, 1850 and from 1860 to 1865. During the latter period he was especially prominent as an advocate of a liberal church and school policy and as an opponent of both Protestant orthodoxy and Catholic ultramontaniam.

As a historian Häusser was less prominent than other leaders of the so-called Prussian school like von Sybel, Droysen and Treitschke. He nevertheless is of special importance in the history of German public opinion because of his role as the south German representative and disseminator of Prussian-German nationalism. His lectures at the University of Heidelberg and his most celebrated work, *Deutsche Geschichte vom Tode Friedrichs des Grossen bis zur Gründung des deutschen Bundes* (4 vols., Berlin 1854-57; 4th ed. 1869), were both very influential in

arousing and spreading German national feeling in the south German states.

OTTO WESTPHAL

*Consult:* Marcks, Erich, *Ludwig Häusser und die politische Geschichtsschreibung* (Heidelberg 1903); Oncken, Wilhelm, in *Badische Biographien*, vol. i (Heidelberg 1875) p. 340-47.

HAVEMEYER, HENRY OSBORNE (1847-1907), American capitalist. Havemeyer was born of a family of sugar refiners and at twenty-two became a member of the firm of Havemeyer and Elder. Under his management the business grew to first rank and in 1887 the firm became the nucleus of the Sugar Refineries Company, a common law trust combining seventeen out of the twenty-three refineries in the country. By its incorporation in 1891 as the American Sugar Refining Company it became one of the earliest outright mergers. The company's financial success was phenomenal, even though in order to maintain its supremacy Havemeyer did not hesitate to prosecute aggressive and costly trade wars, which resulted eventually in the absorption or submission of nearly all the "interlopers," as Havemeyer termed the recalcitrant independents.

Havemeyer and the American Sugar Refining Company were in the forefront of the combination movement which swept American industry after 1880. They both aroused intense public hostility and government action. In 1897 Havemeyer refused to answer questions of a United States Senate committee, was arrested for contempt but subsequently acquitted. Before another investigating committee he insisted that the government should not interfere to protect consumers or stockholders—people must be allowed to learn from experience. By his famous assertion, "The tariff is the mother of trusts," he seems to have meant that the existence of a high tariff presents a standing invitation to domestic producers to combine and mulet the consuming public. Havemeyer insisted uncompromisingly on corporate secrecy; he was unwilling to indulge the "idle curiosity" of stockholders concerning the details of the corporation's finances other than the amount of its annual net earnings; the method of their computation being unrevealed, such figures concealed, doubtless for adequate reasons, as much as they disclosed. He claimed the most stalwart devotion to the principles of laissez faire individualism while actively promoting monopolistic combination and suppressing competition. In business an autocrat,

in politics a democrat and in both a major general of fortune, Havemeyer neither antedated nor outlived his true generation.

MYRON W. WATKINS

*Consult:* New York State, Joint Committee of the Senate and Assembly Appointed to Investigate Trusts, *Report*, Senate Document, no. 40, vol. vii (1897); United States, Industrial Commission, *Reports*, 19 vols. (1900-02) vol. i, pt. ii, p. 101-38; United States, House of Representatives, Special Committee on the Investigation of the American Sugar Refining Co. and others, *Hearings*, 4 vols. (1911-12), especially vol. ii, p. 2064-2144 and vol. iii, p. 2147-98; Burnett, R. N., "Captains of Industry: Henry Osborne Havemeyer" and Norcross, C. P., "Trail of the Hunger Tax" in *Cosmopolitan Magazine*, vol. xxxiv (1903) 701-04 and vol. xlvii (1909) 588-97.

HAVERFIELD, FRANCIS JOHN (1860-1919), English historian. Haverfield was educated at Winchester and at New College, Oxford. In 1888 he was asked by Mommsen to become one of the editors of the *Corpus inscriptionum latinarum*, and his "Additamenta quarta ad corporis vol. vii" (in *Ephemeris epigraphica*, vol. vii, 1890, p. 273-354) established his reputation as an epigraphist. In 1892 he returned to Oxford, having been appointed to a senior studentship at Christ Church, and in 1907 he was elected Camden professor of ancient history at Oxford. In 1911 he became the first president of the Society for the Promotion of Roman Studies, the formation of which had been in large measure due to his initiative. If it was his predecessor in the Camden chair, H. F. Pelham, who first interested Haverfield in Roman history, it was Mommsen's influence and friendship which determined his life work. Haverfield recreated the historical study of Roman Britain by bringing that study into close relation with the history of the Roman Empire as a whole. He never wearied in exposing the errors into which the mere local antiquary so often falls. During his long solitary walking tours he had gained an intimate knowledge of the European provinces of the empire, and that knowledge formed the background of his work on Roman Britain. Through his membership in numerous local archaeological societies, through his first hand acquaintance with all excavations of Romano-British sites, he became the clearing house to which other workers constantly resorted. He was thus able to coordinate results and always endeavored to promote cooperation both national and international. At the time of his death he was planning the publication of a complete collection of Romano-British inscriptions with

illustrations and notes. Although Haverfield wrote few books, his total output in articles and reviews was very large.

NORMAN H. BAYNES

*Consult:* MacDonald, George, Biographical notice in Haverfield's *The Roman Occupation of Britain* (Oxford 1924) p. 15-38; Craster, H. H. E., in *English Historical Review*, vol. xxxv (1920) 63-70.

HAVLÍČEK, KAREL (Karel Borovský) (1821-56), Czech journalist and nationalist. After his expulsion from a theological seminary Havlíček was for a while a tutor in Moscow but soon returned to Bohemia and took up journalism as editor of a government paper. As a youth he had joined the Czechoslovakian nationalist movement, which for the first time since the crushing war from 1618 to 1648 had been given a program by Josef Jungmann and František Palacký. At the beginning of the Revolution of 1848 he founded the national liberal *Národní noviny* (National news), the first Czech newspaper and until its suppression in 1850 by the reactionary Austrian government the most important Slavic journal. With Palacký he called the Slav Congress of 1848. He also edited a magazine, *Slovan* (the Slav), in 1850-51. From the latter year until 1855 he was interned as a political prisoner in the Tyrol.

Havlíček's chief work was the creation of Czech journalism. In addition he was a political satirist and controversialist of genius, combining a vivid sense of contemporary realities and an earnest desire to educate with an amazing humor and wit expressed in a form characteristic of his people. He was the most popular Czech of the nineteenth century, and the tradition which he set was followed for many years by the entire Czech press. Havlíček's political and social ideas were a synthesis of eighteenth century rationalism and utopian belief in education with the nationalist romanticism, liberalism, utilitarianism and positivism of the nineteenth century. His writings also contain anticipations of later ideas of cooperation, agrarianism and regionalism.

EMMANUEL CHALUPNÝ

*Works:* *Politické spisy*, ed. by Z. V. Tobolka, 4 vols. (Prague 1900-03); *Spisy Karla Havlíčka*, ed. by L. Quis and J. Jakubec, 3 vols. (Prague 1906-07).

*Consult:* Denis, Ernest, *La Bohême depuis la Montagne-Blanche*, 2 vols. (Paris 1903) vol. ii, p. 223-28; Masaryk, T. G., *Karel Havlíček* (3rd ed. Prague 1920); Herben, Jan, "Karel Havlíček 1821-1856" in *Slavonic Review*, vol. iii (1924) 285-303; Chalupný, E., *Havlíček* (2nd ed. Prague 1930).

**HAWLEY, FREDERICK BARNARD** (1843-1929), American merchant and economist. Hawley, who was born of a line of successful lawyers and merchants, graduated from Williams College and became a cotton broker in New York City. He made of political economy a lifelong avocation. Trained in the theories of the classical English school but living in a notable era of American business enterprise, he adopted the deductive method of the former, the point of view of the latter. Economics he sought to limit to the study of those combined activities of human beings in which the motives are definitely personal and the distribution of the purchasing power resulting from joint activity is prearranged by the entrepreneur. In the entrepreneur, who assumes all the responsibility and risk inseparably connected with the only active economic function—that of productively combining the passive factors: land; "opportunity," i.e. special advantages; labor; and capital—he discerned the pivotal figure in economic life and the chief object of economic analysis. He declared that the reward of the entrepreneur as such—profit, properly so-called—consisted solely of a recompense for risk bearing, a recompense necessarily indeterminate in amount. Rent was the income received by the owners of land or any other form of "opportunity," including fixed capital goods; interest was the payment for the use of capital, defined as transferable, because as yet unexpended, purchasing power. The accumulation of such capital, Hawley believed, tended constantly to outstrip opportunities for profitable investment, thus precipitating periodical business crises. This danger is increased by public indebtedness, which in the long run makes for greater accumulation and concentration of capital, and may be reduced in agricultural countries by a protective tariff, which widens the field of investment. An original and rigorous thinker, Hawley anticipated much that has since found acceptance in economic theory. Yet, perhaps owing to the narrowness and numerous heterodoxies of his system and to his lack of an academic position, his own direct, or at any rate admitted, influence was slight.

KARL W. BIGELOW

*Important works:* *Capital and Population* (New York 1882); *Enterprise and the Productive Process* (New York 1907); "The Orientation of Economics on Enterprise" in *American Economic Review*, vol. xvii (1927) 409-28.

*Consult:* Knight, Frank H., *Risk, Uncertainty and Profit* (Boston 1921) p. 41-48.

**HAXTHAUSEN, AUGUST VON** (1792-1866), German historian. Commissioned by the Prussian government Haxthausen spent over ten years making a thorough study of agrarian institutions in Prussia and adjacent provinces. He encountered a number of types of agricultural settlements and elements of community life widely divergent from the common German types and he ascribed their origin to the early Slavic population of these provinces. In 1843 he obtained a subsidy from the Russian government that enabled him to make a six months' tour of European Russia, during which he studied agricultural institutions and digested a vast amount of material gathered by Russian governmental agencies. The diary of his tour, the third volume of which contained many interesting remarks on the Russian church, nobility and foreign policy, constitutes a significant study of agrarian forms, particularly the Russian village community.

Haxthausen was an early representative of those political and social tendencies which culminated in the policy of Bismarck and in socialism of the chair. Although, despite current opinion to the contrary, the peculiar Russian forms of agrarian communes were known to and their significance properly appreciated by the Slavophiles and even the Decembrists long before Haxthausen's time, the illumination which he cast on both the conservative and progressive social values involved in them contributed not a little to the development of Russian social thought. Haxthausen was also the theoretical forerunner of later developments in regional cultural geography and rural sociology. His writings clarify general problems of rural culture and civilization which are of much interest today not only in Russia but throughout the western world, wherever the dangers of urbanization are feared.

K. KOCHAROVSKY

*Important works:* *Über die Agrarverfassung in den Fürstentümern Paderborn und Corvey* (Berlin 1829); *Die ländliche Verfassung in den einzelnen Provinzen der preussischen Monarchie* (vol. i, Königsberg 1839; vol. ii, continued by A. Padberg, Stettin 1861); *Über den Ursprung und die Grundlagen der Verfassung in den ehemals slavischen Ländern Deutschlands* (Berlin 1842); *Studien über die inneren Zustände, das Volksleben und insbesondere die ländlichen Einrichtungen Russlands*, 3 vols. (Hanover and Berlin 1847-52), tr. by R. Farie, 2 vols. (London 1856); *Transkaukasien: Andeutungen über das Familien- und Gemeindefleben und die sozialen Verhältnisse einiger Völker zwischen dem Schwarzen und Kaspischen Meere* (Leipzig 1856), tr. by J. E. Taylor from ms. (London 1854); *Die*

*ländliche Verfassung Russlands, ihre Entwicklungen und Feststellung in der Gesetzgebung von 1861* (Leipzig 1866).

*Consult: Franz-Ludwig-August Maria Freiherr von Haxthausen – ein Versuch von Freundeshand* (Leipzig 1868); Below, Georg von, *Die deutsche Geschichtsschreibung*, Handbuch der mittelalterlichen und neueren Geschichte, vol. i (2nd ed. Munich 1924).

HAY, JOHN MILTON (1838–1905), American writer, politician and diplomat. Born in Indiana, reared in Illinois and educated in Brown University, he took up law and literature and became one of Lincoln's private secretaries during the Civil War. The years 1865 to 1870 he spent in the American diplomatic service in Paris, Vienna and Madrid. Upon returning to the United States he devoted himself to poetry and journalism. His marriage to Clara Stone, daughter of a wealthy Cleveland banker, increased his influential business and political connections and contributed to that synthesis of literary dilettantism and political and economic conservatism which characterized his later life.

His career as a gentleman of letters was marked by the publication of sundry poems and essays, one important novel and a ten-volume life of Lincoln, of which John G. Nicolay was co-author. These works are less significant from a literary point of view than for the light which they throw upon the social attitudes which Hay developed and which he impressed upon the inner circles of the Republican party. His earlier works were in the New England tradition, but he gained popularity through his *Pike County Ballads* (Boston 1871), inspired by the life and language of the midwest which he had found such a "dreary waste of heartless materialism" after his college days. In his later writings he became the foremost apologist of the new capitalism of the seventies and eighties. His apologetics was motivated less by any consciously felt necessity of justifying the interests and activities of the aristocracy of wealth, of which he had become a part, than by alarm at attacks upon property on the part of the proletarian mob. The strikes and labor riots of 1877 convinced him that the devil had entered into the lower classes. In his work of exorcism he contributed much to those rituals of magic and incantation which later Republicans have used so effectively in dealing with social problems. His first novel, *The Breadwinners* (published anonymously, New York 1884), dramatized the struggle of morality, good government, culture and industrial leadership against the radical demagogism which he

felt was misleading the laboring masses into dangerous acts of violence. In the words of his biographer, William Roscoe Thayer, it was "the first polemic in American fiction in defense of property."

Hay's political philosophy was that of a post-bellum Hamiltonian, filled with admiration for the English ruling class and for British imperialism and convinced that the new proprietors and entrepreneurs of industry and finance possessed an inherent right to rule over the rabble by virtue of their superior intelligence, civic-mindedness and political capacity. But power must be accompanied by that sense of public responsibility without which every aristocracy is lost. The leisure class must devote itself to public affairs and assume political leadership. The gentlemen business magnates of the Republican party must govern the nation so as to protect property and promote prosperity. The masses would profit by a full dinner pail. The heritage which Hay left to later generations of Republican politicians, from McKinley and Roosevelt to Hughes, Hoover and Stimson, was the conviction that the G.O.P. possessed a monopoly of statesmanship and that the country's prosperity depended upon its continuance in office.

The later phases of Hay's public life attest his devotion to these convictions. He became first assistant secretary of state and then ambassador to Great Britain in 1897. He held the office of secretary of state from September 30, 1898, to July 1, 1905, during the critical period in which the United States emerged from nineteenth century isolationism into world politics. In this capacity he served as the suave and cultured escort of American imperial expansion. He supported the decision to retain the Philippines, encouraged the "taking of Panama" and negotiated in vain for the acquisition of the Virgin Islands from Denmark. The Hay-Panama treaty of 1901 permitted the construction of an isthmian canal under the exclusive control of the United States. His most distinctive contribution to American diplomacy was perhaps the "open door" policy in China, formulated to protect American commerce in the Far East. His service as secretary of state thus coincided with the establishment of persisting patterns of American foreign policy in the Caribbean and in the Orient. If his role in their formulation was not a decisive one it was nevertheless one which he fulfilled with dignity and ability. It symbolized moreover the spirit of patriotic power and expanding prosperity which inspired the new rulers of America and

which Hay himself did so much to make an integral part of the traditions of the Republican party.

FREDERICK L. SCHUMAN

*Important works:* *Castilian Days* (Boston 1871); *Poems* (Boston 1890); *Addresses* (New York 1906); *A Poet in Exile* (Boston 1910); *Abraham Lincoln, Complete Works*, ed. in collaboration with John G. Nicolay, 2 vols. (New York 1894); *Abraham Lincoln, a History*, written in collaboration with John G. Nicolay, 10 vols. (New York 1890).

*Consult:* Sears, Lorenzo, *John Hay, Author and Statesman* (New York 1914); Thayer, William R., *The Life and Letters of John Hay*, 2 vols. (Boston 1915); Dennis, A. L. P., "John Hay" in *American Secretaries of State*, ed. by S. F. Bemis, 10 vols. (New York 1927-29) vol. ix, p. 113-89.

HAYES, EDWARD CARY (1868-1928), American sociologist. Hayes studied at Bates College, the University of Berlin and the University of Chicago, where he was greatly influenced by Professor A. W. Small. He was professor of sociology at Miami University from 1902 to 1907 and at the University of Illinois from 1907 to his death. Hayes was one of the first to use the phrase the social process ("Sociological Construction Lines" in *American Journal of Sociology*, vol. x, 1905, p. 623-42, 750-65) to designate the proper object of attention of the sociologist. The social process he defined as the sum total of those interwoven activities which are psychic in essence and are manifested in speech and conduct in a fashion impossible to the individual outside of group life. It is to these interindividual activities that the sociologist should direct his study rather than to "the social organism," the group or the person. As the activities which constitute the social process are essentially psychic, there arises a close connection between psychology and sociology. Values which inhere in these interindividual psychic activities need to be explained and the purpose of sociology, accordingly, must be to construct a scientific ethics. To those who maintained that science had nothing to do with values Hayes replied that an evaluation to determine the best policy was no more improper in science than any other evaluation of facts or inference used to arrive at conclusions or to determine scientific laws. While Hayes made much of the social process and of conditioning phenomena in the physical and psychical worlds he was doubtful of the utility of the concept of "social forces." He believed that sociology like other sciences should set about breaking up phenomena into minute details and searching for correlations. In sum, sociology was accord-

ing to Hayes a natural science with an ethical purpose or outcome.

CHARLES A. ELLWOOD

*Important works:* *Introduction to the Study of Sociology* (New York 1915; rev. ed. by H. P. Hayes with title *Sociology*, 1930); *Sociology and Ethics* (New York 1921); *Recent Developments in the Social Sciences* (Philadelphia 1927).

*Consult:* Sutherland, E. H., in *American Journal of Sociology*, vol. xxxv (1929-30) 93-99.

HAYM, RUDOLF (1821-1901), German philosopher, politician and historian. Haym was born in Silesia and studied at the University of Halle. Here he joined the group of young Hegelians, led by Arnold Ruge, who endeavored to develop the philosophy of Hegel along the lines of political progress. Because of his liberal tendencies he was not admitted as an academic teacher. In 1848 he became a member of the Frankfurt National Assembly; and his account of the proceedings contained in *Die deutsche Nationalversammlung* (3 pts., Berlin 1848-50), written from the point of view of the moderate liberal party of the Right Center, constitutes one of the most vivid sources for the history of the assembly. In 1848 he edited the old-liberal *Konstitutionelle Zeitung*, but during the period of reaction in Prussia between 1850 and 1858 he withdrew from politics and devoted himself to the study of the history of literature and philosophy. *Wilhelm von Humboldt* (Berlin 1856) and *Hegel und seine Zeit* (Berlin 1857, 2nd ed. Leipzig 1927) are the most important results of this period. His book on Hegel is of special importance because it marked the transition in Germany from philosophic and speculative to historico-empirical research. In 1858 with the beginning of the liberal "new era" in Prussia he became editor of the *Preussische Jahrbücher*, the foremost literary and political organ of the moderate liberals. He continued his studies in German history, achieving great renown by his *Die romantische Schule* (Berlin 1870; 5th ed. by Oscar Walzel, Berlin 1928) and *Herder, nach seinem Leben und seinen Werken* (2 vols., Berlin 1877-85).

OTTO WESTPHAL

*Consult:* Haym, Rudolf, *Aus meinem Leben* (Berlin 1902); *Ausgewählter Briefwechsel Rudolf Hayms*, ed. by Hans Rosenberg (Stuttgart 1930); Westphal, Otto, *Welt- und Staatsauffassung des deutschen Liberalismus* (Munich 1919).

HAYWOOD, WILLIAM DUDLEY (1869-1928), American labor leader. Born in Salt Lake City, Haywood after a few years of school be-



came a miner. The frontier bred in him, as in the mass of western unskilled workers whose leader he became, a predilection for direct action; the mine owners' open, ruthless use of the state power against the heavily exploited miners stimulated a militant class consciousness. Impressed by the Chicago anarchists' trial, Coxey's army and the American Railway Union strike, he supplemented these living lessons in class struggle by reading socialist literature and absorbing traditions of radical unionism current among his fellow workers. In 1896 he joined the Western Federation of Miners, one of the first American industrial unions, and in 1901 the Socialist party. His bravery and a flair for agitation, organization and strike strategy brought him to the fore in both organizations. In 1905 he presided over the convention which founded the Industrial Workers of the World, whose outstanding leader he became. Although he distrusted the parliamentarism of official Socialists he never became a whole hearted opponent of all forms of political action. Agreeing with De Leon that the workers must seize power, he argued against De Leon's program of "indocctrination" that the workers must learn class solidarity through daily struggles on immediate issues. Above all he persistently attacked class collaborationist craft unionism, expounding the theory of revolutionary industrial unionism and demonstrating its power in his leadership of such militant strikes as those at Cripple Creek (1904), Lawrence (1912) and Paterson (1913). Although the doctrines of the I. W. W. bear some resemblance to French syndicalism, the latter influenced Haywood little; his views were forged in the heat of struggles of unskilled, unorganized, Negro and immigrant workers, all those who did not share the privileges of the exclusive craft unions.

Haywood was frequently prosecuted for his activities. In 1906 he and two colleagues were acquitted in a murder trial based on perjured testimony after he and his counsel, Clarence Darrow, had converted the court into a seminar on the class struggle and mass demonstrations of workers had protested against the trial. As a consequence of the I. W. W.'s antiwar program Haywood, indicted in 1918 with 112 fellow workers, was tried and sentenced to twenty years' imprisonment. While on bail awaiting a new trial Haywood accepted the invitation of the Communist International to go to Moscow, where he remained. He joined the Communist party and urged the I. W. W. to merge with it.

Along with De Leon and Debs, Haywood

stands out in America of the period before the formation of the Communist party by virtue of his emphasis on class struggle and his opposition to the exclusiveness and bureaucratism of the American Federation of Labor; the theory and practise of industrial unionism which he championed have become in modified form an essential part of the American Communist program and constitute one of the few American contributions to the international labor movement.

HERBERT SOLOW

*Consult: Bill Haywood's Book* (New York 1929); Brissenden, Paul F., *The I. W. W., a Study of American Syndicalism* (2nd ed. New York 1920).

HAZLITT, WILLIAM (1778-1830), English journalist, critic and essayist. Brought up under Dissenting influences, he associated as a young man with the English Jacobins. After early studies in Hume, Hartley and the French *philosophes* he turned to Rousseau and, although hardly a disciple, he illustrates the destructive effect of Rousseau's influence on the prevailing sensational psychology. His *Essay on the Principles of Human Action* (ed. by his son W. Hazlitt, London 1835) is devoted to a criticism of this theory of the complete passivity of the mind. From this he passed on to an often repeated attack on the psychological inadequacy of utilitarianism and to a criticism of the economists. *A Reply to the Essay on Population* (London 1807), although intemperate and sometimes unfair, is a serious contribution to the Malthusian controversy. It points out Malthus' debt to Robert Wallace and effectively demonstrates the weaknesses in his argument, especially in the geometrical and arithmetical theories and in the view that any improvement in the conditions of life of the poor necessarily increases the tendency to excessive population. Hazlitt turned to regular journalism in 1812. He wrote extensively against the Tories and against legitimism in France—it was as the enemy of divine right that Napoleon was Hazlitt's idol—but he was almost equally hostile to the Reformers and the Whigs. Many of these political articles were collected in *Political Essays* (London 1819).

His political prejudices permeate his writings, but his enduring fame is as a literary critic and brilliant stylist. His ideas in political and social thought were almost entirely negative. A believer in individual natural rights, he held that the state has merely police functions. *Vox populi is vox dei* so long as it is not perverted by the corrupt influence of government. Apart from a

strong vein of economic egalitarianism his positive political views are those of a typical nineteenth century democrat.

A. FRED COBBAN

*Works:* *Collected Works*, ed. by A. R. Waller and A. Glover, 12 vols. (London 1902-06); *New Writings*, collected by P. P. Howe, 2 vols. (London 1925-27); *Complete Works*, ed. by P. P. Howe, vols. i, iv-v, xiii-xiv (London 1930-).

*Consult:* Howe, P. P., *The Life of William Hazlitt* (London 1922); Brinton, Crane, *The Political Ideas of the English Romanticists* (Oxford 1926) p. 122-46.

**HEADLAM, STEWART DUCKWORTH** (1847-1924), English reformer. Bred in the evangelical school of the Church of England, Headlam found in the doctrine of F. D. Maurice an escape from its teaching on eternal punishment. He accepted Maurice's theology of the incarnation as interpreting and sanctifying man's bodily and social as well as his spiritual life. After ordination he was attracted by the mass as practised in ritualist churches. He emphasized the social implications of sacramentalism and joined the Anglo-Catholic movement. From 1884 to 1895 he edited the *Church Reformer*. By nature a fighter, he frequently came into conflict with authority and convention: his championship of Bradlaugh and the Secularists brought him into conflict with his bishop; his Church and Stage Guild, with its defense of the ballet, cost him not merely his curacy but for ten years his license to officiate; his Guild of St. Matthew, avowedly socialist, was also suspect. Headlam was in fact a democrat and single taxer rather than a collectivist. For the last thirty years or so of his life his primary interest was in educational administration as a member of the London School Board and its successor, the London County Council. Headlam devised no original social theories but is significant as a link between the Christian Socialism of Maurice and Kingsley and later movements such as the Christian Social Union and the Church Socialist League.

RUTH KENYON

*Important works:* *The Laws of Eternal Life* (London 1888); *Christian Socialism*, Fabian Tracts, no. xlii (London 1892).

*Consult:* Bettany, F. G., *Stewart Headlam, a Biography* (London 1926).

**HEALING.** See **MEDICINE.**

**HEALTH ADMINISTRATION.** See **PUBLIC HEALTH.**

**HEALTH CENTERS.** With the passing of the authoritarian or compulsory era of public health administration and its replacement by public information and personal participation in matters of preventive medicine as the driving forces toward a greater security, better quality and longer average length of life, a new symbol of community service in this field of social endeavor evolved naturally and has grown increasingly in favor in modern nations. This new unit in city neighborhoods and in rural county seats or crossroads, the health center, is a fitting physical and functional expression of an ideal based upon the recognition of the need of continuous centrally coordinated health work for local population groups. The health center may be likened to the chain store, where the resources of the earlier general department store are brought conveniently close to many small neighborhoods or communities. It involves the coordination and joint housing of the interrelated health and social welfare agencies and services for a district, neighborhood or community. Health centers may be entirely provided by the municipality or some other unit of government, especially where, as in Europe, other social welfare services are part of a program of public welfare.

The term health center was probably first applied in the United States to the coordinate efforts of a group of private welfare and health agencies in Pittsburgh to combat tuberculosis and in Philadelphia to secure the health of childhood, both in 1912. In Milwaukee an experimental district health center was established about the same time to save infant life. Two years later the Department of Health of the city of New York established a successful district health center. By 1917 there were about a dozen more or less complete health centers in the large cities, and by the end of 1919 seventy-two such centers in forty-nine communities predominantly urban in character.

In an effort to carry over into peace time some of the benefits of the American Red Cross a program of health center development through local chapters was encouraged. The name health center was used rather indiscriminately under these auspices to describe anything from a first aid station, a rural nurse's district office, a prenatal or baby conference or a tuberculosis or tonsil clinic to an elaborate and well conceived establishment where all manner of official and volunteer medical nursing, health and social activities appropriate for a city community were coordinated. Approximately 385 Red Cross health cen-

ters of a great variety were in operation in 1920. In 1927 it was estimated that there were 1000 separate establishments in the United States calling themselves health centers and serving in some measure to correlate and coordinate neighborhood health work. In many of the 500 counties in the United States where there is a full time health officer and at least an approximation to a modern program of health protection, the county health office is to all intents and purposes a health center providing for all services of official and voluntary agencies under one roof and serving a circumscribed area and the population of a single political unit.

In the United States the most usual form of the health center is the branch office of a health department, which provides space for volunteer agencies contributing to public health, such as visiting nurse and family welfare societies. It therefore serves to coordinate all those functions which require the home visiting of doctor, nurse or sanitary inspector or those which require advice, counsel, warning or specific preventive and diagnostic services, particularly in the care of maternity, infancy, childhood, the control of communicable diseases and the dissemination of knowledge upon hazards of health and resources for its development and protection. Such an arrangement usually takes the form of mutual responsibility in which the local health officer is left in undisputed control of the building and the public employees and the unofficial agencies are accorded independence in their cooperative efforts and personnel. In some instances a health center may be established without the participation of the local health department, by two or more volunteer agencies cooperating for convenience of housing or for economy of records or personnel; but such establishments do not meet the needs or the ideals of adequate public health service, are usually short lived and are incorrectly designated as health centers.

A specialized form is the industrial health center, which is usually the outgrowth of an industrial medical service expanded to deal with the families of employees and to provide preventive as well as curative services to all who are included under the scheme. Still another form is that of the Union Health Center of New York, a combination of educational, therapeutic and preventive medical services growing out of the activities of the Joint Board of Sanitary Control of the needle trades unions in New York City.

A health center is not, however, a clinic or dis-

pensary, and unless for a special purpose—for instance, to meet temporarily an inadequacy in the community facilities for organized care of the sick—it should not offer therapeutic services to ambulatory patients other than those suspected or known to be suffering from a communicable disease. It may, however, as in Alameda, California, be operated with certain definite advantages as a part of a public hospital and out patient dispensary.

English and German cities, with their sound traditions of administrative health practise, have developed district, borough or regional health offices complete in every respect for field and preventive services, all under government direction. London and Liverpool offer admirable examples of highly developed district health centers, and there are no centers more thorough in conception, equipment and function than the several *Gesundheitshäuser* operated for each 200,000 to 400,000 of the population of Berlin. They have furnished a sound basis for the various services in the fields of mental hygiene, infant and maternity welfare and the like. In Czechoslovakia and Yugoslavia are to be found reasonably self-sufficient depots or stations through which the national government brings its medical and educational health services to bear appropriately upon the needs of the rural community.

In at least two instances American initiative and capital have brought the health center to regions somewhat backward in health services. A Rockefeller Foundation grant established in 1925 has helped in the upbuilding of some 140 health centers in various cities of Poland; these include clinical and dispensary service. In Jerusalem the American organization of Zionist women, Hadassah, has established a health center which supervises a network of twenty health and welfare bureaus and administers school hygiene.

One of the best examples in the United States of the health center which provides all or most of the functions of a complete community health service is that of Boston. In 1916 there was set up a neighborhood health center which has gradually extended the principle through six well planned and consistently operated district buildings, each serving a population of 75,000 or less. This has been made possible largely through a legacy to the city of Boston, the income of which has been devoted to the construction of the buildings. Other such centers are those of Alameda county and Los Angeles county in California operated by the county in cooperation

with many private agencies, that of San Joaquin county supported by the taxpayers, the East Harlem Health Center in New York City operated by public and volunteer health and social agencies under the auspices of the local chapter of the American Red Cross, and the Bellevue-Yorkville Health Demonstration in New York City operated in a similar manner but generously aided in building and personnel through philanthropic funds.

A health center which maintains a family and house file provides the basic data for invaluable social, demographic, medical and sanitary statistics and research. No municipality in the United States has in operation a complete system of health centers such as are found in the English and German cities. Boston most nearly approaches this ideal, and in 1930 the city of New York made plans for more than thirty centers to be related to the central city and borough offices of the health department.

Government should take primary responsibility for all public health activities. It is increasingly recognizing this duty by the appointment of a more trustworthy type of health officer, by better security in office and by less inadequate appropriations. Where for social, political or financial reasons the performance of the local government, sometimes aided by state grants or subsidies and by federal assistance (as through the rural health program of the United States Public Health Service), lags behind the conscious needs of the community, volunteer health activities and philanthropic aid can usually be found to develop supplementary services. Whether health work is wholly tax supported, as is rarely the case in the United States, or is largely provided by volunteer health agencies, as is common in both cities and rural areas, the administrative device of the health center offers the best prospect of satisfying a community or neighborhood social consciousness of health needs with least waste of time, money and energy and with the greatest tangible results through education and example. The health center is a local clearing house for collecting and distributing health information and services to all the people of a community.

HAVEN EMERSON

See: PUBLIC HEALTH; COMMUNICABLE DISEASES; CONTROL OF; HEALTH EDUCATION; INDUSTRIAL HYGIENE; ENDOWMENTS AND FOUNDATIONS; MEDICINE; STATISTICS.

Consult: American Red Cross, *A Health Center Bibliography* (mimeographed, 2nd ed. Washington 1921), for material published to 1921; Davis, M. M., *Clinics,*

*Hospitals and Health Centers* (New York 1927) ch. xxiii, and "Goal-posts and Yardsticks in Health Center Work" in *American Journal of Public Health*, vol. xvii (1927) 433-40; Wilinsky, C. F., "Defining the Health Center" in *Nation's Health*, vol. vi (1924) 323-24, 372, and "The Health Center" in *American Journal of Public Health*, vol. xvii (1927) 677-82; Rickards, B. R., and others, "Symposium on the Health Center" in *American Journal of Public Health*, vol. xi (1921) 212-33; Goodale, Walter S., "Blazing the Trail for Municipal Hospitals and Health Centers" in New York State, Department of Health, *Health News*, n.s., vol. xv (1920) 187-95; Wynne, S. W., "Neighborhood Health Development in the City of New York" in Milbank Memorial Fund, *Quarterly Bulletin*, vol. ix (1931) 37-45; Ross, M., "East Harlem Health Center: It Works" in *Survey*, vol. li (1923-24) 323-24; Bowman, L. E. Roy E., "Tangible Results of Coördination of Health and Family Welfare Work in a Defined City Area" in *Social Forces*, vol. iv (1925-26) 339-45; Emerson, C. P., "The Hospital as a Health Center" in National Conference of Social Work, *Proceedings* (1926) 205-11; Bachmeyer, A. C., "Health Center from the Standpoint of the Hospital" in *Lancet-Clinic*, n.s., vol. lxxiv (1915) 521; Moore, H. H., *American Medicine and the People's Health* (New York 1927) p. 213-17, 240-44, 387-96; Fromme, W., "Organisation und Einrichtung des kommunalen Gesundheitsamtes" in *Archiv für Hygiene*, vol. ciii (1903) 20-36; Chodzko, W., "Polish Health Centers" in *International Review of Educational Cinematography*, vol. ii (1930) 525-30.

HEALTH EDUCATION. Although such preventive measures as the Mosaic sanitary code and the Venetian quarantine laws enacted in 1383 antedate Pasteurian medicine, the modern movement in personal and community health followed as a consequence of the development of the science of preventive medicine in the nineteenth century. At about the same time there developed also a new concern with the problems of human welfare in which disease was no longer viewed as an instrument of divine wrath but rather as a process inherent in life, product in part of circumstance but by no means inevitable or unamenable to social control. In contrast, moreover, to the health education efforts put forward sporadically by isolated individuals in the correction of a special situation prior to the last half of the nineteenth century, the modern health education movement is social. A pointed illustration of this difference may be seen in the individualistic efforts of Philippe Pinel in 1792 to educate the public on the necessity for humane treatment of the insane and those of the National Committee of Mental Hygiene, a body supported by voluntary contribution and carrying on organized and continual propaganda in that branch of preventive medicine. The movement for health education waited, moreover, on

the establishment of sanitary or health boards and the enactment of sanitary codes, which in the United States took place about 1869; by 1873 there were in addition to the state boards over one hundred city boards of health.

In the last quarter of the nineteenth century there also developed the realization, based on the knowledge that most infectious diseases are preventable or controllable, that education in regard to the necessity for health protection is as essential as legislation. This philosophy was adhered to in the face of many difficulties, including the attitude of the medical profession; for although in the vanguard of preventive medicine are to be found the leading physicians of the time, the profession as a whole has lagged behind.

Prior to the twentieth century, health education activities were carried on by state and local boards of health. The most outstanding was the New York City Department of Health, which in 1874 distributed leaflets on infant care and diphtheria, in the late eighties printed the first bulletin on tuberculosis by Dr. Herman M. Biggs and in 1897 distributed 57,000 circulars each printed in four languages on the care of babies and other subjects. By this time the germ theory was fairly well established and had produced enough practical results in the control of diseases to render the public mind more receptive to health education. Moreover, the body of facts in preventive medicine had become sufficiently comprehensive and well organized to give rise to the point of view later epitomized in the dictum of Dr. Biggs that "public health is purchasable; within natural limitations a community can determine its own death rate." This period witnessed too the development of large voluntary associations whose primary objective was the education of the public in matters of personal and communal health. The efforts of the voluntary organizations soon overshadowed those of the official bodies, and this condition with but few though signal exceptions prevails today.

A pioneer among these organizations was the National Tuberculosis Association, organized in 1904, which used health education as its principal weapon in combating tuberculosis. It was the first nation wide voluntary body created to fight a specific disease. As it developed, its state and local organizations served as channels through which to disseminate health information gathered and organized by the central body, which enlisted the aid of the leading physicians of the

country. When the National Tuberculosis Association was organized, there existed only a few sanatoria, some of these mere shacks. There were few if any tuberculosis nurses, open air schools or preventoria. Within twenty years the public's fatalistic attitude toward tuberculosis was changed. Approximately 700 institutions, with a bed capacity of over 70,000, came into being, thousands of nurses were trained in the care of the tuberculous, dispensaries were opened, fresh air classes were created and preventoria were established.

In the achievement of these results the education of the public played a prominent and effective role. As the demand for trained workers increased, the National Tuberculosis Association established training courses, sending the more experienced staff into the field. Moreover, in the course of the association's growth it made pioneering and enduring contributions to the content and technique of health education.

During the earlier periods the most widely used health education instruments employed were leaflets, health talks, lantern slide illustrations, hand painted placards and exhibits; newspaper propaganda was also effectively used. The exhibits were often elaborate affairs of graphic gruesomeness, commonly shown at fairs and in the larger cities in vacant stores. Many of the health talks were delivered by non-medically trained persons, and practically all of the exhibits were created and manned by lay individuals. The antituberculosis movement, however, had the benefit of the best medical advice available, and its educational activities were as sound as the prevailing medical knowledge.

The American Red Cross also played a significant role in the early development of health education. Its scope of educational activities was of necessity wider than tuberculosis, and much of its work consisted in rendering financial help to the tuberculosis group. Other pioneer voluntary organizations formed during this period were the National Committee for Mental Hygiene, founded in 1909; the American Social Hygiene Association, merging the American Vigilance Association and the American Federation for Sex Hygiene, incorporated in 1914; the American Society for the Control of Cancer, organized in 1913; the National Society for the Prevention of Blindness and the Association for Prevention and Relief of Heart Diseases, both founded in 1915. Some of these organizations, notably the social hygiene and mental hygiene groups, by virtue of the special nature of their

subject had to devise new educational means and procedures.

Governmental national, state and local health bodies intensified and extended their educational activities. In 1911 and 1912 respectively the Chicago and the New York City departments of health began to publish weekly bulletins. The former were widely distributed, especially in schools and churches. The New York City bulletin was and still is primarily for the education of physicians in matters pertaining to public health and preventive medicine.

In 1908 the Division of Child Hygiene, a large part of whose activities was health education, was organized in New York City. The first bureau for public health education was organized in 1914 in the New York City Department of Health. During the same year a similar bureau was created in the New York State Department of Health.

In 1929, 36 state and 52 city health departments issued special bulletins, usually monthly, on health topics; several cities have full time directors of public health instruction in addition to the persons in charge of school health programs. School health education itself began in 1894 when the city of Boston inaugurated medical inspection. At present school health programs include, besides health education proper, physical education and health instruction. Practically all of the states make the teaching of hygiene and of physiology compulsory, 2 states have compulsory education in the control of tuberculosis and of communicable diseases, 26 states make physical education compulsory and so on.

Prior to the World War health education was "spotted" in its geographic and general development, but it succeeded in forging for itself a basic philosophy and a technique. A common interchange of experiences was made possible through the various conferences held annually, especially those of the Health Education section of the American Public Health Association, the Social Work Publicity Council and the tuberculosis societies, and by means of a number of publications, bulletins and journals devoted wholly or in part to health education. Especially significant was the advance in school health education.

Among the pre-war episodes which lent impetus to the development of the movement was the White House Conference on Child Health called by President Roosevelt in 1909 which served to secure the concerted attention of phy-

sician, social worker and educator on the promotion of child health. Of equal importance was the meeting of the International Congress on Tuberculosis held in Washington in 1908. Although this was the sixth convention of the group originally formed in 1898, it represented in fact the first truly international gathering.

The momentum of the health education movement was greatly accelerated by events of the World War, by the health problems created by intensification in the industrial pace, but also by the social consciousness which characterized this period. In addition the draft examinations revealed the health status of the country's young male adult population in detail and on a scale never before achieved. Wartime economic prosperity made available larger sums of money to the health organizations, enabling them to work on a larger scale and along newer channels.

During this period the greatest progress in health education was in the industrial field and in the field of child health, although all branches gained as well. The largest task undertaken was in connection with the military forces of the United States, both army and navy, under the direction of the Commission on Training Camp Activities, which called in as aids advertising specialists who made effective the commission's educational work. Although great stress was placed upon the control of the venereal diseases, the total emphasis was placed upon keeping physically fit. Health came to be considered a patriotic duty. The civil population became interested in first aid, home nursing and kindred health topics.

It was during this period that the National Tuberculosis Association organized in 1916 its pioneer child health education service, the Modern Health Crusade, enrolling millions of children in a sustained course of training and practise of good health habits. In 1918 the United States Public Health Service created a new division of health education. The New York City Department of Health commenced in 1916 the publication of a bulletin, *School Health News*, which was distributed to every school teacher. Neighborhood organizations, such as the Community Councils of New York and the Social Units of Cincinnati, came into being in the large cities, and although the scope of their interests was wide, health was their dominating concern.

The techniques in health education were multiplied and improved during this period. The motion picture as an educational instrument,

visual instruction as a whole, including the picture poster, which played so prominent a part in war propaganda, and publicity, in the narrower sense of stressing or creating news value in an item essentially educational or propagandistic, were substantially developed—first in connection with the health education work in the army and navy and later in the community.

Health education, which had a conglomerate content during the previous years, now became differentiated from its apparent parallels, propaganda and publicity. Although at times it took on the character of propaganda in that it became a promotional activity in favor of some particular type of health service, such as smallpox vaccination, typhoid prevention or the extermination of hookworm, it concerned itself chiefly with the dissemination of the established facts of disease prevention, health promotion and life extension. Incidental to its growth were segmentation and specialization. Its two most distinctive divisions became school health education and general health education. The first of these centered about health education of the school child and carried with it numerous and complicated problems of content, textual material, pedagogic methods and the like. The general health education phase, which admittedly has not been as highly developed as school health education, raised a distinctive set of problems centered about content, techniques of publication and presentation, motivation and mass psychology.

At this time the health education movement became somewhat critical of itself and subjected a number of its activities to analysis and evaluation. One outstanding example of this was a questionnaire dealing with venereal disease facts, addressed to soldiers, the replies to which were then subjected to analysis by psychologists. Through this questionnaire it was possible to determine in a measure the effects of certain motion pictures and of other health education activities. It was observed by a contemporary that "these studies probably helped to 'deflate' health education and to give it direction."

The movement also became more integrated. While a large number of new health groups came into being during the war decade, the older ones coordinated their respective endeavors. Resources were pooled, and community health education programs were formulated with some effort to cover the major health items in a balanced manner. New York City was a pioneer in this direction. Largely through the initiative of the local chapter of the American Red Cross

and in cooperation with the New York Tuberculosis Association a comprehensive and coordinating Health Education Council, with a Health Speakers' Service representing the various agencies of the city, was created. Other cities, notably St. Louis, Detroit, Cleveland, Cincinnati and Kansas City, followed suit and created similar centralized organizations.

Although after the war a number of the activities fell into desuetude, many of the war gains in health education were retained, especially the developments in child health education and less so in the industrial field. The former in fact received great impetus in the post-war period partly as a result of the war draft examinations and from subsequent studies on prevailing child health. A National Child Health Council was formed in 1920; two years later the American Child Health Association came into existence.

The greatest gain made in recent years has been in the acquisition of larger objectives. In addition to the prevention and the minimization of the damages wrought by disease, health education now has the aim of promoting the individual's physical and mental well-being to the maximum.

An illustration of this is the health examination originally sponsored by only a small group and applied by insurance companies to certain of their policyholders. Since 1922 the periodic health examination has been promoted by the American Medical Association and very intensely by many of its state and local county societies.

Health education has made considerable progress in the medical profession itself. At the outset physicians schooled in pathologic medicine little appreciated the value of preventive medicine and were not sympathetic to the encroachment of lay or even official bodies. In the last decade, however, preventive medicine has become more and more a part of office practice, the greatest progress in this direction having been made in the specialties of pediatrics and obstetrics. The American Medical Association has actively entered the field of health education through the publication of *Hygeia*, a health magazine for the laity. Numerous county medical societies throughout the country have standing health education committees. A number have speakers' bureaus to supply medical speakers for lay audiences, and some even publish health columns in their local press. A recent and significant innovation is the purchase by a number of local official medical organizations of

advertising space in the daily press for the publication of health items.

Commercial organizations have also entered the health education field. Life insurance companies were among the earliest to promote health education; the Metropolitan Life Insurance Company became an active participator in 1909. In recent years the dairy, cereal, bread, fruit and vegetable, dentrifice, children's wear and other industries have included health items as part of their advertising technique. Their activities are not an unmixed blessing, since their material exaggerates the significance of the health facts in order to promote their products. However, they bring into the field of health education salutary examples of advertising skill. Philanthropic foundations have contributed much to the development of health education directly through demonstrations, such as have been made by the Milbank Memorial Fund, or indirectly by money grants to operating health organizations.

Health education is attracting more medically trained individuals with the promise of interesting and productive careers. It is an important item in the curricula of teachers' training schools, and a number of the universities, including Columbia, New York, Yale, Massachusetts Institute of Technology, California and Michigan, offer special courses in health education. On the other hand, it is receiving but scant recognition in the curricula of medical schools and in the training schools for health officers. Certain fields of health education, those in mental hygiene for example, are still to be developed. Techniques such as the use of the radio await adequate means and the drive of interested groups to prove their full worth.

Health education in Europe differs fundamentally from that in the United States. The voluntary associations and organizations for the promotion of health education do not have their counterpart in Europe, nor do the official health departments engage in this activity to the same extent as in the United States. A good deal of education in health is promoted through independent and uncoordinated agencies. The sickness insurance funds, fraternal organizations, unions, youth movements, athletic and sport clubs, schools and kindred groups teach health in one form or another. Certain propaganda groups agitate on various phases of health, such as temperance, venereal diseases and more recently tuberculosis. However, except in Russia these various activities are not coordinated, and

one can hardly speak of a movement comparable to that of the United States.

On the other hand, certain instruments and techniques of education have been more highly developed and more effectively applied to the promotion of disease prevention and health in Europe than in the United States. Notable among these are the use of the poster, as a result of the high development of poster art in Europe, and the hygiene museum, perhaps best exemplified by the Hygiene Museum in Dresden. Although Europe is behind the United States in the exploitation of motion pictures and of the radio for health education, its newspapers carry more items on health. Leading physicians write freely for the press, which is not squeamish about health matters. This is especially true in Germany and Austria, where excellent health education work is being done in mental hygiene and in baby welfare. Although there are many well written and authoritative works on health, the free distribution of literature practised in the United States is practically unknown.

Russian health educational work is unique. Before the Bolshevik regime health education in the *gymnasia* and in the community was promoted by isolated humanist or reform groups and was very slight indeed. At the present time health education has been made a part of proletarian culture and is conducted under the supervision of the Commissariat of Health and the Commissariat of Education with the cooperation of various official and voluntary, although government promoted, organizations, such as the Department for the Protection of Maternity and Infancy and the Society for Combating Alcoholism. Trade unions are also enrolled in promoting industrial hygiene and health education. These are promoted through nurseries, schools, unions, clubs and mothers' organizations. The press, the radio, poster exhibitions, lectures, lantern slides and motion pictures, theatrical performances on health topics, traveling exhibitions to remote sections, are all utilized. There are "health corners" in cities and villages in so-called reading rooms where books, pictures and pamphlets dealing with the conservation of health are available.

The Russian plan is probably the most completely integrated system of health education in the world, despite the greater advance in other countries in the field of preventive medicine. It results from the realization by Russia of the full value of its man power and the necessity for public provision for education in health as



an inevitable supplement to the broader and more sweeping industrial plan for the raising of the living and working conditions of the masses.

IAGO GALDSTON

See: PUBLIC HEALTH; COMMUNICABLE DISEASES, CONTROL OF; EPIDEMICS; SEX EDUCATION; CHILD, section on HYGIENE; INDUSTRIAL HYGIENE; MATERNITY WELFARE; HEALTH CENTERS; CLINICS AND DISPENSARIES; HEALTH INSURANCE; LIFE INSURANCE; MEDICINE; NURSING; SOCIAL WORK; ENDOWMENTS AND FOUNDATIONS; LIFE EXTENSION.

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HEALTH INSURANCE. Since the development of an artisan class there have been many attempts to meet the common risks of life by mutual action. The mediæval craft guilds and the later trade unions provided for definite contributions to meet certain emergencies. Friendly societies were formed, usually with a more heterogeneous membership, for the primary purpose of providing sickness and death benefits. Occasionally an employer imbued with charitable sentiments or desirous of a contented, efficient and healthy staff would institute an establishment fund to provide certain pensions or other benefits. But all these early voluntary attempts at providing insurance protection were restricted in scope. They were confined in the main to the highest paid workmen in the best organized trades. Moreover lack of actuarial knowledge and the inadequate reserves made all schemes precarious. While the doctrine of laissez faire prevailed, the state remained indifferent; and it was only after the evils of the industrial revolution had become evident, when the assumed economic liberty of the wage earning class was seen to be a sham and experience with factory legislation had demonstrated the possibility and the technique of government usefulness, that the state adopted measures to stimulate the development of national social insurance. This represented an interesting legal evolution. There had been times when association for mutual aid met with government disfavor, when guilds were suppressed and trade unions and friendly societies condemned as conspiracies. Laissez faire came to mean that mutual aid and welfare schemes were subject to the ordinary rules of law. But with the new change in viewpoint employers in exceptionally hazardous industries, such as mining and marine, were required to make special provisions for industrial accidents. Existing mutual aid schemes were given a more favorable status and then granted definite subsidies in return for government supervision.

It was Bismarck's great achievement that he took advantage of the expanding mutual aid movement, led the humanitarian sentiment of the 1870's and 1880's and made acceptable the thesis that compulsion was inevitable, that state control of social insurance measures was indispensable and that state subsidies were desirable if the great evils in the life of the workman—uncertainty, fear and avoidable poverty—were to be dealt with effectively. Bismarck made it clear that his thoroughgoing paternalism removed the legitimate causes of socialism. He had no sym-

pathy with the ideas of Fourier, who at the beginning of the century had advocated "guarantism" as a necessary stage in the development of socialism. And because it was his jealousy of the trade union movement that led Bismarck to sponsor social insurance, the workers became suspicious of it. The German compulsory health insurance law of 1883 was followed by that of Austria in 1888 and that of Hungary in 1891. During the next decade no such laws were passed, but the growing consciousness of the importance of good health to the individual and to the nation and the knowledge that health could be bought impelled the workers through their trade organizations and their political parties to demand a steady improvement of public health services and of health insurance facilities.

Luxemburg established compulsory health insurance in 1901, Norway in 1909, Serbia in 1910, Great Britain in 1911, Russia in 1911, Rumania in 1912 and the Netherlands in 1913. Between 1914 and 1916 five Swiss cantons took advantage of the permissive federal act of 1911 and passed compulsory measures. Since the World War the secession states have perfected the schemes they inherited. Soviet Russia reintroduced health insurance in 1923; compulsory health insurance schemes were established in Bulgaria in 1918, Portugal in 1919 and Greece in 1922. The comprehensive French insurance law of 1928 in spite of considerable opposition became operative in 1930. In industrial countries outside Europe the movement is well under way. Japan in 1922 and Chile in 1924 adopted compulsory schemes; Brazil has a special arrangement applying to transport workers; Cuba also has a limited scheme; and in Canada and other British dominions public opinion is fast moving toward the adoption of similar measures. Unfortunately the economic depression which began in 1929, with its concomitants of unemployment and lower wages, has reduced the resources of existing institutions and led to the postponement of projected schemes or extensions in Belgium, Austria and other countries.

Prior to this retrenchment the record had been one of steady expansion of the functions of health insurance. Voluntary systems have been absorbed by legislation into compulsory schemes. The circle of insured persons has been enlarged to include commercial employees, salaried employees, professional workers and the smaller merchant class as well as agricultural workers and domestic servants. Benefits are provided increasingly not merely to those insured but also

to those dependent upon them. Cash benefits have been raised. Preventive possibilities have been stressed and the functions of medical benefit and specialized treatment have grown steadily in importance. Hospital care is provided if possible and dental benefits have been introduced where finances permitted. The International Labour Office has drawn up a series of Conventions and Recommendations concerning sickness insurance, the employment of women before and after childbirth, workmen's compensation and industrial disease which although not yet generally ratified by the larger industrial countries, with the exception of Germany, have none the less exerted considerable influence in the direction of higher standards of benefit. It has also cooperated with international associations of insurance institutions in building up a body of insurance knowledge.

Health insurance has grown in scope because it provides an efficient framework for dealing with sickness and incapacity, whatever their origin. Maternity benefits, including medical attention and sometimes a dowry, are now generally provided for. Eleven countries have ratified the convention guaranteeing mothers twelve weeks' benefit and reinstatement in the job. In Great Britain the reserves have been too low to allow of such liberality. All national sickness insurance schemes with the exception of that of Great Britain pay a benefit to cover the funeral expenses of an insured person, and many include dependents as well. When the proposal was made to include this allowance in the original British scheme, the industrial insurance companies were so strongly intrenched that they could not be dislodged, although their administrative expenses as well as the lapse rate are notoriously high. Certain schemes provide not only for short periods of illness but for prolonged ill health and invalidity as well as for premature death. They may further provide for a system of special benefits in case of tuberculosis and cancer. The trend moreover is toward coordination and unification of the various branches of social insurance. To cite an instance: the Austrian insurance law for salaried employees, effective in 1927, unified the administration of health insurance, workmen's compensation and invalidity, old age and survivors' pensions and included unemployment insurance to the extent of collecting contributions. There is a growing feeling that anomalies in the organization of workmen's compensation, in particular the handling of industrial diseases, would be obviated by integra-

tion in one comprehensive system of health insurance.

The classes of the population receiving insurance protection vary from country to country as do systems of administrative organization. In England industrial workers, agricultural workers and certain types of clerical and salaried employees earning under £250 a year all participate in one scheme. In Austria, following the successful coordination of the salaried employee's funds in 1926, a union for industrial workers' funds and one for those of agricultural workers and landowners have also been formed. Almost one fifth of the German workers are insured through establishment funds. In France a separate scheme has been established for three million persons engaged in agriculture. In Italy there are separate corporative systems for industry, for agriculture and for commercial employees as well as a national compulsory tuberculosis insurance fund. A demand for the extension of social insurance to non-manual workers excluded from the scope of the existing British legislation by the operation of the maximum salary limit has been presented by forty organizations of professional workers.

In the early German scheme as well as in the latest French scheme the attempt was made to associate the preexisting institutions with the new funds which were found to be necessary. The problem is typified by the British system. Here the existing friendly societies and trade unions were recognized as "approved societies" to collect and administer cash contributions and benefits. Additional institutions, however, were necessary for those about to become insured. Certain companies and non-democratic friendly societies were therefore also "approved." But a problem is created when private associations not effectively controlled by their members are authorized to fulfil a public duty. The alternative most frequently adopted is that of the organization of the newly insured population on a territorial basis. This basis has been adopted in Great Britain for the insurance committees which administer all medical benefits and control deposit contributions. The introduction of compulsory schemes of insurance has not as a rule resulted in existing institutions becoming the leading administrators. The trade unions, friendly societies or establishment funds have their special functions and are oriented in a given direction. They are not willing to modify their organization or change their policy in order to attract insurance funds. Although most of the

newly insured population is absorbed by the institutions specially formed for these unorganized masses, the influence of the older societies nevertheless makes itself felt within the new system since these societies can speak on behalf of their members and represent their interests as against employers, the government or the medical profession with greater authority than the newer bodies. But the recognition of existing societies and the creation of new ones result in the multiplication of institutions, the complication of administrative and bookkeeping operations and the necessity of equalization funds and other measures for removing anomalies. They render supervision more delicate and thus increase administrative expense; hence the constant cry for simplification, unification and coordination. But these are difficult to achieve when the older bodies wish to maintain their identity, and even the new bodies claim that they can do better for their members than bureaucrats. As a result the trend in central Europe is toward greater democratization and representation of the insured on the boards of insurance institutes.

The device of contributions by the three parties to the wages contract—employers, workers and the state—has proved convenient in Great Britain, Germany and certain other countries. Large sums can easily be raised by this means without any undue burden on any class in the community. It can be justified on the grounds that the worker is the beneficiary, that the employers should contribute toward what ought to be in part a burden on industry and that the state buys its right of control and subsidizes those sections least able to bear the costs. Contributions are as a rule collected by the card and stamp method, which is easy and cheap to administer. Certain schemes, notably that of Great Britain, take a flat rate contribution in respect of each workman even when benefits are provided for dependents. Thus there is no attempt to make the individual workman contribute on a strict actuarial basis. It is the scheme as a whole that must be sound. But the resulting flat rate benefits, even when supplementary benefits for dependents are provided, are not satisfactory. A workman whose normal standard of living is \$20 a week wishes to have benefits higher than those which can be provided for a workman whose normal income is \$10 a week. Although benefits must be below normal wages if malinsuring is not to be stimulated, a rate of benefit which will not threaten the morale of the lowest paid laborer will obviously be too low to meet

the needs of highly paid workmen. This difficulty is generally met by varying the amount of benefits directly with wages. In certain countries members are divided into wage groups and contributions and benefits are made to vary according to the class. In others a sliding scale is contrived so that benefits bear a definite relation to the actual wage. Except in the most generous schemes workmen still lose substantially during sickness, for the usual benefit varies from one half to two thirds of the basic wage. Some therefore buy insurance in two or three funds but receive the employers' and the state's contribution only in one.

A waiting period of from one to four days before benefits become due is almost universally required on the ground that it eliminates the investigation and the excessive costs of paltry claims. It is more difficult to defend the usual limitation of benefit to twenty-six weeks or a year; if the illness is of long duration, private savings will presumably be exhausted and the need become greater. Invalidity pensions, however, are increasingly provided as a substitute. In the British scheme the insured after the receipt of twenty-six weeks' sickness benefit is entitled to disablement benefit compensated at half the previous rate. In Germany a special machinery is concerned with invalidity. Some thirty geographical organizations take the place of the thousands of sickness funds to deal with cases of long or permanent illness; and it is claimed that this has increased interest in the prevention of tuberculosis, alcoholism and other diseases. Limitations on benefits, which may also include residence and contribution requirements, have been variously justified. It is held by some that benefits are meant to supplement individual provision against loss. Others, who accept the theory that the ideal insurance must cover the total loss, favor restrictions on the ground that they reduce costs and consequently the burden of contributions and at the same time discourage malingering.

Even though benefits are limited, the costs of social insurance equal a substantial percentage of total wages. Under the Five-Year Plan of the Soviet Union the costs of insurance are borne entirely by the undertakings and are regarded as a direct supplement to wages—13.4 percent in 1931–32. In Germany at the end of 1930 contributions to sickness insurance funds accounted for between 5 and 5.5 percent and all branches of social insurance taken together for between 17 and 18 percent of the wages of the insured popu-

lation, and yet benefits had to be curtailed. In all countries with comprehensive systems of social insurance the amount is between 10 and 20 percent of wages; of this about one quarter to one third goes for health insurance. In spite of the advantages of joint contributions there is a growing sense that they hide the real incidence of the burden. Economic theory suggests that in the long run the worker bears not only his own share but also, as citizen and consumer, the employer's and part of the state's contribution as well. But it cannot be denied that before the necessary adjustments have taken place a new scheme or a new charge on the employer has all the disadvantages of a poll tax. There is therefore growing support for the view that social insurance measures like those relating to education and public health should be supported by the public treasury.

With the growth of interest in the preventive aspect of public health emphasis has shifted from monetary benefits to treatment benefits and from these to healthy conditions of working and living. It would be idle, however, to claim that health insurance is directly responsible for the new interest in preventive medicine. Rather, the limited resources available suggest that greater coordination of all branches of health work would better promote the public welfare. Certain useful devices may, however, be traced directly to health insurance. Thus the Bulgarian scheme provides for the promotion of healthy dwellings and hospitals. The Central Institute of Czechoslovakia has developed an investment policy which aims both at improving the medical equipment available and at giving facilities for mortgage loans, the erection of workers' dwellings and the development of roads. In the same way the various funds which have a claim on their resources allow the average institute supplementary dental, massage, radiotherapy or convalescent treatment and even retraining facilities for their members.

The role of national health insurance in the improvement of the public health is difficult to determine, for while public hygiene is improving, medical knowledge is increasing and the standard of education is being raised. The phenomena of increasing claims for insurance benefit in Britain and Germany, regarded by some as evidence of malingering or of the dangerous growth of drug taking, can perhaps better be ascribed to greater interest in good health, eagerness for treatment in the early stages of illness and changes in the age and sex distribution of

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the working population. The more frequent medical treatment and monetary benefits definitely lessen anxiety and improve the general health, and they have been a substantial factor in increasing longevity.

Voluntary health insurance has still survived in spite of the rapid acceptance of the compulsory principle. Certain countries, like Sweden and Belgium and parts of Switzerland and South America, still rely on the older devices of mutual aid as reinforced by the government. In Sweden the formation and administration of insurance funds is left to the insured themselves; but if the administration satisfies certain conditions, if it excludes profit making and submits to supervision as provided by the act of 1923, subsidies are granted from the national treasury and from the communes in order to help cover the risks of sickness, maternity and funeral expenses. Members of the subsidized Danish mutual benefit funds automatically become insured with the state invalidity fund under the act of 1921. The chief objections to independent subsidized sickness insurance are that the period of benefits is limited, that medical attendance is not regarded as adequate, that the contributions of employers are uncertain and inadequate and that hundreds of funds are established which not only do not constitute the most efficient and cheapest machinery of administration but materially obstruct the introduction of a national system dealing with ill health and accident.

In almost all countries there are portions of the lower middle classes not protected by either compulsory or voluntary legislation, while in some countries, notably the United States, no such legislation exists. To a certain extent the insurance needs of these lower income groups have been met by the organization of friendly societies, fraternal orders, trade union benefit funds, employers' relief funds and similar schemes. But especially in the United States casualty and life insurance stock companies have in recent years underwritten the bulk of both accident and health insurance. Commercial accident insurance, which originated as ticket insurance in England in the middle of the last century when the dangerous new railroad travel became general, was quickly introduced into America. Commercial health insurance, utilizing the experience of the friendly societies and the German miners' funds, developed at the same time.

In the United States certain companies which have had considerable success with non-industrial accident insurance have had very little with

insurance against ill health. Indeed, wherever experiments have been made with a policy form for non-cancelable accident and health insurance, whether in Germany or in the United States, the experience has not been a happy one. Some of the companies have had disastrous experiences and have definitely withdrawn from this field; others have not pushed the matter with enthusiasm. Similar results have followed the offering by life insurance companies of "permanent and total" disability benefits. Sound schemes could no doubt be developed if there were available adequate morbidity and mortality rates on which reliable expected experience could be based for different industries, e.g. wage groups, age groups, sex, if a careful selection were made of risks and if adequate reserves were built up. Such data and methods have been lacking in the past and without them the schemes introduced by various countries have often proved untrustworthy.

In America the early failures led to a belated attempt at caution; but the two main devices adopted toward this end have not been popular. They are: the medical examination required of the applicant, which is even more rigid than that for life insurance; and the system of rates for non-cancelable insurance, which differ from those granted for commercial accident and health insurance in that they increase by age. An adequate insurance against accidents and ill health, if taken out for every member of a family of three, must cost the family \$125 to \$150 per annum, a very heavy burden even on the middle class and prohibitive for the working class. A less comprehensive scheme to reduce the anxieties of serious illness for the middle class family was adopted in England in 1925 and promises greater success. At the rate of from £3 to £4 a year it provides for the insurance of doctors' bills and all medical and nursing fees. The benefits include consultant fees, X-ray examinations and radiotherapy, operating surgeons' fees, surgical appliances, abnormal childbirth and hospital nursing charges. Minor illnesses are not provided for since doctors' bills for these will not cause undue strain. Insurance providing against the heavy cost of surgical operations is a still cheaper risk to cover. But although this type of insurance meets the need for extra expenditures during illness it does not provide a substitute for loss of earned income. In certain types of cases, where statistics are inadequate, where the number of those desiring protection against a particular risk is small and irregular

and where consequently no regular proposal form is issued by an insurance company, it is still possible to register an individual insurance. Through Lloyds' a doctor may insure or reinsure his eyes, a violinist his fingers, a singer his throat.

The practise of conducting insurance schemes as a form of newspaper advertisement is common in a number of countries. At the outset these benefits were limited to exceptional risks, such as death or total disability due to railway accidents, lightning or earthquakes, but as statistics accumulated they came to cover more usual risks, such as those resulting from fire and motor accidents. Sometimes the benefits are confined to regular subscribers of the paper, sometimes to those who use its advertising columns and sometimes to any buyer. Certain schemes commit the newspaper to little more than *ex gratia* payments. The premium consists in the difference between the amount paid for the paper and the amount at which it could be sold if this bonus were not attached to it. The newspaper may insure its risk with a company or be a self-insurer. Self-insurance is open to criticism as particularly liable to abuse since many subscribers believe that they are covered when in fact they are not.

An attempt has been made to counteract the inadequacy and expense of small individual insurance by the writing of group insurance covering such risks as employee disability or loss of school fees through sickness. But employee group insurance, which at its best is arbitrarily limited to a fraction of the population, is criticized as a paternalistic device anchoring the workman to a certain spot. The inability of insurance companies to distribute insurance protection against non-industrial accidents on a voluntary basis is illustrated by the recent tendency in various countries to make insurance of third party automobile liability risks compulsory. At the present time the total premium income of roughly \$250,000,000 of all the groups writing health and accident insurance barely exceeds that of workmen's compensation or automobile liability insurance. Only through compulsory state insurance can all those needing sickness and accident insurance be guaranteed protection at a minimum cost. But the movement for health insurance legislation in the United States, which followed the passage of the British national health insurance measures and culminated during the World War in the appointment by nine leading industrial states of investigating commissions, four of which submitted af-

firmative reports, has largely disappeared. Interest has shifted to such preventive projects as health centers, group medicine and the minimizing of the cost of medical care.

JOSEPH L. COHEN

*See:* INSURANCE; SOCIAL INSURANCE; GROUP INSURANCE; CASUALTY INSURANCE; COMPENSATION AND LIABILITY INSURANCE; FRIENDLY SOCIETIES; FRATERNAL ORDERS; GUILDS; BENEFITS, TRADE UNION; WELFARE WORK, INDUSTRIAL; WORKMEN'S COMPENSATION; MATERNITY WELFARE; PUBLIC HEALTH; HEALTH EDUCATION.

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**HEALTH, PUBLIC.** See PUBLIC HEALTH.

**HEARN, WILLIAM EDWARD** (1826-88), Australian political scientist and economist. Educated at Trinity College, Dublin, Hearn was appointed in 1854 professor of history, literature, logic and political economy in the newly organized University of Melbourne, where in 1873 he became dean of the faculty of law. He contributed brilliant articles to the press, was active in politics and as member of the Victoria legislative council took an important part in the work of codification.

Hearn was rightly described by Dicey as "one of the most distinguished and ingenious exponents of the mysteries of the English constitution." His *The Government of England: Its Structure and Its Development* (Melbourne 1867, 2nd ed. 1887) anticipated Bagehot's epoch making work and explained the structure and function of the English constitution by reference to the facts of its historical growth. His economic treatise, *Plutology: or the Theory of the Efforts to Satisfy Human Wants* (Melbourne 1863), although less important than his work on government, was admired by Jevons and described by Marshall as "at once simple and profound." It begins with the analysis of human wants and maintains that their satisfaction depends upon two chief factors, labor and natural agents, for each of which he distinguishes between natural and acquired powers. In its operation upon natural agents labor receives the aid of the human devices of capital, invention, cooperation and exchange. His anthropological study, *The Aryan Household* (London 1879), is regarded at present as of negligible value.

Hearn was distinguished by his preference for a strictly scientific approach to economic and political problems and by his endeavor under the influence of Darwin and Spencer to explain the development of social institutions in terms of evolution. His aim, in the Baconian phrase

which he was fond of using, was "light, not fruit." In his *Plutology* he complained that the theory of wealth had been neglected by previous writers in favor of the art of political economy; and his *Government of England* helped according to Spencer to graft the theory of evolution on history.

R. C. MILLS

**HEAVY CHEMICALS.** The heavy chemical industries in general include all those enterprises which turn out bulky chemicals cheap per unit of weight. The consumption of raw material and the output of finished product normally run into the thousands and millions of tons and into the tens and hundreds of millions of dollars. The manufacturing processes usually involve merely the moving, grinding, mixing and separating of large quantities of solid, liquid and gaseous masses. From beginning to end the reactions take place automatically and continuously within huge chambers, gigantic vats and mountainous reaction towers connected by a labyrinthine network of pipes, conduits and other conveyors. Requiring large ground space and ample facilities for waste disposal, the plant is ordinarily established where acid fumes and other noxious substances do minimum harm to vegetation and man; that is, by preference in a desolate area not too far away from a harbor or other crossroads of economical transport. In the United States the few laborers that are needed are frequently foreigners or Negroes, wholly unorganized, working from ten to twelve hours a day at low pay. The industrial sickness and accident rate is usually lower than average; the primary risk is that of fall of person, while less than a third of the injuries are due to explosions, burns or poisonous and corrosive substances. The duties are mere routine. Even the task of controlling the works rarely requires more than a single chemist or engineer.

Usage and opinion vary considerably as to the specific industries possessing these general economic characteristics, but in most countries at the present time the heavy chemical industries include the following manufactures: sulphuric acid and other mineral acids; soda ash and other alkalis; fertilizers including phosphates, nitrates, potash salts and ammonium sulphate; bleaching compounds and other electrochemical products; the alums and vitriols; salt; sulphur and pyrites. Frequently soaps, glasses, ceramic wares, lime, cement and industrial gases are also included. In Great Britain the chief branches have tended to

group themselves into one alkali industry, whereas in the United States there has been more localization.

Of the heavy chemical industries the two most typical and the only ones to receive further consideration here are sulphuric acid and soda ash, representing the two most essential chemical agents or tools, namely acids and alkalis. Sulphuric acid while only one among a score of acids produced to the extent of tens of millions of dollars annually is used throughout the whole range of modern industry. Although in the United States the fertilizer industry normally consumes a fourth and petroleum refining and chemicals each a fifth of the total supply, the remaining third is used in so many processes, such as steel pickling, metallurgy, tanning and bleaching, that the consumption of sulphuric acid has since the days of Liebig been considered a faithful index of business activity. Soda ash, similarly, while only one among dozens of soda products far exceeds in aggregate value or social importance such better known chemicals as dyestuffs or potash. Two fifths of the total production are normally used to make glass and an eighth goes into soap; the remainder makes possible the manufacture of other chemicals, wood pulp, rayon, mercerized textiles, water softeners, cleansing compounds and other articles too numerous to mention.

Sulphuric acid while known to Geber, Valentinus and other alchemists searching for an alkahest and much experimented with by Paracelsus and other iatrochemists interested in sulphur medicines was first used industrially in sixteenth century metallurgy. But it continued to be prepared in glass retorts in laboratory quantities until the middle of the eighteenth century, when the rapid development of the textile industries brought about tremendous changes. The discovery by Barth of Saxony in 1744 that indigo when sulphonated would dye wool caused a considerable outburst of interest in the fuming acid industry of Bohemia and of Nordhausen, Germany. The discovery that the acid would bleach linen, performing in a few days in one operation what formerly had required several months, led to the first manufacture on a commercial scale of ordinary, or 50° Be., sulphuric acid. Roebuck established the first successful chamber process plant at Prestonpans, Scotland, in 1749. As the textile industries took root, lead chamber plants were set up in other countries; the first in France was founded by Holker at Rouen in 1766, the first in the United States by Harrison at Phila-

delphia in 1793 and the first in Germany at Potschappel near Dresden in 1820.

After 1790 the sulphuric acid industry, particularly in England, became for nearly a century an activity ancillary to the manufacture of alkali. For the surge of economic demand, on the one hand, and of scientific progress, on the other, brought on its crest the first notable triumph in industrial synthesis, the making of artificial soda. The textile industries needed large quantities of dyes, soap, detergents and bleaching compounds. These had been made with the aid of potash and harilla, the former derived from Russian and American forests and Scottish kelp, the latter a natural soda obtained from the ashes of Spanish and Sicilian *Salsola kali* moss. When in 1775 prices rose to famine levels, the French Academy of Sciences offered a prize of 2400 livres for a commercially feasible substitute. The desired synthesis was achieved by Nicolas Leblanc, a pupil of Lavoisier, with the invention in 1791 in substantially complete form of the famous process for making soda which gave rise to the Leblanc soda industry. This discovery deserves to rank with that of Watt, for it marks the beginning of modern industrial chemistry. A soda works was erected at St. Denis by Leblanc in 1792 and others were built soon after at Rouen and Lille. But the disorders of the revolution, during which Lavoisier was guillotined and Leblanc harassed until he committed suicide, caused the center of scientific, inventive and industrial chemical activity to shift to England. Tennant patented bleaching powder in 1798 and began to manufacture it at St. Rollox near Glasgow. Losh made soda crystals at Newcastle as early as 1844. But soda ash, which requires in the first instance sodium chloride and sulphuric acid, was not manufactured on a large scale until 1823, when, the duty on salt having been repealed, Muspratt erected his plant at Liverpool. Soda soon displaced potash in commerce. It was imported even by the United States as early as 1830 and within thirty years a world wide export running into millions of dollars developed. The trademarks of English soda ash, bleaching powder, sal soda, caustic soda and Glauber's salts became famous in remote corners of the globe.

The English alkali trade also made its influence felt in certain countries furnishing raw materials. In 1838, for example, when Taix et Cie. raised the price of Sicilian sulphur from £5 to £14 a ton, English pressure broke the monopoly established by the king of Naples and



English capital acquired control of the deposits. This episode also led to the successful utilization of pyrites, with the result that before long the Spanish and Portuguese mines were also dominated by English interests.

Meanwhile in the midlands above the coal, salt and limestone deposits there sprang up a number of alkali towns, villages with drab buildings, corroded vegetation, and water supply and atmosphere so poisonous to man and beast that eventually, after perpetual damage suits had proved inadequate to compel the owners to lighten somewhat the oppressive burden of the social costs of their profit seeking, Parliament itself was forced to assume control. The alkali acts of 1863 and later years have served as a model for similar legislation against offensive wastes all over the world.

But the alkali industry was not to remain an English quasi-monopoly. The perfection by Ernest Solvay at Couillet, Belgium, of the ammonia soda process in 1863 enabled the Société Solvay to become the dominant factor in the world production and sale of soda ash. In 1873 Ludwig Mond after a visit to Solvay established the first English plant at Winnington. In 1876 ammonia soda production was begun by Solvay at Dombasle, France, in 1880 at Wyhlen, Germany, and in 1884 at Syracuse, New York. As a result not only did the production of Leblanc soda ash decline abruptly but the price of soda products fell by nearly 70 percent, as is indicated in Table I.

TABLE I

WORLD PRODUCTION OF SODA ASH BY METHODS AND PRICE OF SODA ASH, 1850-1908

| YEAR                | PRODUCTION IN 1000 SHORT TONS, 58 PERCENT BASIS |         |        | PRICE PER TON OF SODA ASH F.O.B. EUROPE |
|---------------------|---|---------|--------|---|
|                     | TOTAL   | LEBLANC | SOLVAY |   |
| 1850                | 165   | 165     |        | \$135.10                                |
| 1864-1868 (average) | 413   | 412     | 1      | 77.20                                   |
| 1874-1878 (average) | 579   | 546     | 33     | 54.04                                   |
| 1884-1888 (average) | 881   | 479     | 402    | 23.16                                   |
| 1902                | 1940  | 165     | 1745   | 21.23                                   |
| 1908                | 2000  | 10      | 1990   | 19.50                                   |

Source: Figures for 1908 taken from Lunge, G., *The Manufacture of Sulphuric Acid and Alkali*, 3 vols. (3rd ed. London 1911) vol. iii, p. 734. The rest adapted from Solvay, E., "Coup d'oeil rétrospectif sur la prosodie de fabrication de la soude à l'ammoniaque" in *International Congress of Applied Chemistry*, Fifth, *Berichte*, 4 vols. (Berlin 1904) vol. i, p. 116.

lated by the alkali acts, the Leblanc industry was forced to increase considerably the number of its products. Hardly a single material was wasted, whether by-product, such as copper, iron oxide, nitric acid, chlorine, sulphur and calcium chloride, or main product. Costs and prices of nearly all Leblanc products fell precipitously, partly as a result of this joint cost production but more directly as a result of numerous new processes, such as the Gay-Lussac tower, mechanical furnaces for burning pyrites smalls and salt cake, Shank's lixiviating pans, Gossage's condensers for making hydrochloric acid out of the waste gas, Glover's towers, Weldon's process for the recovery of manganesc, Deacon's patent for producing chlorine, the Chance-Clans procedure for recovering sulphur from the tank waste and the like. The cost of 50° Be. sulphuric acid, for example, was reduced in the plant at Preston-pans from \$300 a ton in 1800 to less than \$6 in 1880, while the yield of acid for each 100 kg. of sulphur consumed increased from 111 kg. to nearly 300 kg. (306½ kg. theoretically possible).

After 1880 the rate of chemical advance accelerated. Literally hundreds of new uses were found for sulphuric acid and alkali. New processes and new, generally by-product, sources of supply were discovered. In the place of the Leblanc industry there sprang up a number of still larger independent sulphuric acid industries, ammonia soda ash works of enormous size, electrolytic caustic soda and chlorine plants by the dozen and a host of other manufactures too numerous to mention. World production in the sulphuric acid industry increased in geometric ratio; that of the United States nearly doubled in every decade. Table II indicates clearly the early dominance of Great Britain, the spurt of acid production in Germany accompanying

TABLE II

PRODUCTION OF SULPHURIC ACID, 1867-1925 (In 1000 Metric Tons, 50° Be. Basis)

|                 | 1867 | 1878 | 1900 | 1913 | 1925 |
|-----------------|------|------|------|------|------|
| England         | 300  | 960  | 1710 | 1800 | 1300 |
| France          | 150  | 320  | 810  | 1480 | 1840 |
| Germany         | 100* | 180  | 1520 | 2700 | 1800 |
| United States   | 60   | 380  | 1350 | 3150 | 6300 |
| Belgium         | 25   | 50   | 350  | 580  | 740  |
| Austria-Hungary | 20   | 70   | 320  | 620  | 460† |
| Italy           |      | 20   | 230  | 770  | 1075 |

\* Zollverein.

† Includes figures for Yugoslavia and Carciolosllovakia.

Source: Figures for 1913 and 1925 adapted from League of

Industry, C.E.I. 10 (Geneva 1927). Figures for 1867, 1878 and 900 compiled by author.

Faced with the new competition and stimu-

the rapid growth of its dyestuffs industry, and the readjustment brought about in the economic conditions of various world powers by the World War.

Many of the advances in the sulphuric acid industry had world wide repercussions, for chemical science by making possible the utilization of new materials and uncovering new sources for the old frequently changed currents of international commerce overnight. In 1903, for example, by virtue of the Frasch process, whereby sulphur is melted *in situ* and pumped to the surface, the United States began to change its status from principal importer of sulphur to chief producer and exporter. As the Louisiana and Texas deposits poured sulphur on the world markets, production in Sicily declined by more than two thirds. The resultant unemployment and hardship were so great that in 1906 and 1921 the island was on the verge of revolution. In fact, complete stability was gained only after a series of international agreements. At present a central bureau and arbitration board in London tells the Sulphur Export Corporation (under the Webb-Pomerene Act) and the Consorzio Obligatorio per l'Industria Solifera Siciliana not only where but even how much they shall ship and sell. The pyrites producers of Spain and Portugal were similarly affected, their exports to the United States falling from a million to less than a quarter of a million tons. The loss of so important an export contributed considerably to the depreciation of their currencies, helped to lower the real incomes of their workers and probably constituted an underlying generative force of no small responsibility in political upheavals.

Domestic American competitive conditions have been no less difficult. In the first place, sulphuric acid began to be produced as a by-product from zinc and lead smelters and from blast furnace gases in the copper industry. In one notable instance in 1907 the utilization of these waste gases came by a federal injunction which made the Tennessee Copper Company the largest producer of sulphuric acid in the world. The conservation of by-product sulphur dioxide gas has scarcely been begun; yet even at the present time, if one includes the acid made from "coal brasses" and spent oxide (a residue in the purification of illuminating gas) and adds the considerable amounts recovered from sludge in the chemical industry and in petroleum refining, more than a quarter of the total world supply of sulphuric acid comes from by-product sources. In the second place, 40 percent of the acid is

consumed where it is made, most of it in steel pickling and fertilizer works, explosives and dyestuffs factories and oil refineries. In the slack season these often dump acid on the market. Finally, there is the constant danger that existing plant and technique must be scrapped because of new processes. In 1898, for example, R. J. Knietzsch of the Badische Soda- und Anilinfabrik invented the contact process for making oleum, or fuming acid. This not only shelved the century old Nordhausen industry and made necessary the world wide junking of acid concentration plants but also wrested away from the chamber process more than one third of the total market, its product being today exclusively used by the manufacturers of indigo and other dyes, nitrocellulose explosives and lacquers and the like. Numerous other processes, such as the Dorr-Liljenroth procedure, which produces the sulphate radical by using gypsum and carbon dioxide instead of sulphuric acid, or the numerous direct syntheses of nitric, hydrochloric, acetic and other acids, similarly threaten the very life of the industry. On every hand there exists intercommodity, interprocess and inter-industry joint competition.

In the same way the ammonia soda process is not without competitors today. Since the World War natural soda from California and Africa and by-product soda ash from paper mills have appeared, contributing in 1929 in the United States nearly a sixth of the total. Besides more than a score of electrolytic processes have also taken over a portion of the field since the Stroop electrolytic diaphragm cell was first put into operation at Griesheim in 1890. For although the most notable achievement of the electrolytic processes has been to produce cheap chlorine and bleaching products, thereby giving the *coup de grace* to the Leblanc industry, they have at the same time turned out from necessity a by-product caustic soda, a substitute for ammonia soda ash, in tonnage that in the United States is equivalent to more than a tenth of the total alkali supply.

Internationally the most outstanding development in the alkali industry since 1880 has been the growth of national self-sufficiency. The United States, for example, which in 1893 imported nearly 350,000 tons of soda products valued at more than six million dollars, began shortly before the World War, on balance, to export them.

Whether the growth of independent national units was due to public policy or business

TABLE III

PRODUCTION OF SODA ASH FOR SALE, 1882-1927  
(In 1000 Metric Tons, 58 Percent Basis)

|               | 1882 | 1894 | 1901 | 1913 | 1927 |
|---------------|------|------|------|------|------|
| Great Britain | 432  | 520  | 450  | 600  | 750  |
| France        | 127  | 170  | 250  | 440  | 490  |
| Germany       | 100  | 250  | 325  | 500  | 700  |
| United States | 11*  | 105  | 519  | 848  | 1320 |

\* Figure for 1884.

Source: Figures for the United States have been adapted from *Mineral Industry*, vol. iv (1895) p. 58 for 1884 and 1894, and for the other years from the Census of Manufactures. For the other countries, figures for 1882 and 1894 are from Müller, G., *Die chemische Industrie* (Leipzig 1900) p. 191; for the other years figures have been compiled by the author.

strategy is hard to determine. On the one hand, in the 1890's tariffs on soda products were imposed or increased everywhere; particularly in France, in Germany and in the United States. On the other hand, even in the 1870's the policy of the Solvay brothers had been that of establishing branch factories in every country in which a good market existed. Patents and technical information were freely exchanged and prices and sales territories agreed upon, but production and marketing organizations were independent. In a short time these branch enterprises not only grew to enormous size but ultimately became absolutely autonomous and competitive, freely making and breaking international cartels and gathering under their management and financial control in their respective countries a large number of plants making other chemicals. Thus Brunner, Mond, and Company, Ltd., in England united in 1925 with a concern which they had driven into the manufacture of acids and industrial chemicals, the United Alkali Company, a defensive union formed by forty-five Leblanc soda producers in 1890. This ammonia soda enterprise is now the dominating factor in the Imperial Chemical Industries, Ltd. Similarly the Solvay Process Company in the United States and others combined in 1920 with the General Chemical Company, a horizontal consolidation of sulphuric acid plants formed in 1899. The result was the giant Allied Chemical and Dye Corporation. The alkali and acid industries have thus become integrated with electrochemicals, dyestuffs, explosives and a host of other chemical manufactures into combinations which can exploit mass research, rationalize joint cost production, unify technical and sales service, control patents and tariffs and manipulate consumer demand. Their great power for international and national good or ill presents in ever more urgent challenge to the existing

forms of institutionalized social and economic control.

THEODORE J. KREPS

See: CHEMICAL INDUSTRIES; CONTINUOUS INDUSTRY; BY-PRODUCT; WASTE; CARTELS; COMBINATIONS, INDUSTRIAL.

Consult: Lunge, G., *The Manufacture of Acids and Alkalis*, ed. by A. C. Cumming, vols. i-vi (London 1923-25); Solvay, E., "Coup d'oeil rétrospectif sur le procédé de fabrication de la soude à l'ammoniacque" in International Congress of Applied Chemistry, Fifth, *Berichte*, 4 vols. (Berlin 1904) vol. i, p. 108-17; Drüsser, E., *Die technische Entwicklung der Schwefelsäurefabrikation*, *Technisch-volkswirtschaftliche Monographien*, vol. iv (Leipzig 1908); Goldstein, Josef, *Deutschlands Sodaindustrie in Vergangenheit und Gegenwart*, *Münchener volkswirtschaftliche Studien*, no. xiii (Stuttgart 1896); Germany, Ausschuss zur Untersuchung der Erzeugungs- und Absatzbedingungen der Deutschen Wirtschaft, Unterausschuss für Gewerbe, *Die deutsche chemische Industrie* (Berlin 1930); Marcus, Alfred, *Die grossen Chemiekonzerne* (Leipzig 1929); Waldmeyer, E., *Die schweizerische Salz- und Sodaindustrie*, *Schweizer Industrie- und Handelsstudien*, no. xxviii (Weinfelden 1928); Muspratt, E. K., in Society of Chemical Industry, *Journal*, vol. v (1886) 401-14; Gibson, A. M., "The History of Alkali Manufacture in Great Britain" in *Mineral Industry*, vol. ii (1894) 91-136; Miall, S., *A History of the British Chemical Industry* (London 1931) ch. i; United States, Tariff Board, *Chemicals, Oils and Paints. Glossary on Schedule A* (1912); United States, Bureau of Mines, "The Manufacture of Sulphuric Acid in the United States" by A. E. Wells and D. E. Fogg, *Bulletin*, no. 184 (1920). See also the various *Trade Information Bulletins* dealing with foreign chemical developments issued by the United States Bureau of Foreign and Domestic Commerce.

HÉBERT, JACQUES RENÉ (1757-94), French journalist and revolutionary agitator. Hébert was of skilled artisan stock. He wasted his patrimony in an unsuccessful lawsuit and some years before 1789 left Alençon for Paris. He saved himself from the gutter by pilfering from a benefactor and on very little capital launched late in 1790 his journal, the *Père Duchesne*. He formed with Chaumette, Cloots, Vincent, Ron-sin and others a violently radical group known as the *Hébertistes*, operating first in Parisian municipal and club politics and then in the Convention itself. He was guillotined in March, 1794. Historians have agreed with surprising unanimity that Hébert was a scoundrel. His sordid career reveals but two points of interest, his contribution to the development of journalism and his place in the history of proletarian revolt.

The *Père Duchesne* was a personal journal of opinion, a series of pamphlets rather than a newspaper in the modern sense. Hébert's origi-

nalities lies in his appeal to the lowest literate classes by sensationalism—especially in headlines which were cried by his newsboys—by pandering to the appetite for scandal, including, as witness his attacks on the queen, sex scandal, and by the use of the language of the people. This latter effect he very cleverly achieves by avoiding learned words, by borrowing undignified phrases from slang and above all by inserting in almost every sentence an oath or an expletive today unprintable. He alternates between a sentimentalism vulgarized from Rousseau and a virulence borrowed from Marat, whose successor, after July, 1793, he strove to become. Mallet du Pan estimated the circulation of the *Père Duchesne* at 80,000, which is probably under the truth.

The influence of the *Hébertistes* as a political group rested almost entirely on the hold which they had on the Parisian proletariat. Their actual program, however, foreshadows modern socialism hardly at all—much less than that of the *Enragés* (Roux, Varlet), another Parisian group sometimes loosely but erroneously confused with the *Hébertistes*. Jaurès has nothing but contempt for the empty mouthings of Hébert, whom he regards as a place hunting politician. The *Père Duchesne* is full of attacks on the corrupt rich and supports the maximum on prices as a necessary part of the revolution. In issue number 245 Hébert goes so far as to favor a redistribution of lands in favor of the small holder. But the *Hébertistes* had no definite plan of social reorganization; they were aggressive militarists and toward the end patriots, and their violent policy of uprooting all forms of Christianity was hardly more than a screen for their plunderings. Their tactics, however, helped to form the Jacobin tradition of direct action, and their very existence was a proof of the potential political power of the lower classes.

CRANE BRINTON

Consult: Hatin, E., *Histoire politique . . . de la presse en France*, 8 vols. (Paris 1859-61) vol. vi, p. 452-548; Mater, D., *J.-R. Hébert . . . avant la journée du 10 août 1792* (Bourges 1888); Estrée, Paul d', *Le père Duchesne: Hébert et la commune de Paris* (Paris 1908); Jaurès, Jean, *Histoire socialiste de la Révolution française*, ed. by A. Mathiez, 8 vols. (Paris 1922-24), especially vol. viii; "Le procès des Hébertistes" in Mathiez, A., *Robespierre, terroriste* (Paris 1921) p. 140-68.

HECKER, JOHANN JULIUS (1707-68), German educator. As a student at the University of Halle, Hecker came under the influence of the

Pietist movement and the educational theories of A. H. Francke, under whom he taught for a time. In 1739 he became pastor of Trinity Church in Berlin and as supervisor of the schools of his parish at once devoted himself to their improvement as an agency for social welfare. In 1748 he opened a private school for the preparation of elementary school teachers and in 1752 received state aid and royal recognition. His success led to invitations to reorganize other systems of elementary education in Prussia. In 1763 Frederick the Great requested Hecker to draft a code for Prussian elementary schools, which was enacted in that year as the *Generallandschulreglement* and continued to serve as the legal basis of education in that state.

Hecker's chief contribution to education lay in the provision of a differentiated program of secondary education. On the basis of his elementary schools he built up the traditional Latin school and what he called the *Ökonomisch-mathematische Realschule*, opened in 1747 and intended for those who did not plan to proceed to the universities but were destined to enter everyday occupations in commerce, trade and industry. The idea was not entirely new, but under Hecker and his associate Johann Friedrich Hähn it succeeded for the first time. While Latin and French and other secondary subjects were retained, the emphasis was placed on practical subjects, not so much to develop vocational skill as to cultivate general intelligence in the world of everyday life. Through both the elementary schools and the *Realschulen* Hecker hoped to develop the economic resources of Prussia and encourage home manufactures to replace imports from abroad.

I. L. KANDEL

Consult: Kandel, I. L., *History of Secondary Education* (Boston 1930) p. 165-66; Paulsen, F., *Geschichte des gelehrten Unterrichts*, 2 vols. (3rd ed. by R. Lehmann, Leipzig 1919-21) vol. ii, p. 65-66; Ranke, F., *Johann Julius Hecker* (Berlin 1847); Schmid, K. A., *Geschichte der Erziehung*, 5 vols. (Stuttgart 1884-1902) vol. v, pt. ii, p. 6-13; Wiedemann, A., *Johann Julius Heckers pädagogisches Verdienst*, Wissenschaftliche Beilage zu dem Jahresbericht der Realschule zu Plauen (Plauen 1900).

HEDGING is a form of protection against an economic risk, usually the risk of price changes, which is effected by offsetting against one another two transactions involving risks of opposite character. The commonest form of hedging is that which is effected through the use of futures contracts (see COMMODITY EXCHANGES),

agreements to buy or to sell at some future date, in the speculative commodity markets. A merchant who has to carry a stock of grain, cotton, crude rubber, sugar or other staple commodity for which there is an organized market protects himself against a decline in price by selling an equal amount for future delivery, while a manufacturer who has contracted to deliver a product into which one of these staples enters as raw material protects himself against a rising price by buying for future delivery a quantity of the raw material equal to that which he intends to use. When the trade transaction is completed—not necessarily at the time of the expiration of the futures contract—in the first case by selling out the stock, in the second case by buying the raw material, the original transaction in the futures market is reversed. Commodity hedging originated in the Liverpool cotton market in the years following the American Civil War and became an established practise in the United States after 1870. It is widely used in staple commodity markets, particularly those for cotton and grain, but it is impossible to make a close estimate of the actual number of hedging transactions.

Outside the commodity markets the most important application of the hedging principle is in connection with the risk of fluctuations in foreign exchange. When a merchant buys or sells goods for future payment in a foreign currency he runs the risk that a change in the foreign exchange rate before the settlement date may subject him to heavy losses. To avoid this risk he may take advantage of the market in "forward" exchange. The forward exchange rate, which is the price of a foreign currency for delivery at a future date, may be either higher or lower than the spot price. As between countries with stable currencies, the variation of the future from the spot exchange is relatively slight and depends largely upon the relation between interest rates in the financial centers of the two countries. Where one or both currencies, however, consist of irredeemable paper, the variation between the spot and the future price may be much larger, reflecting the uncertainty as to the future course of the exchanges. Quotations of forward exchange rates were regularly made before the World War, but the uncertainties of foreign exchange in the early post-war years have made resort to this form of hedging more frequent.

The protection furnished by hedging is never perfect. To eliminate the risk of price changes

completely it would be necessary that the relationship between the futures price and the cash price at the time the hedging contract is closed should be definitely predictable on the basis of the relationship at the time when the hedging begins. In fact there is nearly always some fluctuation from month to month in the relationship between the cash price and the various future prices. For instance, a temporary shortage caused by delayed harvests, bad roads and transportation difficulties will cause cash prices and nearby futures to rise above the distant futures, and there is no way to hedge against the decline in prices which will later wipe out these differentials. Another reason for the incomplete elimination of risk is that the futures contract nominally calls for a delivery of a contract grade of a commodity for which some other grade may be substituted at a stipulated premium or discount. The relationship between the price of the commodity actually held or desired and the price of the contract grade or that which may be substituted for it is subject to some change. But the changes in the differences within the price structure are much smaller than those in the spot price over a period of time; what hedging does is to substitute for the risk of the large change in the spot price the risk of the small change in the relationship between future and spot prices and between prices of various grades.

Nor does hedging eliminate even that part of the risk against which it protects the hedger. It merely transfers it to those whose speculative operations make the hedging market possible. For it is impossible to run a hedging market without speculators. It is not necessary to find a speculator for every individual transaction, because the purchases of a hedging manufacturer and the sales of a hedging dealer in raw material may occur simultaneously. But this coincidence cannot be relied upon. For satisfactory hedging the market must not be "thin"; that is, it must be possible at any moment to make considerable purchases or sales without driving the market materially higher or lower. The only way in which this continuity can be maintained is through the operations of a body of speculators who stand ready to buy on small recessions and sell on small advances.

It is often assumed that since hedging sales tend to be concentrated at certain seasons the price of futures is depressed at such seasons to the advantage of the speculators who furnish the contracts. But there is no statistical evidence of such a tendency. On the contrary, it is probable

that the hedging system is supported, at least in large part, by the losses of speculators.

Viewed solely from the standpoint of producers and consumers of the commodities which are handled on the futures markets, there can be little doubt as to the economic usefulness of the hedging system. It enables a merchant or manufacturer to protect his trade profit against the risk of loss of more than a minor fraction of the price change and therefore to figure his prices much more closely. It also makes it possible to borrow against a storage stock of grain or cotton a much higher proportion of its value. For both these reasons hedging enables the merchant or manufacturer to do business on a much smaller capital and thus reduces his costs.

CHARLES O. HARDY

See: RISK; SPECULATION; COMMODITY EXCHANGES; FOREIGN EXCHANGE; COTTON.

Consult: Hardy, C. O., *Risk and Risk-bearing* (Chicago 1923) chs. xi-xii; Emery, H. C., *Speculation on the Stock and Produce Exchanges of the United States* (New York 1896); Weld, L. D. II., *The Marketing of Farm Products* (New York 1916) chs. xv-xvi; Hibbard, B. H., *Marketing Agricultural Products* (New York 1921) chs. x-xiii; Clark, F. E., *Principles of Marketing* (New York 1922) ch. xvii; Iloffman, G. W., *Hedging by Dealing in Grain Futures* (Philadelphia 1925); United States, Federal Trade Commission, *Report on the Grain Trade*, 7 vols. (1920-26) vol. vii, ch. ii; Canada, Commission to Inquire into Trading in Grain Futures, *Report* (Ottawa 1931), and *Evidence and Proceedings* (Winnipeg 1931); Marsh, A. R., "Relation of Future Contracts on the Cotton Exchanges to the American Cotton Industry" in *Economic World*, n.s., vol. xxi (1921) 799-802; American Academy of Political and Social Science, *Annals*, vol. clv (1931) pt. i; Patterson, E. W., "Hedging and Wagering on Produce Exchanges" in *Yale Law Journal*, vol. xl (1930-31) 843-84; Keynes, J. M., *Monetary Reform* (London 1923) p. 125-51.

HEDONISM belongs to the relatively small number of deliberately manufactured words. Derived from the Greek *hedone*, it dates from about the middle of the nineteenth century and owes its origin to that romantic and scholarly friend of Wordsworth and De Quincey, Professor John Wilson of Elleray, who is said to have divided his life between the "sincerest devotion to letters and the stormiest pleasures of life." Although the word is modern, the theory of conduct which it designates, that the ultimate end of action is or should be pleasure, was already well developed in the classical age of Greece. The historically recognized founder of the theory is Aristippus of Cyrene, one of the older pupils of Socrates (see CYRENAICS). In a certain sense the doctrine is, however, ascribed

to Socrates himself, for example, in the dialogue *Protagoras*, and it was discussed in that dialogue because it represented one of the significant social issues of the day. If the records covering the competing social theories of the period were not so largely destroyed they might show that the pleasure philosophy had a wide vogue: that the sophists adhered to it; that in one form or another it was held by materialists like Leucippus and Democritus; that it was the creed espoused by many of the foremost men of affairs.

The hedonist selected for discussion by Aristotle was the eminent mathematician and astronomer Eudoxus, who "held that pleasure was the good, because he saw that all things, whether rational or irrational, make pleasure their aim. He argued that in all cases that which is desirable is good, and that which is most desirable is most good; hence the fact of all things being drawn to the same object is an indication that that object is the best for all" (*Nicomachean Ethics*, tr. by J. E. C. Welldon, London 1927, II: 1). The two sides of hedonic theory—that pleasure is sought and should be sought—which eventually gave rise to the distinction between psychological and ethical hedonism, are obviously suggested in this citation, as they are in fragments remaining from the writings of other Greek philosophers. The two aspects—the descriptive and the normative—were thus present from the beginning. This is likewise true of certain problems which have attached to the hedonistic standpoint: Do pleasures and pains differ only in degree? If they do, how can this difference be measured? Are pleasures and pains of the body more or less intense than those of the mind? Should the pleasure of the moment or long time pleasure be the final criterion? Is a succession of many and varying pleasures preferable to the agreeable feeling of serenity which accompanies the normal functioning of simple living undisturbed by pain, care or anxiety?

Consideration of these questions resulted in basic disagreements. The authoritative answers were formulated by Epicurus, who was the most successful advocate and systematizer of hedonic theory in the first period (see EPICUREANISM). Separated by three generations from Socrates, he lived in a Hellenistic society in which the bounds of former city-state life had been broken or widened and all philosophies were characterized by lack of social faith. This fact as well as the individualistic character of Greek psychology gave early hedonism an egoistic twist. In spite of his emphasis upon pleasure—

for Epicurus never questioned the central doctrine that the end of action is the maximum of pleasure for the actor—his philosophy, although often differently interpreted, demanded self-denial; it demanded monklike detachment not only from the pursuit of pleasure as ordinarily understood but from the customary and everyday interests of men. Unlike Aristippus he believed that the pleasures of the mind and of friendship were of the first importance because of the cumulative effect of memory and anticipation; and the highest degree of satisfaction was to be gained not through an endless round of fugitive pleasures but in a neutral state of cheerful tranquility, free from the pain of unsatisfied desire and unruffled by the pleasurable excitement of satisfying multitudinous wants. Epicureanism as conceptualized and practised by its founder entailed a severely simplified scheme of living from which the allurements and rewards offered by contemporary civilization were ruled out, along with the associated anxieties and fears, including those pertaining to the gods and the hereafter. The true Epicurean was expected not to fall in love, not to become the father of a family, not to mix in politics, not to indulge in pleasures of the table, not to surrender to moral and religious superstitions. In other words, Epicureanism, like Christianity, was an extracommunity enterprise. On the surface the program seems negative, and it is usually so described. It was not so regarded by Epicurus. In his opinion the sequestered group way of life which he advised yielded the purest and most positive kind of pleasure attainable under the circumstances.

Epicurean hedonism was attractively presented to the Roman world by Lucretius and won a large following. The early leaders of the Christian movement, on the other hand, were antipathetic to it, as were the church fathers and the mediaeval schoolmen. This antipathy accounts largely for the subsequent misinterpretation of the term. But following the Renaissance and the rise of science hedonism reappeared. Probably there is no more "hard-boiled" hedonism on record than that of Thomas Hobbes, who revived the doctrine in the seventeenth century. Hobbes was the first clearly to recognize the psychological and ethical aspects of hedonism and to combine them consciously in a unified conception. Self-interest, represented in appetites and desires, especially the love of power, constituted, as he saw the matter, the sole and only possible motivating force of human action. Anything which became the object

of a man's appetite or desire was that "which he for his part called *good*"; anything which aroused his hate and aversion he called "*vile and considerable*."

Hobbes' thinking was set in the context of the modern state. He could not realistically believe that the greatest sum of satisfied desire was obtainable by individuals through ruthless reliance upon their own powers, as in an early condition of nature, nor by stepping out of society into comparative isolation; he felt that it must be achieved within and by means of social organization and social institutions. It is here that hedonic theory took a new turn. Hobbes made the crucial transition from psychology to ethics. If the state is to be an agent in the realization of the individual's desires, the individual, on his side, must acknowledge correlative obligations or the scheme will break down. And this gives rise to duties with an ethical meaning not included in more elementary hedonism. Ethical hedonism is no longer merely pleasure-wisdom concerned with deciding upon the line of conduct calculated to lead most directly to the greatest pleasure. The state has come into existence as a rule maker and umpire in the universal game of pleasure seeking. The relation of the established rules to the individual's desires is assumed to be real but it is indirect and frequently not obvious. The rules must in any case be acknowledged as binding so long as the state can insure the continuance of the game and the game itself is reasonably effective in securing the intended result.

In his revival of hedonism Hobbes shifted authority over men's desires from the church to the state. He brought the hedonist into society. Yet the position remained essentially egoistic; it remained so until expanded by the repercussion upon hedonism of the philanthropic and social reform spirit of the eighteenth and nineteenth centuries. Hume, Hutcheson, Adam Smith, Bentham, Hartley, J. S. Mill, Bain and others contributed to this broadening influence. In Bentham hedonism became universalistic utilitarianism, although the word utilitarian was not brought into use until later by Mill. "Nature," Bentham asserted, "has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*. It is for them alone to point out what we ought to do, as well as to determine what we shall do." His telling elaboration of this principle and his detailed application of it remain a monument to creative genius. Especially did he devote attention to the troublesome question of the hedonistic calculus, giving sugges-

tions regarding the measurement of pleasure units in proposed satisfactions. But most significant was his enlargement of the hedonic conception to include the ideal of the "greatest happiness of the greatest number." What he had in view was happiness for people generally, "everybody to count for one, nobody for more than one." The inclusion of others within the range of the individual's interest involved hedonism in logical difficulties. It had to be shown that the individual's happiness, properly understood, coincided with the general happiness or that men actually experience a fellow feeling with the misery and happiness of others or that the happiness of all can be connected with the happiness of each by appropriate legislative and other social spurs. Some of the best writing and thinking in social ethics was called forth by this problem, and the entire associationist psychology was mustered into service to bolster the hedonic view.

Further enrichment was introduced by John Stuart Mill through giving real flavor to altruism and stressing the importance of making qualitative distinctions between pleasures. In both respects he is thought to have betrayed his avowed hedonism. As between the agent's "own happiness and that of others," said Mill, "utilitarianism requires him to be as strictly impartial as a disinterested and benevolent spectator." And whereas Bentham had said, "quantity of pleasure being equal, push-pin is as good as poetry," Mill asserted in an equally well known passage, "it is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied." If Mill's hedonism is taken to be of the orthodox pleasure-unit type, the modifications he introduced are, as has often been pointed out, inconsistent with his original premises; but if he is allowed to regard various satisfactions as unique, as irreducible to a common quantity scale, the argument that some are preferable to others may not be illogical or contrary to more recent psychological insight.

Hedonism as a system of descriptive psychology dominated British thought during the formative years of the rise of classical economics. From Ricardo to Jevons economic theorists used it as the substratum of their central price and value doctrine. The "economic man" performed his market calculations in terms of the satisfaction and pleasure he would derive from a transaction or the pain and effort it would cost him. In Veblen's ironic phrase, he became "a lightning calculator of pleasures and pains." As the emphasis on subjective value increased in the

theory of Jevons and the Austrians, utility and disutility became the central psychological terms, and the hedonic calculus was further refined through the theoretical device of marginalism. In English juristic theory of the nineteenth century also hedonism strengthened the victory of the analytical school. Since the individual was conceived to respond dominantly to pleasures and pains, the sanctions of state force were regarded as sufficient to create and sustain law. In both economics (see ECONOMIC INCENTIVES) and jurisprudence a more complex psychology has come to challenge and invalidate the too simple and artificial assumptions of hedonism.

The hedonists deserve credit for drawing attention to the idea that life should justify itself in terms of satisfaction to those who have it to live. Moreover, modern representatives like Bentham and Mill have battled zealously for the improvement of social conditions. If hedonism has gone wrong, it has been because of the conviction that an abstract something called pleasure is what men seek to enjoy or that an abstract something called pain is what men seek to avoid, in all the various things they do. This has committed hedonists to the futile undertaking of devising a mathematical calculus for determining relative quantities of pleasure and it has diverted them from the study and control of concrete objective stimuli. And as they have misconceived enjoyment as a psychic atom, so they have misconceived man as a social atom, even when they placed him in society. The formative periods of hedonism have been contemporaneous with social epochs when the break up of a customary manner of life and the conflict between traditional and newly developing authorities put undue emphasis upon a particular kind of individualism. The atomistic social psychology congenial to hedonism is no longer tenable. And the contemporary thinker is appreciative of the fact that since man as a desiring organism responds to a given environment, this environment is implicated in his desires. One result is a shift of observation, study and social planning from subjective states of feeling to the objective content of life. The hedonism which persists is either out of touch with the social meliorism of the time or has merged its identity with such contemporary movements as pragmatic instrumentalism.

M. C. OTTO

See: ETHICS; EPICUREANISM; UTILITARIANISM; INDIVIDUALISM; ALTRUISM AND EGOTISM; PRAGMATISM; ECONOMIC INCENTIVES; CYRENAICS.

Consult: Epicurus, *Epicurus: the Extant Remains*, orig-



inal Greek and translation by Cyril Bailey (Oxford 1926); Guyau, M. J., *La morale d'Épicure et ses rapports avec les doctrines contemporaines* (6th ed. Paris 1917); Hicks, R. D., *Stoic and Epicurean* (New York 1910); Santayana, George, *Three Philosophical Poets*, Harvard Studies in Comparative Literature, vol. i (Cambridge, Mass. 1910) ch. ii; Hobbes, Thomas, *Hobbes's Leviathan*, ed. by W. G. P. Smith (Oxford 1909); Bentham, Jeremy, *An Introduction to the Principles of Morals and Legislation*, 2 vols. (new ed. London 1823); Mill, John Stuart, *Utilitarianism* (15th ed. London 1907); Stephen, Leslie, *The English Utilitarians*, 3 vols. (London 1900), and *The Science of Ethics* (2nd ed. London 1907); Halévy, Élie, *La formation du radicalisme philosophique*, 3 vols. (Paris 1901-04), tr. by Mary Morris, 1 vol. (London 1928); Gomperz, Heinrich, *Kritik des Hedonismus* (Stuttgart 1898); Martineau, James, *Types of Ethical Theory*, 2 vols. (3rd ed. Oxford 1898) vol. ii, p. 304-424; Laguna, T. de, *Introduction to the Science of Ethics* (New York 1914) p. 123-39, 142-44, 247-78; Watson, John, *Hedonistic Theories from Aristippus to Spencer* (Glasgow 1895); Brett, G. S., *A History of Psychology*, 3 vols. (London 1912-21) vol. i, ch. xvi; Warren, H. C., *A History of the Association Psychology* (New York 1921) p. 33-40, 285-87; Veblen, T. B., "The Pre-conception of Economic Science" in his *The Place of Science in Modern Civilization* (New York 1919) p. 82-179; Stuart, H. W., "The Phases of the Economic Interest" in *Creative Intelligence: Essays in the Pragmatic Attitude* (New York 1917) p. 282-353.

**HEEREN, ARNOLD HERMANN LUDWIG** (1760-1842), German historian. Heeren began his career as a theologian but later turned his interests to classical philology and history. His entire life was dominated by Winckelmann's and Goethe's conception of Greece. His philosophy of history was largely determined by Herder, his interest in constitutional history and political geography was awakened and promoted through the influence of Montesquieu and his preoccupation with problems of economic history may be traced to reminiscences of his Hanseatic childhood.

Heeren is one of the forerunners of the historical school in history, economics, jurisprudence and political science. With Niebuhr he may be considered the founder of the modern scientific study of ancient history; through his pupil Pertz he stimulated the critical study of mediaeval sources; his interest in constitutional history left its mark on Waitz, and his study of political geography on Ritter. Although the importance of his diverse writings has been overshadowed by the greater work of Niebuhr and Ranke, yet the effect of his basic work in modern political and especially commercial history, contained in his *Ideen über die Politik, den Verkehr und Handel der vornehmsten Völker der alten Welt* (3 vols., Göttingen 1793-1812; 4th ed., 6 vols., 1824-26; tr.

by D. A. Talboys, 6 vols., Oxford 1833-34) and his *Handbuch der Geschichte des europäischen Staatensystems und seiner Kolonien* (Göttingen 1809, 4th ed. 1822; tr. by George Bancroft, 2 vols., Northampton, Mass. 1829), is still perceptible.

Heeren maintained a reserved and even indifferent attitude toward the decisive national and political problems of his day. But he combined this indifference with an active, pedagogical mind which sought to arrive at new points of view through a study of historical sources and with a conscious counter-revolutionary attempt to link the present with its historical roots in the past. His views on the system of European states and his approval of the weak structure of the old empire as well as of the German Confederation sprang from his acceptance of the universality of enlightenment and of classicism. His opposition to Adam Smith's atomic individualism, however, allied him with those holding a romantic and organicist concept of the state, and his disavowal of any confidence in progress and his opposition to the contract theory resulted in his having great influence in the nineteenth century. Impressed by Montesquieu's idealization of the English constitution, he championed a constitutionalism which sought more to curb the despotism of the masses than the sovereignty of the monarch. It was not so much his political ideas, however, as his sane judgment of political and constitutional history which made his significance so great and left its impress on such people as George Bancroft, Timkowsky, Turgenyev and above all on Bismarck, Beust and Bunsen.

ARNOLD BERNEY

*Works:* *Historische Werke*, 15 vols. (Göttingen 1821-28).

*Consult:* Joss, H., *A. H. L. Heerens politische Theorien* (Berne 1918); Fueter, E., *Geschichte der neueren Historiographie* (2nd ed. Munich 1925) p. 385-89; Lütge, W., *Arnold Hermann Ludwig Heeren als Historiker* (ms. Leipzig 1925).

**HEFELE, KARL JOSEPH VON** (1809-93), German Catholic historian and theologian. Hefele was ordained a priest in 1833 and was professor of ecclesiastical history in Tübingen from 1837 to 1869. From then until his death he was bishop of Rottenburg. He first became famous through his *Der Kardinal Ximenes* (Tübingen 1844, 2nd ed. 1851; tr. by John Dalton, London 1860), especially because of his treatment of the Inquisition. Like Ranke and Leo he viewed it as a tool in the hands of princely absolutism.

forced upon the church and considered it in relation to the general spirit of the late Middle Ages. Hefele's life work was his *Conciliengeschichte* (7 vols., Freiburg 1855-74; vols. i-vi, 2nd ed. 1873-90; vols. viii-ix, completed by J. Hergenröther, 1887-90; partly tr. by W. R. Clark and others, 5 vols., Edinburgh 1871-96). He was the first to consider the councils in their relation to the organic development of the church and dogma and also dealt with their significance in the social and intellectual history of Europe. Although his work did not mark a new epoch in historical criticism he gave nevertheless the most objective and complete scholarly survey possible of the enormous mass of material, and his work is still indispensable.

As an expert on councils Hefele was consulted in 1868-69 regarding the organization of the Vatican council soon to be summoned. Both at the bishops' conference held in Fulda in 1869 and in the Vatican council he declared his opposition to the pronouncement of the dogma of papal infallibility, and in his pamphlet *Causa Honorii papae* (Naples 1870) he proved by the case of Honorius I that even popes had committed dogmatical errors. Later, however, he submitted to the new dogma for the sake of ecclesiastical peace.

WOLFRAM VON DEN STEINEN

*Consult:* Werfer, A., *Karl Joseph von Hefele*, Deutschlands Episkopat in Lebensbildern, vol. iv, no. 2 (Würzburg 1875); Roth, Hugo, *Dr. Karl Joseph von Hefele, Bischof von Rottenburg* (Stuttgart 1894); Schulte, J. F. von, *Der Altkatholicismus* (Giessen 1887).

HEFFTER, AUGUST WILHELM (1796-1880), German jurist. An early proficiency in classical philology led Heffter to historical studies and to an adherence to the historical school. His *Die athenäische Gerichtsverfassung* (Cologne 1822) brought him early fame and academic position. In his middle period, in which he turned to the German common law of his time, he added an interest in criminal law to his earlier interest in procedural law. But both his *Institutionen des römischen und deutschen Civil-Prozesses* (Bonn 1825; 2nd ed. with title *System des römischen* . . . , 1843) and his *Lehrbuch des gemeinen deutschen Kriminalrechts* (Halle 1833, 6th ed. Brunswick 1857) show his abandonment of the historical school; indeed they betray the influence of Hegelianism. In neither work, however, is there any great stress upon philosophical considerations. As a result of political and judicial activity, particularly after the revolutionary period of

1848, Heffter increasingly tended toward positivism and emphasized practical aspects.

It was his work in international law that brought Heffter his greatest fame. His *Das europäische Völkerrecht der Gegenwart* (Berlin 1844, 8th ed. 1888) was translated into French, Spanish, Russian, Hungarian, Greek and Polish. Its success was due not so much to the originality of its organization, which was based too much upon private law analogies, but to the richness of its content. Although it did not dispense with historical background it concentrated upon the consideration of contemporary problems and thus carried over the method which Heffter used in private law. Heffter's work gave German international law literature for the first time an influence beyond the borders of Germany.

MAX FLEISCHMANN

*Consult:* Rivier, A., in *Handbuch des Völkerrechts*, ed. by F. von Holtzendorff, vol. i (Berlin 1885) p. 486-88, and bibliography there cited; Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880-1910) vol. iii, pt. ii, p. 298-300, 392, and 650-52; Heymann, Ernst, "Hundert Jahre Berliner juristen Fakultät . . ." in *Die juristische Fakultät der Universität Berlin*, ed. by Otto Liebmann (Berlin 1910) p. 3-66, especially p. 37-38.

HEGEL, GEORG WILHELM FRIEDRICH (1770-1831), German philosopher. Hegel was the son of a civil servant in Württemberg. He received a theological education at the University of Tübingen, but it was only in the subsequent period between 1793 and 1801 when he was intellectually isolated as a private tutor that his own historical studies in religion and politics led him to philosophy.

As a Protestant and a child of the eighteenth century Hegel began with faith in freedom and rational enlightenment, and he greeted the French Revolution with enthusiasm. He was stirred by Kant's view of religion as purely moral and free from all supernaturalism. But his interest in the historically actual and an element of naturalistic humanism acquired by continued study of Greek and Roman classics led him to ask how such pure religion could be embodied in the actual life of a nation. Reacting, as did Schiller and Friedrich Schlegel, against Kant's ascetic dualism between the *is* and the *ought*, Hegel was led by the example of his former fellow student Schelling to seek for an absolute union of nature and mind, so that the ideal could be viewed as embodied in the actual. Hegel's first book, *Phänomenologie des Geistes* (Hamburg 1807; tr. by J. B. Baillie, 2nd ed. London 1931), was a study

of the forms or stages of mind as embodied in diverse historic periods, social institutions and philosophic or moral systems. After the battle of Jena Hegel edited a newspaper and from 1808 to 1816 successfully served as rector of the *Gymnasium* at Nuremberg. His great treatise, *Wissenschaft der Logik* (2 vols., Nuremberg 1812-16; tr. by W. H. Johnston and L. G. Struthers, London 1929), brought him wide recognition and a call to Heidelberg, where he published his *Enzyklopädie der philosophischen Wissenschaften im Grundrisse* (Heidelberg 1817, 3rd ed. 1830; tr. in part by William Wallace as *The Logic of Hegel*, 2nd ed. Oxford 1892, and as *Hegel's Philosophy of Mind*, Oxford 1894), an outline of his whole philosophy. In 1818 he was called to the University of Berlin, where despite his previous admiration for Napoleon and contempt for Prussia he became a favorite of the government. His *Naturrecht und Staatswissenschaft im Grundrisse* (Berlin 1821; 2nd ed. by E. Gans as *Grundlinien der Philosophie des Rechts*, Berlin 1833; tr. by S. W. Dyde, London 1896) represents in the main a Restoration philosophy, like that of Savigny, Burke, de Maistre and the historical school; that is, a distrust of those who would reform existing institutions on the basis of abstract reason instead of recognizing that the actual is an embodiment of historical reason. The preface contained a contemptuous attack on Fries and other liberals who hoped for a better public life on the basis of popular education and more widespread interest and participation in government. Hegel was seriously depressed by the revolution of 1830 and rebuked his disciple Gans for venturing a liberal interpretation of the Hegelian philosophy. Shortly before his death he wrote a rather unfavorable account of the English Reform Bill.

As the outstanding philosopher of the nineteenth century Hegel profoundly influenced the social sciences by his general methods as well as by his specific views. Although not the first Hegel was one of the most influential leaders in the reaction against the abstract and artificial views of human nature and of the origin of social institutions that prevailed in the period of the Enlightenment. If government and religion are no longer viewed exclusively as inventions but rather as natural growths in which continuity and the inertia of the past are always to be reckoned with, the credit is largely due to Hegel. On the other hand, we also owe to Hegel as a result of his *Vorlesungen über die Philosophie der Geschichte* (ed. by E. Gans, Berlin 1837; tr.

from 3rd German ed. by J. Sibree, rev. ed. New York 1899) the attempt to write history, even the history of art and philosophy, in terms of abstract ideas representing periods without regard to the variations of individual men and their peculiar geniuses.

As an absolute idealist Hegel believed that his dialectic method, as developed in his *Logik*, represented the divine nature and plan of creation and was therefore the a priori key to all reality. The historically proved absurdities to which this method led him in the philosophy of nature cast a reasonable doubt as to its soundness in the more complicated questions of social science, on which he wrote with an amazing self-assurance. But although the perpetual triad of thesis, antithesis and synthesis as used by Hegel and his followers is not now in general repute, something like it underlies the popular method of tracing the evolution of human institutions through necessary stages. This type of a priori history, usually associated with the name of Spencer, undoubtedly has its roots in Schelling and Hegel. It may thus be said paradoxically that Hegel helped to introduce the organic and historical method into the social sciences and that of abstract ideology into history. This oscillation between dogmatic a priori rationalism and historic realism (some of Hegel's enthusiastic followers have called him the greatest of all irrationalists) shows itself in his specific social views.

Hegel's philosophy of law is in the main of the metaphysical type which clings to concepts that are high above, but do not advance, the analysis of actual problems. Thus his theory that property is the realization of the will, or of free personality, has appealed to many. But as one's property right in any object necessarily limits the right and freedom of everyone else, the real problems of the law of property are not thus adequately met. Similarly, there is a verbal nobility in Hegel's retributive theory that punishment carries out the will of the criminal. But those who hold other theories have urged that Hegel's views throw no light on the questions of what punishment is the suitable one for any given offense, what offenses should be treated with the leniency or mercy of the pardoning power and how society is to defend itself against dangerous aggressions by those who defy its laws.

In his ethics Hegel opposes abstract individualism and the absolute value that Kant set on the morality of conscience. For the good will has worth only if it is directed to a rational end from which can be deduced actual duties and

positive lines of conduct. Ethics must thus be essentially social. In the ethics of the family Hegel refuses to consider such empirical biological facts as the approximate equality of the number of men and of women. But in opposing the contractual view of marriage and the importance of romantic love he depends on the empirical psychologic argument that mutual affection is more securely based on living together wisely.

While Hegel made no notable contribution to economics and rather uncritically admired Smith, Say and Ricardo, his influence was against *laissez faire*. In his treatment of the system of wants in civil society he emphasizes the salient facts not only that individual needs are interdependent but that there also exist family and group interests and that society is divided into distinct classes.

Hegel's main attention, however, is to the state, on which he lavishes all the honorific phrases at his bestowal. In a sense he may be said to have tried to revive the Aristotelian or Hellenic conception of the state as the organized life of culture. But although he rejects Hobbes' notion that the state rests on force or serves empirical human needs he is extreme in his emphasis on the need of security and on a unitary sovereign in the person of a hereditary monarch.

The glorification of the national state naturally makes Hegel cold to the Kantian cosmopolitan ideal of perpetual peace founded on a world federation of republics. Each national state is absolute and war is not only necessary but a spiritual good. Since ethics is embodied in the state and there is no sovereign over all states, they are in relation to each other in "a state of nature" not subject to genuine moral laws. They are not, for instance, obliged to keep their agreements. From this anarchic and amoralistic view of international relations Hegel tries to escape by regarding history as the court in which providence passes judgment on the various nations. This makes history a theodicy; but it also makes mere survival the test of national righteousness—a doctrine that misses the tragedy of history and is equivalent to Napoleon's dictum that God is on the side of the heaviest artillery. This phase of Hegel's doctrine, however, is covered by the use of logical instead of theological terms, by an attempt to show that development in time follows the order of the categories of logic. But, as the number of logical categories is finite, history completes itself in the Prussia of his day. Moreover to display this logical order one people and only one can at any time represent the world

spirit; the rest are negligible and have no rights.

Hegel's treatment of art as found in his *Vorlesungen über die Aesthetik* (2 vols., ed. by H. G. Hotho, Berlin 1836-38; tr. by F. P. B. Osmaston as *The Philosophy of Fine Art*, 4 vols., London 1920) follows in the main the method of his philosophy of history, despite the fact that theoretically it belongs on a higher plane than universal history and social ethics. The division of history into that of the Orient, classical antiquity and Teutonic Christianity leads to a view of the evolution of art in which the corresponding stages are the symbolic, the classic and the romantic. The control of the material by the ideal is imperfect in the symbolic stage and perfect in classic beauty. But romantic art indicates that the idea is beyond the material. If this schematism is too abstract to be historically valid it still serves to show many connections between art, religion and other national institutions; and this view of art as an integral part of the social life of a community has since been widely adopted. Hegel's observations on the various arts have generally been viewed as too intellectual and devoid of sufficiently distinctive vision or taste. But he helped to liberate art from romantic sentimentalism and gave it dignity—beyond mere pleasure, market utility or aid to moral preachment—by viewing it as a liberation of human energy and as a partial revelation of the inner processes of nature. Hegel also mediates between the older classic view of art as conformity to rules and the romantic view of art as capricious inspiration. His followers, Weisse, Rosenkranz, Fischer and others, have made a contribution in developing the role of the ugly in fine art. Hegel also did much to reveal the great importance of comedy.

In his *Vorlesungen über die Philosophie der Religion* (ed. by Philipp Marheineke, 2 vols., Berlin 1832; tr. from 2nd German ed. by E. B. Speirs and J. B. Sanderson, 3 vols., London 1895) Hegel attempts to get rid of the multiplicity of diverse religions by arranging them in a dialectically progressive order that begins with magic and natural religion; goes through the religion of China, India, Persia, Egypt, Judaea (the religion of sublimity), Greece (the religion of beauty) and Rome (the religion of utility); and culminates in Christianity as the absolute religion. In this attempt to put the history of religion into a procrustean logical bed Islam is left out altogether, for although the last in time it is not for Hegel the best. The orthodox were naturally not satisfied with Hegel's intellectual-

istic interpretation of the historical dogmas of Christianity, which made it an imaginative adumbration of the Hegelian metaphysics. And the non-orthodox pointed out that the limitations and relativity which Hegel found in other religions are also in Christianity. Hegel's view of religion, however, has served to weaken the tendency to make it a vague, romantic sentimentality and has contributed powerfully to its study as a historical growth. Thus the modern movement known as the higher criticism of the Bible was largely molded by Hegel's disciples. By applying the Hegelian idea of religion as a continuous development Vatke helped to transform our idea of the Old Testament into something historically coherent, and Strauss and Christian Baur worked in the same direction for the New Testament.

The incompatible elements in Hegel's philosophy led to a break up of his school into a right and a left wing. The orthodox, like Göschel, Gabler, Weisse and others, stressed the Christian-Prussian phase of Hegel—the glorification of the actual as the rational. But the young Hegelians, like Strauss and Bruno Bauer, stressed the atheistic and critical sides of Hegelianism and Feuerbach emphasized its realistic and positivistic aspects. At the same time the radicals, Ruge, Marx and Lassalle, argued that since the Prussian state was not rational it was not real and was bound to be destroyed. In a later phase of his development Marx adopted Hegel's dialectic method, according to which concepts necessarily generate their own opposites; but he transformed it through the speculative materialism of Feuerbach. In Marx' application of the dialectic method to history every economic system contains the seeds of its own destruction and eventually gives way to its opposite. To this day Marxists regard the dialectic method as an extremely important element in their system: Engels is one of the few men after 1860 to say a good word for the Hegelian philosophy of nature, nor would Lenin allow the slightest divergence from Marx' dialectic materialism.

In Great Britain the Hegelian philosophy was introduced first in Scotland by Ferrier, J. Hutchison Stirling, John and Edward Caird; then at Oxford by T. H. Green, W. Wallace, Bosanquet and Bradley; and later at Cambridge by McTaggart. It has since molded the whole of English philosophy. This may be due largely to the fact that it offered a *media via* to avoid the materialistic evolutionism of the Spencerians without

adopting the narrowly orthodox religious opposition to physical science. It was thus part of the liberal effort to save the values of the old order and yet take advantage of the new. In the hands, however, of Ritchie and others it became also a defense of political radicalism of a collectivist character as opposed to the individualistic or nihilist liberalism of Spencer.

In America the Hegelian philosophy was introduced by the German political refugees of 1848 and became influential, especially in the field of education, with William T. Harris at St. Louis, whose *Journal of Speculative Philosophy* was the first philosophic periodical in English. Harris followed Hegel in the classical conception of education as the liberation of power through the mastery of the cultural tradition of the race, and he strongly influenced in their youth men as diverse as John Dewey and Nicholas Murray Butler. In the last two decades of the nineteenth century C. C. Everett, Josiah Royce and others studied Hegel's philosophy in Germany and reformed the Oxford tradition of Green, Bosanquet and Bradley; and today despite the reaction of pragmatism and realism idealists showing direct or indirect Hegelian influence are still perhaps the most numerous of American academic philosophers.

While there is a notable revival of the study of Hegel in Germany today, it has its greatest prestige in Italy. Introduced by Spaventa and Vera and applied to literature by F. de Sanctis, it was for a while eclipsed by positivism and the national Italian school. But Croce has brought it to the fore and Gentile has given it something of an official status.

MORRIS R. COHEN

*Works:* *Werke. Vollständige Ausgabe* . . . , 18 vols. (Berlin 1832-45) and a volume of Hegel's correspondence (Berlin 1887); *Sämtliche Werke*, ed. by H. Glockner, vols. i-xxi (Berlin 1927-30). The best text is that of the still incomplete edition (vols. i-viii, x<sup>a</sup>, xii pt. i, xiii-xiv, xviii<sup>a</sup>, xx pt. ii) by Georg Lasson begun in Leipzig in 1913. See also *Hegels theologische Jugendschriften*, ed. by H. Nohl (Tübingen 1907), and *Hegel Archiv*, ed. by Georg Lasson, 3 vols. (Leipzig 1912-16).

*Consult:* Rosenkranz, K., *Hegel als deutscher Nationalphilosoph* (Leipzig 1870); Haym, Rudolf, *Hegel und seine Zeit* (Berlin 1857); Caird, Edward, *Hegel* (Edinburgh 1883); Haering, Theodor Lorenz, *Hegel, sein Wollen und sein Werk*, vol. i- (Leipzig 1929- ); Hartmann, Nicolai, *Die Philosophie des deutschen Idealismus*, 2 vols. (Berlin 1923-29) vol. ii; Dilthey, W., *Gesammelte Schriften*, vol. iv (Leipzig 1921); Croce, Benedetto, *Ciò che è vivo e ciò che è morto della filosofia di Hegel* (3rd ed. Bari 1912), tr. from 3rd Italian ed. by Douglas Ainslie (London 1915); Rosenzweig,

F., *Hegel und der Staat*, 2 vols. (Munich 1920); Heller, Hermann, *Hegel und der nationale Machtstaatsgedanke in Deutschland* (Berlin 1921); Meinecke, F., *Die Idee der Staatsräson* (2nd ed. Munich 1925) p. 427-60; Vaughan, C. E., *Studies in the History of Political Philosophy before and after Rousseau*, 2 vols. (Manchester 1925) vol. ii, ch. iv; Basch, Victor, *Les doctrines politiques des philosophes classiques de l'Allemagne* (Paris 1927) chs. vi-vii; Barth, Paul, *Die Geschichtsphilosophie Hegels und der Hegelianer* (2nd ed. Leipzig 1925); Vogel, Paul, *Hegels Gesellschaftsbegriff und seine geschichtliche Fortbildung durch Lorenz Stein, Marx, Engels und Lassalle*, Kant-Studien, Ergänzungshäfte, no. 59 (Berlin 1925); Lausson, Georg, *Hegel als Geschichtsphilosoph* (Leipzig 1920); Ritchie, D. G., *Darwin and Hegel* (London 1893) p. 38-76; Marrast, Augustin, *La philosophie du droit de Hegel* (Paris 1869); Lasson, Adolf, *System der Rechtsphilosophie* (Berlin 1882); Binder, J., *Einführung in Hegels Rechtsphilosophie* (Berlin 1931); Luqueer, T. L., *Hegel as Educator*, Columbia University, Contributions to Philosophy, Psychology and Education, vol. ii, no. i (New York 1896); Mackenzie, M., *Hegel's Educational Theory and Practice* (London 1909); Engel, O., *Der Einfluss Hegels auf die Bildung der Gedankenwelt Hippolyte Taines* (Stuttgart 1920).

HEGEL, KARL (1813-1901), German historian. Under the influence of his father, the philosopher, Karl Hegel first turned to the study of systematic theology. His association with C. F. Schlosser and Gervinus in Heidelberg led him to become interested in history and he devoted himself especially to the study of municipal history. In his *Geschichte der Städteverfassung von Italien seit der Zeit der römischen Herrschaft bis zum Ausgang des zwölften Jahrhunderts* (2 vols., Leipzig 1847) he refuted the views of Savigny and Eichhorn that the mediaeval municipal organization of the cities of Italy, France and southwestern Germany is to be traced directly to the Roman form and instead advanced the thesis that the organization of the Italian city republics rested upon a purely Germanic foundation with but a slight tinge of Roman tradition. In later years he took issue less successfully with the guild theory made prominent by Gierke in his *Deutsches Genossenschaftsrecht*. Confining himself strictly to the determination of the facts, he sought in his *Städte und Gilden der germanischen Völker im Mittelalter* (2 vols., Leipzig 1891) to show that there was no connection between the guild and the municipal organization.

In addition to his other general work on town history, *Die Entstehung des deutschen Städtewesens* (Leipzig 1898), Hegel is important for his supervision of the publication of *Die Chroniken der deutschen Städte* (continued by G. von Below and J. Hansen, 35 vols., Leipzig 1862-1929). He himself prepared the records for Nu-

remberg, Strasbourg, Mainz and Cologne and in the case of Nuremberg was the first to set a figure that was supported by source material for the population of a town in the Middle Ages. His work in this field has led to a correction of the previous exaggerated estimates of the population of mediaeval towns.

HERMANN AUBIN

Consult: Hegel, Karl, *Leben und Erinnerungen* (Leipzig 1900); Frensdorff, F., "Karl Hegel und die Geschichte des deutschen Städtewesens" in *Hansische Geschichtsblätter*, 1901 (Leipzig 1902) p. 139-60.

HEINE, HEINRICH (1797-1856), German poet and social philosopher. Heine was born at Düsseldorf, the son of an impecunious Jewish family. The forces which permeated him in his youth, laying the foundations for the social ideal of his maturity, were as dissonant as the diverse sides of his nature. The ideas of the French Revolution were revered by his mother, a highly cultured, rationalistically minded woman; they possessed in addition the sanctity of association with emancipation of the Jews during the Napoleonic regime in the Rhineland from 1806 to 1813. On the other hand, the inadequacy of the liberal panacea was already being foreshadowed in the Rhenish region, where the process of industrialization, far more rapid than elsewhere in Germany, was beginning to engender the ills of the proletariat. Another quite different force countervailing liberalism was the natural affinity of Heine's poetic temperament with German romanticism, with that very worship of the Middle Ages which politically signified reaction to a feudal ideal of society.

While Heine was rising to literary fame during the twenties as the author of the *Buch der Lieder* (1827) and the *Reisebilder* (3 vols., 1826-30), his political incompatibility with the romanticists, who in alliance with Metternich were a progressively pervasive and stifling force, became indubitable. In disgust with an alien atmosphere, barred from preferment by antisemitism, the *romantique*, now definitely *défroqué*, left Germany in 1831 for France, where he spent the rest of his life. From this period dates his emergence as a distinguished journalist and devastating satirist in revolt against feudal Germany. His championship of the German bourgeoisie against the reactionaries temporarily aligned him with the liberals, particularly Ludwig Börne. But there was a fundamental cleavage between their ideas, which became explicit after Heine had discovered in Saint-Simonism the

basis for a positive world view. On the political side Saint-Simonism attracted him by its reconciliation of democracy with the aristocracy of talent. Its renunciation of the liberal fallacy of natural rights and equality and its concentration upon erasing only the inequalities caused by the conditions of birth and the possession of capital squared with his realism; its projection of a society ruled by the ablest among the industrialists and scientists satisfied that romantic worship of the genius as leader of the masses which in his youth had made him idolize Napoleon, the *menschgewordene Revolution*. To the liberals, however, his defense of the Saint-Simonian monarchy was incomprehensible in spite of his elaboration of his position in *Heinrich Heine über Ludwig Börne* (1840) and they laid his apostasy from their ranks to lack of character.

Heine perceived, unlike the liberals, that political and social change was only a means to cultural renovation. What interested him most intensely in Saint-Simonism was its delineation of a new religion. Fundamental harmony existed between the Saint-Simonian pantheistic socialism, with its emphasis on the value of life before death, and the joyous sensuousness of Heine, who in a typical work, *De l'Allemagne* (first published in *Revue des deux mondes* in 1834), conceived the whole process of western civilization as a struggle between the spirit obsessed Nazarenes (Jews and Christians) and the life worshipping Hellenes. The final goal of the world revolution was for him the "rehabilitation of matter . . . , its religious sanctification, its reconciliation with the spirit." It was his tragedy as a thinker that he surpassed the Saint-Simonians in realism and that in his later years he foresaw the historical task of the proletariat, by whose equalitarian tendencies, so uncongenial to him, would be destroyed not only the political forms of the *ancien régime*, which he abhorred, but its beauty, which the poet and Helene loved.

G. RAS

*Works:* The two best editions of Heine's complete works are those by O. Walzel, 10 vols. (Leipzig 1910-15) and H. Friedemann and others, 15 vols. (Berlin 1908). An English translation by C. Eland and others has been published in 12 vols. (London 1891-1905). A good edition of Heine's correspondence is that by F. Hirth, 3 vols. (Munich 1914-20).

*Consult:* Rav, G., *Börne und Heine als politische Schriftsteller* (Gröningen 1926); Wendel, H., *Heinrich Heine* (new ed. Berlin 1926); Walter, H., *Heinrich Heine* (London 1930); Lichtenberger, H., *Heinrich Heine, penseur* (Paris 1905); Wollf, M. J., *Heinrich Heine* (Munich 1922); Bieber, H., *Der Kampf um die Tradition*, Epochen der deutschen Literatur, vol.

v (Stuttgart 1928), especially p. 109-26; *Heinrich Heine, Gespräche, Briefe, Tagebücher, Berichte seiner Zeitgenossen*, ed. by Hugo Bieber (Berlin 1926).

HEINECCIUS, JOHANN GOTTLIEB (1681-1741), German jurist. Heineccius studied theology at the University of Leipsic. Subsequently he studied law at Halle, where he was appointed professor of philosophy and later professor of law and where he came under the influence of the eminent jurist Samuel Stryk. Afterward he taught for a short time at Franeker in the Netherlands and was professor of philosophy at Frankfurt on the Oder from 1727 until 1733, when he returned to Halle.

Heineccius was one of the important and influential jurists of the eighteenth century. His writings reflect his vast erudition, which reached far beyond the boundaries of ordinary learning; he had an expert knowledge of history and jurisprudence and his excellent training in philosophy gave him in addition a thorough command of scientific methodology. In the field of Roman law his leading works are *Antiquitatum romanarum jurisprudentiam illustrantium syntagma* (Halle 1719; 20th ed. by C. F. Mühlenbruch, Frankfurt 1841) and *Elementa juris civilis secundum ordinem Institutionum* (Amsterdam 1725; 2nd ed. by C. G. Biener, Leipsic 1815), which became a standard textbook. Both were subsequently edited and commented upon by a number of distinguished scholars. Heineccius also published a third compendium entitled *Elementa juris civilis secundum ordinem Pandectarum* (2 vols., Amsterdam 1727; new ed. by C. G. Richter, Leipsic 1797). His *Ad legem juliam et papianam poppaeam commentarius* (Amsterdam 1726, new ed. Leipsic 1778) is still a valuable work.

His most important book on German law was *Elementa juris germanici* (2 vols., Halle 1735-36; new ed. Venice 1751), one of the first basic presentations of the evolution of German private law. In it he anticipated the significance of the nascent Germanic law, maintaining that it prevailed to a great extent in Germany and asserting that Roman law was not universal in its application. Yet he did not go so far as to discuss German law in terms of German concepts and was never able to free himself from Roman dogmatic thought.

HANS FEHR

*Works:* *Opera omnia*, ed. by J. C. G. Heineccius, 9 vols. (Geneva 1765-71).

*Consult:* Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880-1910) vol. iii, pt. i, p. 179-98.

HELD, ADOLF (1844–80), German economist. Held was the son of a distinguished professor of public law. Trained in economics by F. B. W. Hermann at Munich, he soon dissented from the teachings of his preceptor, considering them too deductive and Ricardian. His doctoral dissertation, *Careys Sozialwissenschaft und des Merkantilsystem* (Würzburg 1866), criticized Carey's views as forming a partial return to pre-Smithian economics. He was a student of Engel, the great Berlin statistician, upon whose recommendation he was appointed to a chair of economics at the agricultural college in Poppelsdorf in 1867 and at the University of Bonn in 1869. Under Engel's influence Held devoted himself unreservedly to the exploration of the new paths which a historical descriptive approach and emphasis on social policy seemed to open to German economists of the historical school. His elaborate inductive studies of taxation, an article in the *Zeitschrift für die gesamte Staatswissenschaft* (vol. xxiv, 1868, p. 421–95) and *Die Einkommensteuer* (Bonn 1872), warned against too abstract theorizing on tax incidence and against overestimating the income tax as the sole means of reaching the entire taxable capacity; in this sense these works anticipate important conclusions of modern fiscal theory and practise. After 1875 he worked on what was to become his magnum opus on the industrial revolution in England, the uncompleted version of which was edited posthumously by G. F. Knapp as *Zwei Bücher zur sozialen Geschichte Englands* (Leipzig 1881). The study is based throughout on original English material and opened a field for new inquiry in England itself. It is of permanent value as a source book on the industrial revolution in England.

Held was secretary of the newly founded Verein für Sozialpolitik, represented the National Liberal party in the columns of *Concordia* and on the platform and participated in the old Catholic opposition against the Vatican Council of 1870. He was generally liked because of his conciliatory nature; his decided criticism of Marxian socialism did not alienate from him the sympathies of socialists. Held died a year after he was called to a joint chair of economics at the University and the Agricultural College of Berlin.

CARL BRINKMANN

Consult: Wagner, Adolf, in *Allgemeine deutsche Biographie*, vol. xiii (Leipzig 1881) 494–98; Knapp, G. F., "Einführung in einige Hauptgebiete der Nationalökonomie" in *Ausgewählte Werke*, vols. i–iii (Munich 1925–27) vol. i, p. 350–62; Nasse, Erwin, in *Verein für Sozialpolitik, Schriften*, vol. xix (1880) i–xv, containing full bibliography of Held's writings; Ochen-

kowski, W. von, "Adolf Helds sozialpolitische Geschichte Englands" in *Schmollers Jahrbuch*, vol. vi (Leipzig 1882) p. 977–91.

HELFFERICH, JOHANN ALFONS RENATUS VON (1817–92), German economist Helfferich, a student of Hermann and Nebenius, was professor of economics at various German universities. His main interest was in the field of monetary theory, and his *Von den periodischen Schwankungen im Werte der edlen Metalle von der Entdeckung Amerikas bis zum Jahre 1830* (Nuremberg 1843) is the most important contribution to that subject in Germany in the nineteenth century. In this work Helfferich attempted to disprove the opinion, widely held at the time, that the value of money is subject to wide short run fluctuations. He pointed to the high degree of elasticity in the demand and supply of precious metals and to the interlocal exchange operations as substantial factors in keeping the value of money fairly stable. His monetary theory, based on thorough historical research, was a synthesis of the cost of production theory with a modified quantity theory, which takes into account the subjective valuations of money as determined by the distribution of income. Of his later works "Die österreichische Valuta seit dem Jahre 1848" (in *Zeitschrift für die gesamte Staatswissenschaft*, vol. xi, 1855, p. 259–319, and vol. xii, 1856, p. 85–146, 403–60) is noteworthy for its excellent criticism of the irresponsible policy of the Austrian bank of issue which led to the collapse of the currency in 1848. It is also valuable for its statistical and theoretical analysis in the spirit of Tooke of the foreign exchange fluctuations of a depreciated paper currency, which took account of the quantity of money, balance of payment and psychological factors. In this connection Helfferich examined for the first time the economic effects of monetary instability on debtor-creditor relations, which up to that time had been treated in German literature primarily from the legal point of view. Helfferich's other writings on price statistics, public finance, agriculture and forestry are of little importance.

M. PALYI

Consult: Altmann, S. P., "Zur deutschen Geldlehre des 19. Jahrhunderts" in *Die Entwicklung der deutschen Volkswirtschaftslehre im neunzehnten Jahrhundert*, 2 vols. (Leipzig 1908) vol. i, ch. vi.

HELFFERICH, KARL (1872–1924), German economist, banker and statesman. Helfferich, who studied under Knapp and Lotz, began his



career as a writer on currency theory. He won early recognition by his two-volume work, *Die Reform des deutschen Geldwesens nach der Begründung des Deutschen Reiches* (Leipzig 1898), and in 1901 was appointed professor at the University of Berlin. In 1901 he entered the Foreign Office, where he devoted much attention to constitutional and currency reform in the German colonies; and in 1906 he joined the service of the Deutsche Bank, which sent him to Turkey to investigate the question of the Bagdad Railway. He concluded with Turkey the celebrated agreement of 1908 providing for the construction of the Bagdad Railway into Kurdistan as far as El Helif. An account of these experiences is to be found in his book on *Georg von Siemens, ein Lebensbild aus Deutschlands grosser Zeit* (3 vols., Berlin 1921-23), which is a valuable source book for the history of the Deutsche Bank—of which Siemens was the founder and most important director—and thereby of German banking in general. In 1915 Helfferich entered the cabinet as secretary of the federal Treasury and later became minister of the interior and vice chancellor. Like the financial leaders of most of the other warring nations Helfferich sought to avoid heavy taxation and to finance the war by borrowed funds; this led indirectly to an increase in the circulation of banknotes and thus undermined the German currency system even before the end of the war. As the most influential member of Bethmann Hollweg's cabinet Helfferich at first opposed the use of intensified U-boat warfare, but after the beginning of 1917 he actively supported the policy; this change of position, for which he was later frequently attacked, he sought to justify in his three-volume book, *Der Weltkrieg* (Berlin 1919).

In the course of his life Helfferich turned from liberalism to conservatism. While his *Handelspolitik* (Leipzig 1901) was a popularization of free trade doctrines, his *Deutschlands Volkswohlstand 1888-1913* (Berlin 1913, 5th ed. 1923; English translation New York 1914) presents an unduly favorable estimate of Germany's progress under William II. After the war Helfferich became leader of the *Deutschnationale Volkspartei*; in this capacity he was uncompromisingly opposed to the new republic, its institutions and its leading personalities.

Helfferich's scientific interest centered in the fields of monetary theory and history of monetary reform. The summary of his research is contained in *Das Geld* (Leipzig 1903, 6th enlarged ed. 1923; tr. by T. E. Gregory, 2 vols.,

London 1927). His theoretical position is essentially a justification of the gold standard. His view that the value of gold is relatively stable and that it is determined by manifold factors of demand as well as of supply represented the opinion most widely held in Germany before the World War; he characteristically disputed the connection between the rate of interest and the value of money. In practical currency policy he is credited by some with the invention of the *Rentenmark*; it is certain that the project of a *Roggenmark* was worked out by him in August, 1923. This proposal, to issue a paper currency whose value was to be "firmly" linked with the price of rye and which would thus assure to the German rye producer a fixed price for his product in *Landesgeld*, was rejected. In its place was adopted the *Rentenmark* based on *Rentenbriefe* (agricultural mortgage bonds), a device resorted to during the French Revolution. The stabilization of the mark, however, was due not to this technical adjustment but to the assurance of the limited issue of a new circulating medium.

M. PALYI

*Consult:* Lumm, Karl von, *Helfferich als Währungspolitiker und Geldlehrer* (Leipzig 1926); Ramhorst, Friedrich, *Die Entstehung der deutschen Rentenbank*, Reichsverband der Deutschen Industrie Veröffentlichungen, vol. xx (Berlin 1924); Germany, Auswärtiges Amt, *Die grosse Politik der europäischen Kabinette*, 40 vols. (Berlin 1922-27) vols. xxxvi-xxxvii, xxxi-xxxii, xxxvii; Pinner, Felix, *Deutsche Wirtschaftsführer* (15th ed. Charlottenburg 1925) p. 179-80. A bibliography of Helfferich's writings is to be found in the article by J. W. Reichert in *Handwörterbuch der Staatswissenschaften*, supplementary volume (4th ed. Jena 1929) p. 492-503.

HELPER, HINTON ROWAN (1829-1909), American publicist. Helper's book *The Impending Crisis* was an indictment of slavery from the point of view of a middle class southerner. It circulated widely and became an effective document in the Lincoln presidential campaign. On the basis of the census of 1850 Helper made a statistical comparison of the wealth, income and productivity of the north and south, showing that the former everywhere enjoyed an advantage, even in agriculture, the chief southern industry. He maintained that slave labor not only thwarted democratic institutions in the south but also impoverished that section by preventing the accumulation of capital and the development of a free white labor class. He regarded as the chief victims of the system the non-slave holding poor whites, disfranchised and forced into the sterile hills and plains by unsuccessful compe-

tition for land with wealthy planters; he urged them to organize politically, to levy a tax upon slave owning and to use the proceeds for the recolonization of the Negroes in Africa. In the south Helper was classed with Harriet Beecher Stowe despite the anti-Negro sentiments implied or stated in all his works. His interest was to free the south from what he regarded as an encumbrance, not to free the Negro. After serving in the Lincoln administration as consul at Buenos Aires he proposed the establishment of a railroad to connect the Americas from the Bering Sea to the Strait of Magellan, a project to promote which he expended a fortune.

ABRAM L. HARRIS

*Important works:* *Land of Gold* (New York 1855); *The Impending Crisis of the South* (New York 1857); *No-joke* (New York 1867); *Negroes in Negroland* (New York 1868); *Noon-day Exigencies in America* (New York 1871); "Projected Inter-continental Railway," United States, Senate, 59th Cong., 1st sess., *Senate Document*, no. 504 (1906).

*Consult:* Polk, William T., "The Best Hated Man in the South" in Charlotte, N. C., *News and Observer* (December 2, 1928); Channing, Edward, *A History of the United States*, 6 vols. (New York 1905-27) vol. vi, p. 203-10; Wolfe, S. M., *Helper's Impending Crisis Dissected* (New York 1860).

HELVÉTIUS, CLAUDE ADRIEN (1715-71), French philosopher. A man of great wealth, a traveler well acquainted with England and Germany, the host of a famous salon, Helvétius held the posts of farmer general and *maitre d'hôtel* to the queen until 1750, when he resigned in order to devote himself to philosophy. The only work which he published during his lifetime was *De l'esprit* (Paris 1758; tr. by W. Mudford, new ed. London 1810) but he left behind several others, among them *De l'homme*. Helvétius' writings represent the most extreme form attained by the sensationalistic and utilitarian philosophy in eighteenth century France. When *De l'esprit* appeared it was censured by the Sorbonne, the pope and the Parlement de Paris and in 1759 it was burned by the public executioner. Even Diderot found himself unable to subscribe to it. But in spite of Diderot's systematic refutation of the work and in spite of the fact that Helvétius never collaborated in the *Encyclopédie* the authorities held the sensationalistic philosophy expounded by the *encyclopédistes* responsible for Helvétius' dangerous principles. The appearance of *De l'esprit* was thus an important factor in the second suppression of the *Encyclopédie*.

According to Helvétius the content of consciousness, of which *De l'esprit* proposes to give

a complete analysis, is derived entirely from physical sensation. Since this sensation is the same in all men as well as in many animals, it follows that intellects are basically identical. The diversity in their manifestations or rather in the objects of their attention is also ultimately explained by physical sensation, which engenders passion, or the impulse driving men to seek pleasure and avoid pain. But the force which determines the direction of passion and so of the intellect is the judgment of society; for each individual is constrained by solicitude for his own comfort to live in harmony with his environment. Since the judgment of a particular society is dependent upon the interests of its members or of its ruling caste, the types of intellect will be as diverse as the sets of social conditions which evoke them. When the priestly class holds a position of authority, religious superstitions will be prevalent. Helvétius sees philosophy as the only avenue through which the individual may escape from the omnipotence of his environment to interests truly universal.

The relation between external conditions and the formation of intellect leads Helvétius to the subject of education. In *De l'homme, de ses facultés intellectuelles et de son éducation* (2 vols., London 1772; tr. by W. Hooper, new ed. London 1810) he attempts to show in opposition to Rousseau that formal instruction and particularly the system of reward and punishment used in such instruction are the supreme factors in the development of the intellect; or, in terms of his philosophy, in the development of the passions which produce the intellect. He concludes by declaring that all types of intellect, even genius, may be artificially created. By its very exaggeration of the importance of social factors in education Helvétius' work was a valuable corrective to the influence of Rousseau. Although the extremism which made his theories attract attention also doomed them for the most part to transiency, several of his ideas were taken over by P. J. G. Cabanis in *Rapports du physique et du moral de l'homme* (2 vols., Paris 1802; new ed., 1 vol., 1844).

RENÉ HUBERT

*Works:* *Oeuvres complètes*, 4 vols. (Liège 1774; new ed. by J. F. Saint-Lambert, 3 vols., Paris 1818). A collection of his *pensées* and autobiographical notes has been edited by A. Keim as *Notes de la main d'Helvétius* (Paris 1907).

*Consult:* Keim, A., *Helvétius, sa vie et son oeuvre* (Paris 1907); Damiron, J. P., in *Académie des Sciences Morales et Politiques, Mémoires*, 2nd ser., vol. ix (1855) 105-289; Plekhanov, G. V., "Ocherki po istorii

materializma" in his *Sochinenii*, vol. viii (Moscow 1925), German translation with title *Beiträge zur Geschichte des Materialismus* (3rd ed. Stuttgart 1921) p. 63-137; Wickwar, W. H., "Helvetius and Holbach" in *The Social and Political Ideas of Some Great French Thinkers of the Age of Reason*, ed. by F. J. C. Hearnshaw (London 1930) ch. viii; Grossman, Mordecai, *The Philosophy of Helvetius, with Special Emphasis on the Educational Implications of Sensationalism*, Columbia University, Teachers College, Contributions to Education, no. ccx (New York 1926); Tallentyre, S. G. (Hall, E. B.), *The Friends of Voltaire* (London 1906) ch. viii; Guillois, Antoine, *Le salon de Madame Helvétius* (Paris 1894).

HENCKEL, GUIDO, FÜRST VON DONNERSMARCK (1830-1916), German industrialist. Prince Guido was a member of a wealthy family of merchants, bankers and landowners which had been prominent in the economic life of the country since the sixteenth century. Beginning with the exploitation of his family's vast mining properties in Upper Silesia Prince Guido built up one of the most powerful business concerns in pre-war Germany, with interests extending to many foreign countries. By establishing pig iron works in Stettin, Lübeck, Emden and Bremen he was the first to meet successfully the competition of English iron in the coast provinces of the North Sea. Later he acquired ironworks in the Rhineland and iron mines in Sweden. Utilization of by-products of coal and iron brought him into close touch with the chemical industry. Eventually he controlled enterprises producing potash, cellulose, paper, rayon and building materials and had large interests in real estate and banks. In the variety of its organically unrelated interests Prince Guido's concern was in marked contrast to the horizontal trend characteristic of German combinations prior to 1918 and in some ways resembled the post-war Stinnes concern. Unlike the latter, however, it was not the product of abnormal inflationary conditions but rather the creation of a restless and versatile entrepreneur commanding a large capital and seeking an ever wider field of activity. The concern and the private fortune of Prince Guido, the value of which was estimated at approximately 300,000,000 marks in 1914, did not survive the master. The enterprises in Upper Silesia, the original nucleus of the organization, suffered greatly from the paralysis of business resulting from the cession of that province to Poland.

JAKOB STRIEDER

Consult: Pinner, Felix, *Deutsche Wirtschaftsführer* (Charlottenburg 1924) p. 81-85; Knochenhauer, Bruno, *Die oberschlesische Montanindustrie* (Gotha 1927) p. 111-16.

HENDERSON, CHARLES RICHMOND (1848-1915), American social worker. After twenty years as a Baptist clergyman Henderson joined the faculty of the new University of Chicago, dividing his time between the department of sociology, the divinity school and a host of civic organizations. Although nominally a sociologist his contributions were to social ethics and social reform. Influenced by Brockway he became a leader in the prison reform movement, finding recognition as president of the International Prison Congress in 1910. He accepted conventional charity organization principles but was also interested in public relief systems. His greatest interest lay in the field which he called social politics, dealing with problems of industrial accidents, occupational diseases, unemployment and industrial disputes. In his last book he favored a transition from philanthropy and welfare schemes to social legislation, but he was not sanguine concerning the prospects of industrial democracy. He was less an originator than a compiler and promoter, but he was a man of wide influence.

STUART A. QUEEN

*Important works:* *Introduction to the Study of the Dependent, Defective and Delinquent Classes* (Boston 1893, 2nd ed. 1901); *Social Elements, Institutions, Character, Progress* (New York 1898); *Modern Methods of Charity* (New York 1904); *Die Arbeiter-Versicherung in den Vereinigten Staaten* (Berlin 1907), revised and tr. as *Industrial Insurance in the United States* (Chicago 1909); *Correction and Prevention*, 4 vols. (New York 1910); *Social Programmes in the West* (Chicago 1913); *Citizens in Industry* (New York 1915).

HENLEY, WALTER OF (thirteenth century, exact dates of birth and death unknown), English agriculturist. Walter of Henley wrote *Le dite de husebondrie* in the Anglicized Norman French dialect of the first half of the thirteenth century. Nothing certain is known of him except that he was, as he says himself, a bailiff in charge of a landed estate. A manuscript written in the reign of Edward III gives details for which no authority has yet been discovered. It styles him "Sire Waltier de Hengleue" and adds that he became a "chivalier" and ultimately a "frere precheur." In other words he became a man-at-arms, if not a knight, and joined the Dominican order. The work is valuable to us for the light which it throws on rural employments in the reign of Henry III. It is a practical treatise by a practical man on operations of farming, management of livestock, the return of given quantities of seed

the yield of dairy cattle and poultry and means of checking leakages and frauds by employees. Twenty-one manuscripts known to be extant attest its wide circulation. It was translated into English, Welsh, French and Latin and was plundered without acknowledgments by the anonymous compiler of *Fleta*. An English version published by Wynkyn de Worde is among the earliest printed books. Fitzherbert, whose *Boke of Husbandry* finally superseded it in 1523, appropriated from it large and unacknowledged extracts. It even survived into the seventeenth century: Gervase Markham quotes its distinction between the effects of marl and manure on the soil in his *Enrichment of the Weald of Kent* (London 1625). It lived because, however land was held, its experienced advice continued useful to agriculturists; whereas its three contemporaries, the two anonymous treatises *Hosebonderie* and *Seneschaucie* and *Les règles seynt Roberd* of Bishop Grosseteste, which were concerned mainly with manorial organization, failed to survive the substitution of money rents and wages for labor services. Walter of Henley's *Husbandry* has been admirably edited and translated with transcripts and glossary by Elizabeth Lamond (London 1890).

ERNLE

Consult: Cunningham, W., Introduction to Lamond edition of *Husbandry*, and Royal Historical Society, *Transactions*, n.s., vol. ix (1895) 215-21.

HENRY II (1133-89), king of England, 1154-89. Henry founded his government upon those of his grandfather, Henry I of England, and his father, Geoffrey, count of Anjou. He was distinguished equally for his use of the best methods of his predecessors and for his own wise innovations. The common law of England—common to all the country and with trifling exceptions to all men above serfs—was founded in his reign. Itinerant justices dispensed a uniform justice over the land, and the royal courts whether central or local were opened to an increasing amount of litigation. Henry made the sworn inquest, which had been brought to England at the time of the Conquest, a regular part of court procedure and developed it along new lines. A jury was introduced for the purpose of indicting suspected criminals, thus recognizing that crime was a concern of the state and not solely a matter for private prosecution. In the most important civil suits the tenant could honorably place himself on a trial jury and avoid trial by battle; while by the possessory assizes,

which became immensely popular and spread the use of the jury into new actions, the principle was laid down that no one could interfere with possession except on the basis of a court judgment. Henry also distrusted the ordeal and took the first step toward a traverse jury. In 1178 in appointing justices to sit at Westminster he ordained a permanent central court, long known simply as the Bench, to which can probably be traced the origin of the court of common pleas. The Exchequer was becoming a court of law in debt cases and reached such high development as a treasury department that it inspired the famous *Dialogus de Scaccario*, while the new law and procedure of the royal courts led to the writing late in the reign of the first great English law book, the *Tractatus de legibus et consuetudinibus regni Anglie* ascribed to Glanvill, Henry's chief justiciar. Henry struggled with partial success against the advancing claims of the church courts championed by Becket.

Although a man of war both in France and against his rebellious sons, Henry was a peace king, his measures making a more permanent contribution to civilized and ordered society than those of any other English sovereign. He ruled over more than half of France, but his reforms scarcely penetrated beyond Normandy and Anjou and even in those provinces lasted only a short time after his death.

ALBERT BEEBE WHITE

Consult: Salzman, L. F., *Henry II* (Boston 1914); Norgate, Kate, *England under the Angevin Kings*, 2 vols. (London 1887) vol. i, chs. viii-xi, vol. ii, chs. i-vi; Morris, W. A., *The Constitutional History of England to 1216* (New York 1930) chs. xii-xv; Haskins, C. H., *The Normans in European History* (Boston 1915) ch. iv; Pollock, F., and Maitland, F. W., *The History of English Law before the Time of Edward I*, 2 vols. (2nd ed. Cambridge, Eng. 1898) vol. i, p. 136-73; Green, A. S., "The Centralization of Norman Justice under Henry II" in Association of American Law Schools, *Select Essays in Anglo-American Legal History*, 3 vols. (Boston 1907-09) vol. i, p. 111-38.

HENRY IV (1050-1106), Holy Roman emperor from 1056. Upon the termination of the regency in 1065 Henry launched a counter movement against the alienation of royal property and privileges which had taken place, especially in the Harz region, during his minority. The reaction, inevitable but overhasty, incited the great Saxon rebellion. After he had suppressed this he entered upon his prolonged conflict with the papacy. The so-called investiture conflict (*q.v.*) arose from the efforts of the church under the leadership of Gregory VII (*q.v.*) and later popes,

particularly Urban II, to put an end to the investiture of ecclesiastics by members of the laity. Henry valued the traditional royal privilege of investing bishops because the German ecclesiastics also fulfilled important temporal functions in the imperial government. His spectacular humiliation at Canossa in 1077 after the German princes had rallied to Gregory's support was the first of many not altogether undeserved reverses. But he maintained his position until his death with such tenacity that his son, Henry V, was able to carry on the struggle.

In social and political history Henry is notable as the first to seek support for the kingship against the temporal and spiritual princes in the lower strata of the population. When the bourgeoisie of the Rhenish cities revolted against their bishop-princes he gave them assistance; he entrusted important administrative functions to the class of imperial officials which had risen from serfdom to knighthood. It was left to his successors to reap the profit of such innovations, since neither of these classes was sufficiently strong in Henry's time to help him defeat the feudal lords. The legislation of his last years had a dominantly social purpose. By the general peace of Mainz in 1103 he forbade the nobility to engage in warfare not merely on certain days or occasions, as the earlier "peaces of God" had provided, but for a continuous period of four years. In the field of criminal law he was the first to establish equal corporal and capital punishment for freemen and bondsmen in offenses ranging from breach of peace to serious crimes; this work initiated the long process of incorporating the lower classes into constitutional life. His downfall in the last year of his life was finally precipitated by his attempt to protect the peaceful industry of townsmen and farmers against the encroachments of the nobility. Although his interference was repaid by a revolt of the nobles under the leadership of his son, which led to his deposition, it assured him the sorrowful reverence of the people.

KARL HAMPE

*Consult:* Nitzsch, K. W., "Das deutsche Reich und Heinrich IV" in *Historische Zeitschrift*, vol. xlv (1881) 1-42, 193-250, and "Heinrich IV und der Gottes- und Landfrieden" in *Forschungen zur deutschen Geschichte*, vol. xxi (1881) 269-97; Hirsch, H., *Die hohe Gerichtsbarkeit im deutschen Mittelalter*, Deutsche Gesellschaft der Wissenschaften und Künste für die Cechoslowakische Republik, Quellen und Forschungen aus dem Gebiete der Geschichte, vol. i (Prague 1922); *Jahrbücher des deutschen Reiches unter Heinrich IV und Heinrich V*, ed. by G. Meyer von Knonau, 7 vols. (Leipzig 1890-1909).

HENRY IV (1553-1610), king of France. Proclaimed king of Navarre in 1572, Henry became king of France in 1589, although he was not universally recognized until five years later after his conversion and the capture of Paris. During the twelve years of his actual administration, following the final consolidation of his position in 1598, he devoted himself to the task of repairing the devastations which France had suffered during the preceding decades of civil war and invasion. Working in close contact with his friend the duke of Sully (*q.v.*), whom in 1597 he had appointed superintendent of finances, Henry carried forward a program of internal improvements, which included the rebuilding of roads, dredging of rivers, building of canals and draining of swamps. He was deeply influenced by Sully's agrarianism but manifested at the same time an active interest in the industrial program of his retainer Barthélemy de Laffemas (*q.v.*). By his general support of new manufactures as well as by his encouragement of maritime commerce and colonial activity in America Henry anticipated the mercantilist doctrines as elaborated and refined by Richelieu and Colbert. His skill as a political administrator combined with his Gascon jocularly and a judicious use of money enabled him to reestablish order throughout France and to introduce a period of peace, notably in the religious world. At first a Huguenot, afterward a convert to Catholicism and even a protector of the Jesuits, he promulgated the far reaching Edict of Nantes of 1598, which ushered in liberty of conscience and within certain limits liberty of worship, civil equality and guaranties of security. Equally active in the conduct of foreign affairs, he imposed on Spain after years of warfare the peace of Vervins; reconciled the papacy and the republic of Venice; and as a protection to Geneva advanced the frontiers of Burgundy at the expense of the duke of Savoy. He was the ally of Elizabeth and James VI of Scotland, friendly with the United Provinces and the German Protestant princes and was preparing at the time of his assassination the resumption of the struggle against the house of Austria. Essentially a realist in spirit and in policy, Henry was far from nourishing the dream of a European republic such as Sully was to impute to him.

HENRI HAUSER

*Consult:* Pfister, C., "Les économies royales de Sully et le grand dessin de Henri IV" in *Revue historique*, vols. liv-lvi (1894) 300-24, 67-82 and 291-302, 39-48 and 304-39; La Roncière, Charles de, *Histoire de la marine française*, 5 vols. (Paris 1899-1920) vol. iv, p.

261-390; Willert, P. F., *Henry of Navarre and the Huguenots in France* (London 1893); Vaissière, P. de, *Henri IV* (Paris n.d. [1928]); Fagniez, G., *L'économie sociale de la France sous Henri IV* (Paris 1897); Hauser, H., *Les débuts du capitalisme* (Paris 1927) chs. v-vi.

HENRY VII (1456-1509), king of England, 1485-1509. Henry's right to the throne and his position as founder of the Tudor dynasty rested on his mother's claims, on the fortunes of war, on his acceptance by Parliament, on his subsequent marriage with Elizabeth, representative of the rival royal house of York, and on his success in bringing about the imprisonment or execution of all pretenders to a better right than his own. It was not, however, until his reign was more than half over that complete recognition of his right to reign was everywhere accepted and the house of Tudor fully established. Henry was also founder of a new dynasty in the sense of establishing the unquestioned supremacy of the king over Parliament and over the nobility. Parliaments were called less frequently than they had been for the preceding century and a half and when they met were more submissive to the king's bidding. The power of the nobles, already diminished by the losses of the Wars of the Roses, was further weakened by laws forbidding noblemen and gentlemen to grant liveries to followers and dependents not actually in their employ as well as by a reorganization and strengthening of centralized criminal jurisdiction exercised by the King's Council meeting regularly in the Star Chamber. Responsive to the interest in exploration and commerce characteristic of his time, Henry signed commissions authorizing the expeditions of the Cabots and later explorers and acknowledged their discoveries in America by the grant of petty rewards. He negotiated favorable commercial treaties with Denmark, Burgundy and Florence and encouraged the Merchant Adventurers and other English merchants by the grant of charters and by following a nationalist policy in treaties and in trade legislation. Henry's financial policy was skilful and successful; he balanced his income and expenditures and bequeathed to his successor a full treasury. This was done, however, through rigorous measures of taxation and enforced loans, which decreased his own popularity and enraged the people against his financial ministers. At his death the new dynasty was established, the country at peace and orderly, finances were satisfactory, the commercial classes prosperous and trade expanding. Except for the turmoil due to agricultural enclosures conditions in the country

might be considered to have justified Henry's policy as king.

EDWARD P. CHEYNEY

*Consult:* Bacon, Francis, *Historie of the Raigne of King Henry the Seventh* (London 1622); Gairdner, James, *Henry the Seventh* (London 1889); *Historia regis Henrici Septimi, and Letters and Papers Illustrative of the Reigns of Richard III and Henry VII*, ed. by James Gairdner in Great Britain, Public Record Office, *Rerum britannicarum mediæ ævi scriptores*, vols. x, xxiv (London 1858, 1861-73); Busch, Wilhelm, *England unter den Tudors* (Stuttgart 1892), tr. by A. M. Todd (London 1895); Innes, A. D., *England under the Tudors* (9th ed. London 1929), with bibliography.

HENRY VIII (1491-1547), king of England (1509-47). In the personal position of the sovereign and the extent of his authority English kingship probably reached its highest point in Henry VIII. Unlike the six sovereigns who had immediately preceded him and many who succeeded, he was secure in his claim to the throne, inheriting through his father and his mother respectively the rights of the lines of Lancaster and York. His security of position was reflected in his policy. The ministers and nobles who fell from office—or who were executed or banished—were those who opposed his policy or failed to carry out his wishes, not those who threatened his security. The only serious internal opposition he had to meet during his long reign was a temporary rising of the nobles, clergy and people of the northern shires against his religious policy. The most striking instance of his unparalleled authority was the success of Henry and of Wolsey (*q.v.*) in separating the English church from the papacy, although the same prestige is indicated by his use of proclamations with the force of law, his settlement of the succession, his irregular taxation and his dissolution of the monasteries and other corporations.

In all of these cases he was able, thanks to the new technique of parliamentary manipulation evolved by Thomas Cromwell (*q.v.*), to proceed through the regular channels of parliamentary legislation. Despite the autocratic character of his government he called Parliament frequently, created no standing army, exercised little censorship over the press and had no bodyguard. His strength was due not only to his secure position, long reign and despotic temperament but to the general coincidence of his ideas with those of the most influential classes of his people and with the tendencies of the time. In England as in other countries of Europe order was more desired in that period than liberty. His enthusiasm for naval expansion and exploration en-

cleared him to the commercial and other economic interests which looked to the monarchy for encouragement.

As a youth he was the idol of the people, handsome, vigorous, mentally alert, well educated and singularly persistent in whatever he undertook. His literary and legal opposition to Lutheranism was followed by the long dispute with Rome arising from the divorce question—a dispute which brought England so near to the faith which her king had earlier opposed. During the earlier part of his reign he frequently intervened in continental alliances, but his later years were characterized in general by a rigid isolation. By his will, authorized by Parliament, he established the succession of his three children, Edward, Mary and Elizabeth; but his provision after them for the descendants of his younger sister was reversed in favor of the descendants of his older sister, the kings of the house of Stuart.

EDWARD P. CHEYNEY

*Consult:* Pollard, A. F., *Henry VIII* (2nd ed. London 1905); Innes, A. D., *England under the Tudors* (9th ed. London 1929) chs. v-xi, and bibliography.

**HENRY OF LANGENSTEIN** (1325-97), German mathematician, astronomer, theologian and jurist. He was born near Langenstein in Hesse. For many years he occupied the position of professor of philosophy and theology in the University of Paris. In the controversy arising out of the western schism he supported the cause of Pope Urban VI and advocated the assembly of a general council. Rather than acknowledge the antipope Clement VII he left Paris and settled at Wiesbaden, whence he was summoned in 1384 by Albert III, duke of Austria, to assist in founding the faculty of theology in Vienna University. He spent the remainder of his life in Vienna teaching and writing on theology and canon law.

Henry of Langenstein was one of the most learned men of his age. Possibly his most important work was the *Tractatus de contractibus* (published with the works of Gerson, Cologne 1483, vol. iv, fols. 185-253), for which he was regarded by later writers as a high authority on contracts. This treatise throws much light upon the attitude of the later mediaeval canonists toward economic matters. The duty of labor is strongly emphasized, and disapproval is expressed of living on rents except in the case of persons engaged in the service of the church or state or in the case of the aged. Every commodity is

stated to possess a just price at which it must be sold. The principal rule for determining the just price is that it must be sufficient to maintain the seller in the status to which he belongs; any attempt to raise one's status by charging higher prices is sinful. Usury and speculation are strongly condemned. He would extend the prohibition of usury to apply also to Jews but urged that the latter be allowed to engage in crafts, trade and agriculture.

GEORGE O'BRIEN

*Consult:* Hartwig, O., *Henricus de Langenstein . . . zwei Untersuchungen über das Leben und die Schriften* (Marburg 1857); Roscher, Wilhelm, *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) p. 18-21; Brants, Victor, *L'économie politique au moyen âge* (Louvain 1895).

**HENRY THE NAVIGATOR** (1394-1460), Portuguese explorer and empire builder. Henry was the son of John I of Portugal, whom he persuaded to undertake the conquest of Ceuta. Its fall in 1415 gave the first impulse to Portuguese expansion. Shortly afterward Henry withdrew to the promontory of Sagres, the southernmost point of Portugal, where he founded a community for nautical and astronomical studies, called Villa do Infante, consisting of his protégés and foreign technicians including Jacome de Maiorca, Cadmosto and Noli. The group began by collecting information on Morocco and studying the books and maps acquired by Henry's brother Dom Pedro, the celebrated traveler and scholar. Through their research Henry and his associates created the science of navigation, which until then had been a subject of superstitious speculation and terror.

At his instigation voyages of exploration were made to Porto Santo, Madeira, the Azores, Cape Verde and down the west coast of Africa to the fifteenth parallel. Successful colonies were planted in the newly discovered territories by methods which form the basis of the modern science of colonization. Henry fostered the Portuguese trade with Africa, developed the traffic in slaves and introduced into Madeira the cultivation of sugar, which became a great source of wealth. Through his efforts Portugal began to be transformed from a small agricultural country to a great colonial power which for a time was to lead the world in discovery and exploration. His ultimate object was to find the sea route to India with a view to restoring to the Portuguese the oriental commerce in spices and discovering the legendary kingdom of Prester John. His persistence in his search gave a tre-

mendous impetus to European exploration and directed it along two main lines: around the Cape to the East Indies and across the Atlantic toward the West Indies.

## FIDELINO DE FIGUEIREDO

*Consult:* Beazley, C. R., *Prince Henry the Navigator* (new ed. London 1923), and "Prince Henry of Portugal and His Political, Commercial and Colonizing Work" in *American Historical Review*, vol. xvii (1911-12) 252-67; Oliveira Martins, J. P., *Os filhos de D. João I* (5th ed. Lisbon 1926), tr. by J. J. Abraham and W. E. Reynolds as *The Golden Age of Prince Henry the Navigator* (London 1914).

HERBERT, JOHANN FRIEDRICH (1776-1841), German educator. Herbert was early acquainted with the philosophies of Wolff and Kant and began to study under Fichte in 1794 but soon developed antagonistic ideas. As a private tutor in Berne in 1797 he established connections with Pestalozzi. In 1802 he became lecturer at the University of Göttingen and in 1809 professor in Königsberg, succeeding Kant. Here he founded a pedagogical seminary with a model school which served as a place for experiment and research and as a training ground for high school teachers. In 1833 he returned to Göttingen, where four years later he was abandoned by his students when he took no part in the protest by a group of Göttingen professors against the king's violation of the constitution.

Herbert saw the purpose of education as "virtue." The means he saw as "government," which produces an exterior order and averts evil; as "discipline," which aims at winning the will of the child for virtue and at ennobling that will; and above all as "instruction," which by systematic cultivation of ideas leads the pupil to acquire a moral personality. Instruction takes place in four steps: isolating the individual concept ("clearness"), connecting it with related concepts ("association"), arranging these in a system of relationships ("system") and perfecting the relationships ("method"). A harmonious development of all forces is obtained through a balanced variety of interests.

This conception of the power of pedagogy and the importance of training was rooted in Herbert's system of psychology. The soul is something "real," without extension, unchangeable, independent and without faculties (*Seelenvermögen*). Man becomes an active thinking being only through the contact of the soul with the reality of the body. Ideas fill the consciousness, obscure and displace each other or blend according to the laws of mental mechanics. Sensa-

tions are the realizations of tension in the mind. Desire (will) is an inhibited idea, which, however, remains alive. Under the term idea Herbert conceived more than merely a product of the intelligence, but his doctrine has been understood to mean that organizing the pupil's ideas and knowledge would lead him to virtue and education. This notion has continued to influence education even up to the present, especially through Drobisch, Strümpell, Hartenstein, Waitz, Mager and Ziller's "five form" school. Herbert's ideas were in fact the bases of the chief German pedagogical school of the late nineteenth century and exerted considerable influence in the United States through pedagogues trained at Jena. The Herbartians (for example, Stoy and Rein) had their last center in the Jena pedagogical seminary until the postrevolutionary school reforms terminated their declining influence.

## HELMUT WIESE

*Works:* *Sämtliche Werke*, ed. by K. Kehrbach and O. Flügel, 19 vols. (Langensalza 1887-1912). Among his works available in English are *Herbert's ABC of Sense-Perception and Minor Pedagogical Works*, tr. by William J. Eckoff (New York 1896); *Herbert's ABC of Sense-Perception and Introductory Works*, tr. by W. J. Eckoff (New York 1898); *The Application of Psychology to the Science of Education*, tr. by B. C. Mulliner (London 1898); *The Science of Education*, tr. by H. M. and E. Felken (London 1892); *Outlines of Educational Doctrine*, tr. by A. F. Lange, and annotated by C. De Garmo (New York 1901).

*Consult:* Fritzsche, T., *Johann Friedrich Herbart's Leben und Lehre* (Leipzig 1921); Weiss, Georg, *Herbart und seine Schule, Geschichte der Philosophie in Einzeldarstellungen*, vol. xxxv (Munich 1928); Compayré, G., *Herbart et l'éducation par l'instruction* (Paris 1904), tr. by M. E. Findlay (New York 1907); Flügel, O., and Rein, W., in *Encyklopädisches Handbuch der Pädagogik*, vol. iv (2nd ed. Langensalza 1906) p. 216-78; Rein, W., "Marx oder Herbart" in *Pädagogisches Magazin*, no. 999 (Langensalza 1924); Hayward F. H., and Thomas, M. E., *The Critics of Herbartianism* (London 1903).

HERBERT OF CHERBURY, FIRST LORD, EDWARD HERBERT (1583-1648), English philosopher. Herbert was famous as a traveler, soldier and diplomat before he achieved distinction as a philosopher and litterateur. Although he was the brother of George Herbert, his character differed singularly from that of the poet-priest. During the reign of the first two Stuarts he traveled abroad, fought in various campaigns and was English ambassador at Paris from 1619 to 1621 and from 1622 to 1624. In the difficult period of the English civil war he endeavored



not without success to maintain neutrality, with the result that on the capture of his castle of Montgomery his library was saved and he received a pension from the parliamentary party.

Herbert wrote *The Life and Reign of King Henry the Eighth* (London 1649; reprinted 1880) eulogizing that monarch, several poems and an autobiography (ed. by Horace Walpole, London 1764; new ed. by S. Lee, 1906) reciting the gallantries of his travels and fights; but his final claim to fame depends upon his philosophical works. Of these *De veritate* (Paris 1624, 3rd ed. London 1645), *De causis errorum* (London 1645) and the posthumous *De religione gentilium* (Amsterdam 1663, 2nd ed. 1700; tr. by W. Lewis, London 1705) are essential for an understanding of his ideas. Further statement of his religious beliefs is found in his *De religione laici* (London 1645), of which *De causis errorum* is a defense, and *Ad sacerdotes de religione laici* (London 1645). In *De veritate* he elaborates his theory that innate faculties for perceiving truth exist in man; that these faculties may be divided into four principal classes, natural instinct, sensation, conscience and reason, each corresponding to a kind or degree of truth; and that they receive the stimulus for active functioning from contact with objects. His religious doctrine assumes that all religions, pagan as well as Christian, rest upon five notions innate in man: the existence of God, the duty of worshipping Him, the necessity of human piety and virtue, that of repentance for sin, and belief in future reward and punishment. Although conceding that Christianity because of its essential conformity with these five articles is the highest form of religion, Herbert rejects revelation as the invention of priests and maintains that the practise of virtue, apart from profession of orthodox theological opinions, is sufficient to lead to eternal happiness. Such theories were naturally unpopular in the dogmatic seventeenth century, and Herbert's religious ideas failed to receive sympathetic criticism until their consideration by Locke. In the eighteenth century his name came to be associated with the English deist movement. While certain elements in his thinking, such as his insistence upon the ubiquity of natural religion and his distrust of revelation, justify the association, his position suggests correspondence also with the Cambridge Platonists of his own century. Among foreign thinkers Gassendi and Descartes read and commented upon Herbert.

NORMAN SYKES

Consult: Rémusat, C. F. M. de, *Lord Herbert de Cher-*

*bury, sa vie et ses oeuvres* (Paris 1874); Güttler, Karl, *Eduard Lord Herbert von Cherbury* (Munich 1897); Carlini, Armando, "Herbert di Cherbury e la scuola di Cambridge" in R. Accademia dei Lincei, Classe di Scienze Morali, Storiche e Filologiche, *Rendiconti*, 5th ser., vol. xxvi (1917) 273-357.

**HERCULANO DE CARVALHO E ARAUJO, ALEXANDRE** (1810-77), Portuguese historian. Herculano was largely self-educated and in his youth became interested in German literature and history, an interest which definitely influenced his intellectual development. In 1831 he was forced to emigrate because of his liberal political views. After his return he became librarian at the municipal library of Oporto and subsequently at the Royal Library of Ajuda at Lisbon.

Herculano introduced the spirit of scientific criticism into the writing of Portuguese history and was the founder of modern historiography in his country. Between 1846 and 1853 he published his *História de Portugal* (4 vols., Lisbon), a work which revised in a fundamental fashion all former political, diplomatic and social histories of Portugal. The *História*, which went to 1279, the end of the reign of Afonso III, was particularly valuable for the light it shed on the early history of the country and it soon became a classic. Herculano was also the author of *História da origem e do estabelecimento da inquisição em Portugal* (3 vols., Lisbon 1854-59; tr. by J. C. Branner, Stanford University 1926), a vivid account of the Inquisition and of the diplomatic drama which preceded its introduction into Portugal. It was definitely anti-Catholic in sentiment and aroused a great deal of controversy. Both works show a thorough mastery of documentary material. Another great contribution to Portuguese history was the volumes of *Portugaliae monumenta historica*, documentary material on the early history of Portugal, which Herculano edited under the auspices of the Academia das Sciencias (7 vols., Lisbon 1856-88). Despite the fact that his scientific treatment of historical material excited opposition Herculano had a profound influence upon historiography, not only in Portugal but in Spain and Brazil as well.

Herculano was also an outstanding figure in the movement for the political "regeneration" of Portugal. His review *Panorama* furthered popular education and modified literary taste. His literary productions reflected the trend of German romanticism and helped to popularize it in Portugal. The three volumes of his *O Monasticism* (vol. i, *Eurico o presbytero*, Lisbon 1844, 7th ed.

1876, French translation Paris 1888; vols. ii, iii, *O monge de Cister*, Lisbon 1844, 3rd ed. 1869) and *O bobo* (Lisbon 1851, 12th ed. 1884), his best known historical novels, are models of Portuguese prose and combine romanticism with the scientific objectivity of the historian

FIDELINO DE FIGUEIREDO

Consult: Fortes, A., *Alexandre Herculano* (Lisbon 1910); Almeida, Fortunato de, *A II o historidor* (Coimbra 1910); Figueiredo, Fidelino de, *História da literatura romantica, portuguesa* (Lisbon 1913) ch. ii; for a bibliography of works on and by Herculano see Amaral, Eloy de, *Exposição bibliographica commemorativa do primeiro centenario do nascimento de Alexandre Herculano* (Figueira 1910); Brito Aranha, P. V., and Silva, I. F. da, in *Dicionario bibliographico portuguez*, vol. xxi (Lisbon 1914).

HERDER, JOHANN GOTTFRIED VON (1744–1803), German historian, litterateur and social philosopher. Herder studied theology at Königsberg and was strongly influenced by Kant, Rousseau, Winckelmann and Hamann. With Hamann, Herder was the father of the *Sturm und Drang* movement. He supplied it with a literary program in his *Über die neuere deutsche Literatur* (Riga 1767, 2nd ed. 1768) and in articles on Shakespeare and Ossian and he exercised a profound influence on the early development of Goethe. The ideas of the Enlightenment influenced him to an increasing degree in his later works, especially in his *Ideen zur Philosophie der Geschichte der Menschheit* (4 vols., Riga 1784–91; tr. by T. O. Churchill, 2 vols., 2nd ed. London 1803) and in the *Briefe zur Beförderung der Humanität* (10 vols., Riga 1793–97). At the close of his life he became involved in controversies with Kant over the meaning of history and the nature of knowledge.

Herder was one of the most potent forces in German intellectual history and gave a new direction to the development of German poetry, aesthetics, pedagogy, theology, linguistics, psychology, history and cultural anthropology. His importance springs chiefly from the fact that he was the originator of the "historical sense" in Germany. He elaborated the idea that scientific investigation should not proceed according to abstract principles but should attempt to arrive at a sympathetic understanding of life in its manifold aspect. Events and personalities should be considered in the light of their historical setting. History is something irrational, divine, a superpersonal whole in which the individual is inextricably interwoven. Standing between Vico and the romantic movement he was the first to

apply Leibnitz' concept of development to the treatment of the history of peoples. Every civilization, he maintained, buds, flowers and fades according to natural laws of growth. The various periods of civilization are all perfect in their own way and hence it is as foolish to condemn any epoch as long for its return. These ideas are developed in Herder's early work, *Auch eine Philosophie der Geschichte zur Bildung der Menschheit* (Riga 1774), which is also significant as one of the first sympathetic treatments of the Middle Ages.

In his *Ideen* Herder introduced certain normative principles that mar this sublime conception of history. The idea of "humanity," developed by Shaftesbury, comes to occupy a central position. All heroes of history, all institutions and empires, are measured by this ethical idea, which in a somewhat vague manner embraces education, reason, humanness and goodness. The whole development of mankind is directed toward humanity as a goal, and even nature by virtue of the divine harmony of the cosmos paves the way for this unfolding of human reason. Thus Herder gave new force to the idea of progress as taught by the historians of the Enlightenment. The human race is a great unit in which the nations should dwell together harmoniously and combine "for the cultivation of humanity." He emphasized, however, the concept of national individuality and maintained that peoples differ from one another in respect to climatic conditions, blood mixture and folk spirit. From this individual folk spirit all cultural expressions such as law, state, economic organization, poetry and religion must take their rise. Every imitation, every transplanting of political institutions or spiritual goods, is organically limited by this national character.

Herder is in many respects the last synthetic thinker of the eighteenth century. Like Rousseau he often fails to probe to its very depths the problem of origins and thus fails to realize his own program of "genetic thinking." At the same time he is a herald of the most important sociological concepts of romanticism. Before the brothers Schlegel and Grimm he set forth the idea of folk art in his *Stimmen der Völker in Liedern* (2 vols., Leipsic 1778–79); before Karl Ritter he taught the uniform development of man by nature and history and created scientific geography; Savigny derived from him the idea of the organic national group; Görres found in his writings the basis for his political philosophy of nationalism; and both Hegel and Ranke

learned from him the "religion of becoming." His *Ideen*, translated into French in 1825, exercised an enormous influence on the French romanticists, especially Quinet, Guizot and Michelet, and likewise had a lasting influence on the growth of a national sentiment among the Slavs.

RUDOLF STADELMANN

*Works:* *Sämtliche Werke*, ed. by Bernhard Suphan, 33 vols. (Berlin 1877-1913).

*Consult:* Hayn, Rudolf, *Herder*, 2 vols. (Berlin 1877-85); Kühnemann, Eugen, *Herder* (3rd ed. Munich 1927); Bossert, A., *Herder, sa vie et son oeuvre* (Paris 1916); Nevins, H. W., *A Sketch of Herder and His Times* (London 1884); Litt, Theodor, *Kant und Herder als Deuter der geistigen Welt* (Leipzig 1930); Stadelmann, Rudolf, *Der historische Sinn bei Herder* (Halle 1928); Goeken, W., *Herder als Deutscher* (Stuttgart 1926); Braun, Otto, "Herders Kulturphilosophie" in *Zeitschrift für philosophische Kritik*, vol. cxlv (1911) 165-81, and vol. cxlv (1912) 1-22, and "Herders Ideen zur Kulturphilosophie auf dem Höhepunkt seines Schaffens" in *Historische Zeitschrift*, vol. cx (1912-13) 292-326; Tranchon, Henri, *La fortune intellectuelle de Herder en France* (Paris 1918); Ergang, R. R., *Herder and the Foundations of German Nationalism* (New York 1931); Bittner, Konrad, "Herders Geschichtsphilosophie und die Slawen" in Prague, *Deutsche Universität, Slavistische Arbeitsgemeinschaft, Veröffentlichungen*, 1st ser., vol. vi (Reichenberg 1929); Fischel, A., *Der Panславismus bis zum Weltkrieg* (Stuttgart 1919).

**HEREDITY.** The concept of heredity arose from the fact that resemblances between closely related individuals are on the average greater than between individuals more distantly related. Not only similarities, however, but differences as well may be produced by heredity; only in pure races does like necessarily produce like; individuals of mixed ancestry transmit different elements to different offspring. On the other hand, similarities may be due not only to heredity but to environment; and since closely related individuals are generally subjected to similar environments, environmental and hereditary effects are often difficult to disentangle.

The notion of hereditary similarities must be limited to those brought about by the actual transmission of something from parent to offspring, excluding the transmission of property and also the passing on of traditions or rather their recreation in each generation. We must exclude also the transmission of chemical substances and disease germs through the mother's milk or their passage from the mother to the unborn child in her womb, for from the biological point of view these influences are not hereditary but are part of the child's environment.

An individual's heredity is fixed at the time of his conception. Before the invention of the microscope the nature of conception or fertilization was unknown. Microscopic study has shown that the body is composed of minute units, the cells. These are of different types—muscle cells, nerve cells, reproductive cells and the like. The reproductive cells of the two sexes are different; those of the female, the egg cells, are relatively large, spherical in shape and non-motile; those of the male, the sperm cells, are much smaller, elongated in shape and motile. In the fertilization process the sperm penetrates the egg and a single cell, the fertilized egg, results. This divides into two parts, each of these then divides into two, and by a continuation of this process all the cells of the body are formed. Some cells continue to divide throughout life; in the skin, for example, new cells are always forming. Other cells, such as those of the brain, cease to divide after a certain age.

Although the egg is very minute and the sperm even more so, only a part of each is hereditary material in a strict sense. Both cells contain a definite number of bodies, usually rod shaped, called chromosomes; in the human race there are twenty-four chromosomes in the egg and the same number in the sperm. There is a one to one correspondence between the chromosomes of egg and sperm, each chromosome of one resembling in size and shape a chromosome of the other. The fact that the chromosomes are equal in number in egg and sperm while the rest of the cell, the cytoplasm, is much greater in the egg suggests that only the chromosomes are vehicles of heredity; for an individual inherits on the average about equally from both parents.

After the sperm penetrates the egg in fertilization, the resultant cell has two sets of chromosomes, or forty-eight in all. At each cell division every chromosome splits lengthwise, half going to each new cell; thus every cell has two complete sets of chromosomes. But when the reproductive cells are formed, a different type of division occurs. The chromosomes do not split; instead each chromosome derived from the mother lies alongside the corresponding chromosome derived from the father and the two separate, one going to each new cell. Thus every egg or sperm has only one set of chromosomes (twenty-four). When a sperm enters an egg in fertilization, the double number, forty-eight, is restored; in this manner there is maintained an alternation of twenty-four chromosomes in the

reproductive cells and forty-eight in the other (somatic) cells.

The chromosomes, minute as they are, are not the ultimate units of heredity; they contain still smaller units, the genes, of which there are probably several thousand in a cell. The genes have not been distinguished even with the highest powers of the microscope; they can scarcely be much larger than large organic molecules. Their behavior shows that within each chromosome they are arranged in linear fashion like beads on a string. All the genes of an egg differ from one another, and the same is true of the genes of the sperm. But for each gene in the egg there is a corresponding gene in the sperm and conversely. Corresponding genes, known as allelomorphs, are located in corresponding positions in corresponding chromosomes. If the two allelomorphic genes are identical, the individual is said to be pure, or homozygous; if they are not identical, the individual is said to be hybrid, or heterozygous. An individual may be pure for some genes and hybrid for others; it is likely that this is the situation in most human beings.

When a chromosome divides, every gene in it divides; hence the somatic cells derived from a fertilized egg are precisely alike in the genes they contain. Since each gene is thus multiplied many fold, it must grow by taking substances from the cytoplasm and building them up into its own material. The genes, which are in fact chemical substances, although their composition is unknown, interact with the rest of the cell; as a result of the interaction the traits of the individual are produced. Each gene affects many traits; for example, in man alteration of a single gene has brought about brachydactyly, the lack of one of the bones in each finger accompanied by a general stunting of the entire body. Conversely, every trait may be affected by many genes; for example, the difference in skin color between Negroes and whites is probably due to a difference in at least three pairs of genes. In species which have been studied more intensively it has been shown that a character may depend on over a hundred genes.

When several pairs of genes influence the same trait, the effect of each depends on the others. The effect of a gene depends also on its allelomorph. An individual which is hybrid for a pair of genes is in some cases intermediate between the two pure races; in other cases the hybrid resembles one of the races more closely—sometimes so closely as to be indistinguishable from it. In the last mentioned case the gene whose

effect is noticeable is called dominant; the gene whose effect is hidden is called recessive. Whether or not two allelomorphic genes exhibit the relation of dominance and recessiveness or produce an intermediate hybrid depends partly on their nature, partly on the influence of the other genes and of the external environment.

In the formation of eggs or sperm the separation of each chromosome from the corresponding one brings about the separation of each gene from its allelomorph; hence every egg or sperm contains only one gene of each pair. If an individual is pure for every pair of genes, all the germ cells will be alike, since it makes no difference which gene of a pair any germ cell receives; such an individual will transmit identical inheritances to all his children. But if an individual is hybrid for one or more pairs of genes, the germ cells and hence the offspring will differ according to which genes they receive. Thus as a result of segregation some genes of each parent will be entirely unrepresented in the offspring—a fact which explains why heredity is not synonymous with ancestry.

The number of different kinds of germ cells and hence of offspring depends on the number of genes for which an individual is hybrid. If there is one such pair,  $A$  and  $a$ , there will be two types of germ cells,  $A$  and  $a$ . If in addition the individual is hybrid for a pair of genes in another pair of chromosomes,  $K$  and  $k$ , there will be four types of germ cells in equal numbers:  $AK$ ,  $ak$ ,  $Ak$  and  $aK$ . For when segregation occurs it may happen that the chromosomes carrying  $A$  and  $K$  go to one cell and the chromosomes carrying  $a$  and  $k$  go to the other; or, since each chromosome pair segregates independently of the others, it is equally likely that  $A$  and  $k$  will go to one cell and  $a$  and  $K$  to the other. If the individual is hybrid also for a pair of genes in a third pair of chromosomes,  $Q$  and  $q$ , there will be eight types of germ cells in equal numbers, since each of the four classes of the previous case will be subdivided into two groups of which one receives  $Q$ , the other  $q$ . In general in an individual hybrid for  $n$  pairs of genes in different pairs of chromosomes, the possible number of classes is  $2^n$ . In a human being hybrid for a pair of genes in each pair of chromosomes the number of possible kinds of germ cells would be  $2^{24}$ , or 16,777,216.

When one parent is hybrid and the other pure, the inherited differences among the offspring are due to segregation in the hybrid parent; hence the classes of offspring occur in the same

relative numbers as the classes of germ cells of the hybrid parent. The results are more complicated if both parents are hybrid, since now every kind of germ cell from one parent can unite with one of several kinds from the other.

The genes in each chromosome tend to remain together when segregation occurs; they are therefore said to be linked. Linkage explains why some characters are correlated in heredity; not all such correlations, however, are caused by linkage—some are due to the fact that a single gene affects several traits. Even linked genes may separate in heredity; for two corresponding chromosomes, when they lie side by side just before segregation, may interchange corresponding pieces. Thus if one chromosome contains the genes *ABCDEFGF* and the other the allelomorphous genes *abcdefg*, the chromosomes may separate intact, maintaining the original combinations; or they may break and recombine so that the resulting chromosomes are *Abedefg* and *aBCDEFG* or *ABedefg* and *abCDEFG* and so on. Such interchange or crossing over may occur at any point in the chromosome or at more than one point; but always at corresponding points in the two chromosomes of a pair. It is the study of crossing over that has revealed the linear arrangement of the genes in the chromosomes and has enabled the geneticist, although he cannot see the genes, to map their locations. In recent years genetic maps have been verified by the fact that in chromosomes fragmented by means of X-rays specific fragments are associated with specific genes.

The frequency with which two genes in the same chromosome separate depends on the distance between them; although it may also be influenced by other genetic or environmental conditions. Usually linked genes separate less frequently than do genes in chromosomes of different pairs. When crossing over occurs therefore the different classes of germ cells are not produced in equal numbers; for any two genes the original combination is more frequent. Thus in a hybrid the different classes of germ cells and consequently of offspring may occur in almost any proportions.

The relative numbers of different classes among the offspring of a hybrid may be further modified by the fact that some combinations of genes reduce viability, with the result that the offspring receiving them are fewer in number or entirely missing. Further complications are sometimes introduced by the fact that different combinations of genes may produce similar ef-

fects, so that offspring dissimilar genetically may be indistinguishable in appearance. Thus the different classes of offspring may be present in many different proportions and any proportion is theoretically possible. The three to one ratio which is often considered a necessary consequence of the laws of heredity is only one of many possible ratios; it occurs when the two parents are hybrid for one and the same pair of genes provided that one gene of the pair is completely dominant.

This process of inheritance is known as Mendelism, after Gregor Mendel, abbot of the monastery at Brunn, who in 1865 first demonstrated the existence of genes, dominance and recessiveness and the laws of segregation and independent segregation. Mendel's work remained unappreciated and almost unknown until it was rediscovered in 1900. Linkage and crossing over have been discovered since that date.

All kinds of characters may be inherited—large and small, structural and functional (including psychological), normal and pathological, important and trivial, racial and individual. There is no justification for the distinction sometimes made between inherited and physiological characters, since physiological traits, like others, may be inherited. A character affected by the nervous system or by internal secretions is physiological; but it is also genetic, since nerves and glands, like all other parts of the body, are dependent on genes. Moreover all inheritance in man and other animals is Mendelian; that is, it depends on genes which are distributed according to the laws outlined above. It is true that the genes are not the only things transmitted from parent to offspring. There is cytoplasm in the egg and a little even in the sperm; and it is necessary for the development of an individual, since an egg deprived of its cytoplasm will die. Nevertheless, the cytoplasm is not a hereditary material in the same sense as the genes; for any differences that may exist between the cytoplasm of different eggs do not in general produce differences in the adults, since cytoplasm is not self-perpetuating but is continually manufactured under the influence of genes. Even in the very few cases in other animals—none are known in man—where adult differences have been found to depend on cytoplasmic differences in eggs, it has been shown that the cytoplasmic differences themselves have been produced by genes acting on the egg before fertilization. There is therefore no foundation for the hypothesis sometimes put forward that funda-

mental characters are inherited through the cytoplasm and only trivial ones through the chromosomes. Nor is there any essential difference between alternative and continuous inheritance; for where the offspring grade continuously into one another instead of falling into sharply demarcated groups, the continuity is only apparent and is due to the fact that the classes are numerous and the differences between them small.

The laws of heredity, which have been verified in both animals and plants, must apply equally to man, for the human chromosome mechanism resembles that of other species and the human pedigrees which have been studied are in accord with the Mendelian laws. But there is scarcely a human pedigree which by itself constitutes crucial evidence of the validity of the laws or in which we know accurately the number of genes involved or their relations to one another. This is because human families are small, generations long, information is often uncertain; and human matings are made for other purposes than the testing of genetic hypotheses.

Apart from the Mendelian theory the best known attempt to formulate a law of heredity is Galton's law of ancestral inheritance, which states that one half of an individual's heritage is contributed by the parents, one quarter by the grandparents, one eighth by the great grandparents and so on. This formula, however, can have no general validity, because an individual's heritage is made up entirely of parental genes and these are not separate from but are composed of the genes of earlier ancestors. It is true that a grandparental trait may skip a generation and reappear in the grandchildren because the gene combination involved has fallen apart in one generation and been reconstituted in the next; but the extent to which this occurs varies according to the number of genes and the degree of dominance. Galton's formula has in fact been modified by other biometricians. Galton himself did not claim any general validity for his law: he expressly limited it to certain cases and considered it applicable to populations rather than to individuals.

The scheme of Mendelian heredity has been found to require some modification in respect to sex limited and sex linked heredity. The difference between the sexes in man as in most other animals investigated depends on a single pair of chromosomes, which are known as the sex chromosomes although they affect other characters as well. In man a female has two similar sex chromosomes called the X chromosomes; a male

has one X chromosome and one smaller chromosome, the Y, which is nearly if not quite devoid of genes. Every egg contains one X chromosome. The sperm are of two kinds, some containing an X chromosome, others a Y chromosome; these are equal in number. The union of an egg with an X sperm results in an individual with two X chromosomes, which is a female; the union of an egg with a Y sperm results in an individual with one X and one Y chromosome, which is a male. Thus two sexes are produced and in approximately equal numbers. The traits which depend on whether an individual has two X chromosomes or one X and one Y include not only the primary sex characters but also the secondary sex characters, such as the beard in man. Since these characters are absent or less strongly developed in one sex than in the other their inheritance is said to be sex limited.

X chromosomes, like those of other pairs, may differ from one another in the genes they contain. Such genes and hence the traits they produce follow the distribution of the X chromosomes in heredity and are therefore designated as sex linked. They are distinguished from sex limited characters in that they are not necessarily confined to one sex. A female inherits her X chromosomes and therefore her sex linked genes equally from both parents and transmits them equally to her sons and daughters; a male, however, receives his one X chromosome and therefore his sex linked genes which are contained in it only from his mother and transmits them only to his daughters. Color blindness and haemophilia are examples of traits inherited in sex linked fashion.

Since allelomorphous genes are descended from the same original gene, the fact that they are not all identical shows that some of them have undergone changes in the past. Such changes, or mutations, may actually be observed in many organisms. Genes are stable and mutate infrequently; most of the genetic differences now existing are due not to new mutations but to mutant genes accumulated from previous generations. A mutation may occur in any cell at any stage of development but it usually occurs in only one cell and in only one gene in the cell. The mutated gene will be transmitted to the next generation only if it originates in an egg or sperm. Mutations have been produced artificially by subjecting organisms to radiations. X-rays and radium radiations can increase the mutation rate 150 times, ultraviolet light about ten

times. Muller, who first demonstrated the effects of radiations, has shown that there must be other causes as well, because the small amount of radiation normally present in nature is insufficient to account for the ordinary mutation rate in untreated organisms. As Muller and Altenburg have shown, high temperature slightly increases the mutation rate. No other agent has yet been proved to be effective; experiments with alcohol, lead and other chemicals have given negative or inconclusive results.

Not only the nature of genes but their number and arrangement may undergo change; for occasionally chromosomes may fail to segregate or a chromosome may break into fragments or attachments may occur between chromosomes or pieces of them. Such changes, which may also be produced artificially by radiation, sometimes modify the traits of an organism; but they are not mutations in the strict sense since they do not alter the nature of the genes.

Mutant genes often persist in the population despite their deleterious effects; since most of them are recessive, their effects in hybrids are hidden; hence they may be transmitted through hybrids for generations without being detected. This covering up of harmful effects of genes is facilitated in the human race because husband and wife are usually not closely related; hence they are not likely to have inherited the same mutant gene from a common ancestor and their offspring are not likely to be pure for such a gene. But if husband and wife are closely related they are more likely to be hybrid for the same mutant gene; some of their children will be pure for the gene and therefore its harmful effects will appear. This is the probable basis of the common belief that close inbreeding results in inferior or defective children. The kinship of the parents operates merely by rendering more probable the presence of the same gene. If the gene happens to be beneficial, the results will be good; there are of course records of cousin marriages which have produced superior children. When unrelated individuals mate, each is likely to supply genes that will dominate whatever deleterious recessives the other may contain. This probably accounts for the good effects ordinarily attributed to outbreeding in man and for the hybrid vigor often observed in crosses between distantly related races in other animals and in plants. The results of such crosses are not necessarily good; they depend on the nature of the genes in each case. Despite the common notion that outbreeding is beneficial, crosses be-

tween widely separated races of man are often said to produce inferior offspring. The social conditions to which hybrids are exposed are usually inferior to those of one parent race and sometimes of both; but if allowance is made for this, there is no actual evidence of inferiority either physical or mental due to hybridism. Usually one race differs from another in more genes than do individuals of any one race. Racial crosses produce, especially in later generations, many new combinations of genes; some combinations might be expected to be superior and others inferior to the original races (*see* RACE MIXTURE).

The environment, like the genes and the cytoplasm, is necessary for the production of the individual, since no organism can live without it; moreover environmental like genetic differences can produce differences in the traits of organisms. There have been attempts to measure what heredity produces apart from environment, as, for example, in some interpretations of intelligence tests. But the organism cannot be separated into traits of which some are purely genetic and others purely environmental. Each trait depends on both heredity and environment just as the area of a rectangle depends on both base and altitude: the two factors are necessary and a change in either alters the result.

It has been asserted that most characters are not susceptible to environmental influences. But the traits studied by geneticists are not representative in this respect; they are chosen for their stability because they are used primarily as indicators of the presence of specific genes. Nevertheless, many cases are known where differences produced environmentally are of the same kind as those produced genetically and as great or even greater. It is difficult, however, to compare heredity as a whole with environment as a whole, because characters differ in their susceptibility to environmental modification and environmental influences differ in their effectiveness; hence we cannot argue from the effect of one environment to that of others. Moreover, especially in social matters, the important question is often not whether any existing environment is effective but whether some as yet non-existent environment might not be, and this can be settled only by specific data.

Some biometrical studies have shown that the presence of a particular character is more closely correlated with the presence of the same character in the parents or other relatives than with some aspect of the environment. It is haz-

ardous to generalize from such measurements: if other characters or other environmental factors had been used, the correlations might have been and in some cases would have been different. Moreover the parent-offspring correlation is not necessarily a measure of heredity, for similarities can be produced environmentally and related individuals are usually reared in similar surroundings. This applies with special force to cases like the Jukes and the Kallikaks, where the same unfavorable environment is known to have persisted for several successive generations.

The difficulty in interpreting parent-offspring correlation could be met by proving that the distribution of the characters follows the Mendelian laws of heredity; for it seems unlikely that environmental factors would produce a precisely Mendelian distribution. In human pedigrees unfortunately such proof is rarely if ever possible. Practically any distribution may be interpreted as Mendelian if we assume the necessary number of genes producing the necessary effects. In other species the assumptions can be tested by means of critical matings; but in man such matings are not always available; and even when they are, the number of offspring is usually too small to make possible a decisive answer.

More definite evidence on the roles of heredity and environment is available from studies of twins. Twins are of two types: sometimes the members of a pair are very much alike and of the same sex, in other cases they are no more alike than ordinary brothers and sisters and may be either of the same or of different sexes. Identical twins are probably derived from the separation of a fertilized egg or embryo into two, while fraternal twins are probably derived from two distinct eggs each fertilized by a different sperm. The similarity of identical twins is therefore to be explained by the fact that they have the same heredity, being halves of the same individual. All this argues, as Galton pointed out, for the importance of heredity; but it throws no light on the effect of environmental differences, because twins are usually reared together. Recently Muller has studied identical twins reared in different environments and has found differences between them; and similar cases have been investigated by Newman with similar results. In all studies of twins the results may be weighted in favor of heredity, because identical twins differing greatly would less often be recognized as such.

Galton's own conclusion from his studies was not, as is often supposed, a denial of the importance of environment; what he said was: "There is no escape from the conclusion that nature prevails enormously over nurture when the differences of nurture do not exceed what is commonly to be found among persons of the same rank of society in the same country."

The fact that an individual may be modified by the environment does not imply that such modifications (acquired characters) are inherited by his descendants; in fact all critical experiments made to test such transmission have yielded negative results. Modification of a character does not, at any rate in the huge majority of cases, produce mutations in genes; this is proved by the fact that genes remain constant in spite of their passage through bodies of different kinds in successive generations. And even if a gene were altered in this manner, it would be in the highest degree unlikely that the effect of the mutation would be a repetition of the character which caused the mutation.

The study of the inheritance of mental traits in man is difficult because such traits are peculiarly susceptible to environment, depending as they do on a nervous system which responds to relatively minute stimuli. Nevertheless, it is certain that genetic differences in such traits exist, because individuals brought up under identical conditions may diverge very widely in mentality; although similarity of environments is also difficult to determine because of the importance of subtle differences.

Many writers have assumed a genetic basis for mental differences between classes or nations. Of this, however, there is no proof. Some of the differences are certainly environmental and as far as has been shown by actual evidence they may all be. Moreover many of the supposed differences have never been objectively demonstrated and even scientists who have sought to judge dispassionately have often been obviously influenced by preconceptions.

The problem of mental differences between races is more complicated. On the one hand, the differences between the environments—including the historical traditions—of, say, a Parisian and a Tierra del Fuegian are enormous and undoubtedly account for at least some of the differences in culture. On the other hand, it is known that genetic differences affecting physical traits exist, and it might be argued that genetic differences affecting mental traits are not likely to be absent. The latter argument may be



considered from two points of view. From the standpoint of physiology it might be supposed that some of the physical differences necessarily entail mental differences; for this there is no evidence. From the standpoint of evolution it might be said that if mutations affecting physical traits have occurred there must also have been mutations affecting mentality. This is more plausible; but it fails to take account of natural selection, which would make for a diversity of physical traits in response to different environments but would scarcely make for a comparable diversity of mental traits, since even in very different environments the same type of rational response is useful. The situation is complicated because it depends also on other factors—rate of mutation, isolation, race mixture and so on. Size of population must also be considered: a large group, even though it contains the same genes as a smaller group, will have a greater variety of gene combinations and more of the exceptional ones that produce superior individuals. Both of these factors are favorable to cultural progress. But whatever may be expected theoretically, there is as yet no conclusive evidence of genetic mental differences between races, because no study has eliminated the differences due to environment. Most claims of genetic mental superiority are inspired not so much by scientific data as by a desire on the part of some classes, nations or races to justify their subjection of others.

All the difficulties considered above apply also to genetical interpretations of cultural differences in history, with the added difficulty that even the physical traits of the peoples involved are sometimes not known. Cultural changes have occurred when a people has mixed with or been replaced by another; but in no historical case is there proof that the peoples differed genetically in mentality. Cultural changes have also come about when a people has neither mixed with nor been supplanted by another; they have sometimes occurred so rapidly that they cannot have been produced by the alteration of the population as a whole through mutation or selection. There is no evidence that the hereditary abilities of mankind as a whole have changed during the historical period, and therefore the cultural modifications that have occurred need not be ascribed to genetic changes except in so far as mutations or rare combinations of genes have produced the occasional geniuses who started new traditions which the rest of mankind accumulated. Nevertheless, man's

tremendous advance in culture since his origin has been due not merely to the accumulation of tradition but to the supplanting of less intelligent by more intelligent races. This suggested to Galton the possibility of continuing man's genetic progress by means of selective breeding consciously controlled. Such a eugenic program could of course bring about further changes; but whether these are likely to be improvements is a complicated question. It involves the problem of how standards and values are to be determined and the further problem of whether individuals embodying these standards would be recognized and selected. It is notorious that first rate minds often suffer persecution or neglect—as in the case of Mendel himself—while the less able more easily gain recognition. A eugenic program might result in eliminating the very individuals it set out to propagate.

ALEXANDER WEINSTEIN

*See:* EUGENICS; RACE; BIOLOGY; INSTINCT; MENTAL TESTS; GENIUS; MENTAL DISEASE; MENTAL DEFECTIVES; MENTAL HYGIENE; CRIMINOLOGY; RACE MIXTURE; AMALGAMATION; DEGENERATION; ATAVISM; ENVIRONMENTALISM; ADAPTATION.

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HERESY. See APOSTASY AND HERESY.

HERGENRÖTHER, JOSEF (1824-90), German church historian. Hergentröther received his theological education at the Collegium Germanicum in Rome and from 1852 to 1879 was

professor of ecclesiastical history and canon law in his native city of Würzburg. In 1879 Pope Leo XIII made him a cardinal and prefect of the Apostolic Archives in Rome. He devoted the rest of his life to arranging and classifying the manuscript treasures of the Vatican archives and making them available for study and research.

Hergentröther's chief scientific work is his *Photius, Patriarch von Konstantinopel* (3 vols., Regensburg 1867-69), a monumental study, based on original, pioneering research, of the schisms between the Roman and the Byzantine church from the beginning to the twelfth century. Although unsurpassed in its historical and canonical erudition the book, as was the case with nearly all of the author's works, was received skeptically outside the church because of its decidedly Catholic attitude. Hergentröther's *Handbuch der allgemeinen Kirchengeschichte* (3 vols., Freiburg 1876-80; 4th ed. by J. P. Kirsch 1902-09) is still widely circulated and is important also for non-Catholics as a compendium of Roman Catholic historical views. In addition Hergentröther edited for a time the new edition of the *Kirchenlexikon* of Wetzer and Welte and began the *Leomix a Pontificis Maximi Regesta* (Freiburg 1884-91) as well as a continuation of the *Concilien Geschichte* of Hefele, both uncompleted.

As a publicist Hergentröther was the pioneer and most significant theoretician of ultramontanism in Germany. He advocated the maintenance of the Papal States and during the period from 1869 to 1871 he defended the Vatican against the attacks of Döllinger and his friends. The ultramontanes considered his *Anti-Janus* (Freiburg 1870; tr. by J. B. Robertson, Dublin 1870) a victorious refutation of all objections to the dogma of papal infallibility. At the beginning of the *Kulturkampf* Hergentröther, still actively combating Döllinger, issued his most effective and most representative work, *Katholische Kirche und christlicher Staat in ihrer geschichtlichen Entwicklung* (2 vols., Freiburg 1872; English translation, 2nd ed. London 1876). In this book he developed on the basis of Christian history the doctrine of the necessity for spiritual-papal influence in the broad spheres of political life. He interpreted the Roman claims, however, in the mildest possible form and like the Thomists accepted a natural parallelism between the will of the state and that of the church. On the whole, Hergentröther as both historian and controversialist gave new encouragement to the wavering

Catholicism of Germany and paved the way for the teaching of Leo XIII.

WOLFRAM VON DEN STEINEN

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HERMANN, FRIEDRICH BENEDIKT WILHELM VON (1795-1868), German economist and statistician. After teaching mathematics in a secondary school Hermann was appointed in 1827 to the chair of *Kameralkissenschaften* at Munich. After 1839 he also directed the Bavarian statistical bureau, which upon its reorganization in 1850 ranked second only to the Prussian bureau. Hermann was one of the most important and independent representatives of the Smith-Say school in German economics. His only theoretical work, *Staatswissenschaftliche Untersuchungen* . . . (Munich 1832, reprinted Leipzig 1924; 2nd enlarged ed. prepared by G. von Mayr and J. A. R. von Helfferich, Munich 1870), marked by originality and close reasoning, stands out among those prolix treatises abounding in definitions and classifications which typify the early period of the school in Germany. As a statesman, however, Hermann shared the mercantilist views of the Bavarian government, favoring moderate protectionism and preservation of some features of the old agrarian order. He advocated retention of the silver standard (in *Archiv der politischen Oekonomie und Polizeiwissenschaft*, vol. i, 1835, p. 58-100, 141-206), contending that not only the exigencies of international trade but also the relative riches of the country must be considered in selecting a monetary standard. Hermann is also responsible for the first official life table covering an entire state; in its computation he used a new and more exact method for the purpose of relating deaths in various age groups to the generation in which they occurred. In politics he was a leading figure of the liberal *grossdeutsche* party. In the Frankfurt parliament of 1848 he advocated the unification of all German states including Austria, and at the Vienna customs conference in 1852 he urged an all inclusive German customs and commercial union.

Hermann's price theory is an exhaustive analysis of demand and supply factors which synthesizes the results of earlier studies by the best continental economists. On the demand side he

distinguishes the use value of the commodity to the buyer, the purchasing power at his disposal and the cost of acquiring the commodity by other means, i.e. by purchasing it in other markets or by producing it. The factors on the supply side are the cost of production, the price at which the commodity sells in other markets and the value of money. Hermann's is primarily a short run price theory; although it lacks a developed concept of price equilibrium it takes account of the subjective valuations as well as of the monetary factor (money value on supply side, income distribution and price level on demand side) and of market organization.

Hermann differed from his contemporaries who identified capital with production goods or a wages fund; in his view capital comprises durable goods which yield utilities over a long period. This definition of capital was basic to Brentano's refutation of the wages fund theory and is now accepted by many authorities. It led Hermann to modify Say's productivity theory of interest into what Böhm-Bawerk called the use theory and to drop the distinction between rent and interest except where rent is due to natural scarcity. Hermann's definition of income, which dominated the German literature of the nineteenth century, is also related to his concept of capital.

M. PALYI

*Consult:* Weinberger, Otto, "Friedrich Benedikt Wilhelm Hermann" in *Zeitschrift für die gesamte Staatswissenschaft*, vol. lxxix (1925) 464-519, with an extensive bibliography; Roscher, W., *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) p. 860-79; Böhm-Bawerk, E. von, *Geschichte und Kritik der Kapitalzinstheorien* (3rd ed. Innsbruck 1914), tr. by W. Smart as *Capital and Interest* (London 1890) bk. iii; Lexis, W., *Einführung in die Theorie der Bevölkerungsstatistik* (Strasbourg 1875) p. 40-44.

HERO WORSHIP. The term hero, which in classical antiquity was applied to the deified dead, has been used by historians to designate outstanding founders of states and religions and representative personages of civilization who are regarded as benefactors of mankind. A distinction has been made between mythical heroes and great men of history: the heroes have been derived from religion, the great men from epic narrative. But *heros* in Greek has the meaning of a perfect man, the perfect expression of the ideal of a group in whom all human virtues unite; and in Homer as in other literatures it signifies a leader in war. The ideal of physical strength as of moral achievement changes with

the times and the civilization of the particular group, as is shown by the story of Hercules. In Christian times martyrs have been converted into heroes; the saints have been made into heroes as ideals of the monkish orders. There are heroes of war as of art; conquerors and discoverers alike are regarded as heroes—Garibaldi and Columbus, for example, have become objects of hero worship. The heroes are exemplars and champions of ideal values, for in the hero the group sees its values realized. As heroes are identified with a particular group, the ancestor has often been regarded as the original hero of clans and families and has been considered a protective deity. Sects and orders, classes and callings, have also their special heroes.

Hero worship is the result of election and selection, for the heroizing is done mostly by public authorities—the oracle of Delphi, the Roman Senate, the Catholic church and the national states have all taken charge of the canonization. The solemn appointment in ritualistic forms inaugurates hero worship as a public institution; in the Roman Empire, for example, the hero worship of the emperors was a civic duty. As the authority of the family and of political government was derived from hero worship, the hero's opinions and actions had to be interpreted and the tradition concerning them: is therefore preserved in literature as well as in the rites of the cult. Knowledge of ancient hero worship is derived from such legend. The hero is a human being exalted against the gods and into the world of the gods. Heroes have become gods and gods heroes in accordance with the need of the group for simplification and embodiment in a living symbol. The heroes as living gods upon the earth, rendering legitimate cult and civilization, state and clan, are mythical or historical figures whom man has deified in his own right. The priest kings or god kings, such as the pharaohs who required worship and reverence by divine right, are therefore not called heroes. Hero worship did not originate in the great political groups but in clans and tribes with their elders and chieftains; it was adopted in the Roman Empire.

Authentic historical personalities who live on in tradition become mythical figures. Leaders, because of heroic acts of conquest and achievement, of emancipation and protection of their groups, are worshiped as heroes. They become not only representatives of the group ideals but likewise models of virtues and, like coats of arms, emblems and banners, have the force of

symbols. Certain heroes are given godlike attributes and appear as spirits that cross the borders between this life and the beyond. They may be the chosen of God or they may be chosen by men in defiance of God; in either case they unite human and divine attributes and therefore appear as sons of the gods. In Greece hero worship was associated with the worship of the chthonian deities; like these gods the heroes resided under the earth. Hero worship has combined with the worship of local spirits or special gods, especially in the seasonal festivals. The myths of the death and resurrection of heroes have been combined with the spring festivals; in these cases the hero is but the personification of the drama of nature. Tragedy and dithyramb, which originate with the feasts of Dionysus and the sacrifices of rams and bullocks, suggest another ritual, the cult of the dead. The heroes are the select among the dead; the idea of the immortality of the heroic man precedes the hope of immortality for all men. The hope of salvation therefore is bound up with the dead, who not only live on in the memory but engage in posthumous activity. Like the gods, the heroes live discontinuously in the world among men.

Heroes are the subject of the first history, legend, and become superhistorical in myth. The death of the hero is the central point of legend as of myth. Osiris, Adonis and Balder, like Roland, Siegfried and Joan of Arc and other saints, are divine worthies whose deaths become part of the history of their people. The apotheosis of the dead is also evidenced by the memorials in stone and wood erected to them, which from Achilles to Garibaldi have been established not in ordinary cemeteries but on consecrated ground in the midst of cities. The beginnings of historical writing, of epic and of drama are occupied solely with heroes, for they are the only dead who preserve their personality. Their physical as well as moral activity remains bound up with certain places; their relics have efficacy—they insure victory, harvest and protection. The death of the hero is regarded as death for the group's values and labors, whether the hero has brought or determined state and civilization, victory and salvation or religion and worship, sacrifice and solemn assembly.

In modern times hero worship becomes a political and aesthetic affair, closely connected with individualism, which serves for the justification of the history of a people and the glorification of its great men. Great men, born rulers and geniuses in art are esteemed the creators of new

intellectual and political conditions; they are what Emerson calls representative men who serve as symbols and as directing spirits—the motive power in the life of the multitude. It is a heroic conception of history that explains these leaders whose thirst for authority and fame dictates mass interests as the prompters of the trend of the times. This individualism is at first bound up with the rationalization of a society that is losing its consensus and is replacing it by a hierarchy. The society can be held together only by the reason of the great men, the advanced spirits, wise monarchs, victorious generals. Court historians have interpreted the events *ad maiorem gloriam* of their princes, so that history appears as a mere recital of the acts of kings and their armies. Social movements and political changes are explained by the impulses and aims of rulers; demigods justify their exalted positions to their subjects by their success. The worship of success characteristic of absolutism has passed from statesmen to captains of industry; for capitalism, at whose head march princely entrepreneurs, explains the profit on capital as the reward of the genius of specially gifted men. Just as creators and discoverers in art and science, who are regarded as embodiments of the spirit, transfigure the common life and have a compensatory influence, so also in state and commonwealth this quasi-religious conception of the demi-urges of history is founded upon an idea of the inequality of men. Difference in endowment is held to explain one's place in society whether high or low, rich or poor. It is a typically bourgeois idea at a time of advancing science and technique, at a period of discovery and conquest, to ascribe the stage of cultural achievement to creative ability. This Promethean conception underlies the idea of prestige which exists or is stimulated in public opinion. Goethe and Kant, Napoleon and Frederick the Great, Washington and Bismarck, and other historical figures have acquired a heroically mythical character through the social and political structure of society. In Carlyle's discussion of hero and hero worship, as in Nietzsche's concept of the superman, worship of success is made legitimate by romantic individualism. As Tarde derives all social achievement from invention as imitation, so the changes in civilization are traced to the inspiration of great men. These great men are divorced from their environment, are exalted above their fellows and function like a lucky accident or a sudden revelation. But as Ward has shown in *Pure Sociology* every innovation,

discovery and invention can be traced to slow improvement by small increments and their effects, to the group's degree of maturity and its need of change. Geniuses thus appear only as forerunners or final results. A conception of history that is based upon exceptional endowment, accident, catastrophe, through the action of great men, has a bourgeois cast in its pragmatism and is along with its worship of genius and heroes the latest derivative of a theology of charismatic leaders inspired of God. In modern times the legend and rite of hero worship are merely replaced by modern forms of homage as set forth in press and film and developed in multitudinous social honors.

GOTTFRIED SALOMON

See: DEIFICATION; ANCESTOR WORSHIP; SAINTHOOD; GENIUS; LEADERSHIP; HISTORY AND HISTORIOGRAPHY; MYTH; IDOLATRY.

Consult: Czarnowski, S., *Le culte des héros et ses conditions sociales* (Paris 1919); Foucart, Paul, "Le culte des héros chez les Grecs" in *Académie des Inscriptions et Belles-Lettres, Mémoires*, vol. xlii (1922) 1-166; Wissowa, Georg, *Religion und Kultus der Römer*, *Handbuch der klassischen Altertums-Wissenschaft*, vol. v, pt. iv (2nd ed. Munich 1912) p. 247-327; Spaeth, J. W., "Roman Hero Worship" in *Classical Journal*, vol. xx (1925) 352-55; Deneken, F., "Heros" in Roscher, W. H., *Ausführliches Lexikon der griechischen und römischen Mythologie*, vol. i (Leipzig 1884-90) cols. 2441-2589; Eitrem, S., "Heros" in *Paulys Realencyclopädie der klassischen Altertums-Wissenschaft*, ed. by Georg Wissowa and Wilhelm Kroll, vol. vii (new ed. Stuttgart 1913) cols. 1111-45; Harrison, J. E., *Prolegomena to the Study of Greek Religion* (Cambridge, Eng. 1903); Reinach, S., *Cultes, mythes et religions*, 5 vols. (Paris 1905-23) vol. ii, ch. xiii, partly tr. by Elizabeth Frost (London 1912); Haddon, A. C., and others, "Heroes and Hero-gods" in Hastings's *Encyclopaedia of Religion and Ethics*, vol. vi (Edinburgh 1914) p. 633-68; Frazer, J. G., *The Belief in Immortality and the Worship of the Dead*, 3 vols. (London 1913-24) vol. iii, p. 243 45, 265 66; Sumner, W. G., and Keller, A. G., *The Science of Society*, 4 vols. (New Haven 1927) vol. ii, p. 947-53; Robertson, I. M., *Pagan Christ*: (2nd ed. London 1911); Lucius, E., *Die Anfänge des Heiligenkults in der christlichen Kirche* (Tübingen 1904) p. 83 90; Usener, H., *Götternamen* (2nd ed. Bonn 1929) p. 149-53, 247-73; Emerson, R. W., *Representative Men* (rev. ed. Boston 1892); Carlyle, T., *On Heroes and Hero Worship*, 2 vols. (ed. by H. M. Buller, London 1926); Nietzsche, F. W., "Zur Genealogie der Moral" in his *Werke*, ed. by Kurt Hildebrandt, vol. iii (Leipzig 1931), tr. by H. B. Samuel in *Complete Works*, ed. by O. Levy, vol. xiii (New York 1911); Ward, L. F., *Pure Sociology* (2nd ed. New York 1911); Stern, B. J., *Social Factors in Medical Progress* (New York 1927) p. 97-127; Ogburn, W. F., *Social Change with Respect to Culture and Original Nature* (New York 1922), and "The Great Man versus Social Forces" in *Social Forces*, vol. v (1926) 225-31.

HERODOTUS OF HALICARNASSUS (c. 484-c. 429 B.C.), ancient Greek historian. Herodotus, known as the "father of history," wrote the story of the Persian wars against the Greeks, handling his subject in a broad human way peculiarly his own. In antiquity the matter of fact dismissed his stories as mere lies; but with modern discoveries, such as the deciphering of the Persian inscription on the rock of Behistun, his credit has steadily risen and he is today recognized as the father of anthropology as well. His book is full of intelligent observation of the usages of uncivilized peoples, their diet, marriage customs, government and religious beliefs. His credulity has been a legend with careless readers, but he is in fact careful to distinguish between tales told, things seen and inferences drawn. No book gives such a panorama of the ancient world; but it is more than that. It is the expression of a whole man and a very remarkable man. Ancient critics recognized his charm, "delighted in it to the last syllable and longed for more." Moderns vie in declaring that his breadth of sympathy and his interest in human things place him nearer to Shakespeare than to Thucydides and next to Homer as the exponent on a generous scale of the thought and life of his people; Wordsworth pronounced his work "the most interesting and instructive book, next to the Bible, which had ever been written." He is strangely free from race prejudice; he was reproached in antiquity for his praise of Persian valor as for his imputation of Carian ancestors to Greek patriots. Civilized Egyptian and barbarous Scythian alike interest him, and he makes every race he visits alive for his reader. A vivid, amusing man, who traveled widely "for the sake of inquiry," he had the gift of being at leisure; he was apt to talk well of things ancient and modern and ready to listen to a well told tale; he was a delightful companion and no mean judge of truth. All his gifts pass into his book, a record of wars indeed but also of friendships, a book that makes the reader more human the more he enters into it.

T. R. GLOVER

Consult: Bury, J. B., *The Ancient Greek Historians* (London 1909) p. 36-74; Glover, T. R., *Herodotus* (Berkeley 1924); Focke, A., *Herodot als Historiker* (Stuttgart 1927).

HERRENSCHWAND, JEAN (Johann) (1728-1811), Swiss economist. Little is known of Herrenschwand's life, except that he lived in Paris and in London and for a time held a judicial

post in France. His views, which were rooted in the deism and rationalism of his age, were based on the assumption that human nature is capable of infinite improvement and that human destiny manifests itself in an uninterrupted growth of population coupled with a progressive unfolding of human intelligence. It is the task of political economy to formulate policies which will aid the government in directing the course of human destiny. Herrenschwand discerned three stages in the economic development—the hunting, the pastoral and the agricultural—and concluded that a system which combines agriculture with industrial development is best suited to the realization of human progress. He appreciated the importance of money as an activating force in economic life, realized the difficulties involved in the securing of sufficient supplies of precious metals for currency needs and advocated the use of public credit for the purpose of issuing paper notes redeemable at fixed intervals. The issue of the notes was to be adjusted to the needs of trade as measured by the index of employment. He favored moderate profits and low rates of interest but was opposed to reduction of wages. He argued for economic self-sufficiency and condemned foreign trade as exposing the country to the uncertainties of distant markets; moreover, he did not believe that foreign trade increases the stock of gold.

Herrenschwand has been variously classified as a mercantilist and as a physiocrat, but he occupies a unique position in the history of economic thought. His concept of human nature was borrowed from Shaftesbury, his view of predestination may be traced to Clarke and his population policy seems to have been influenced by James Steuart.

LOUISE SOMMER

Important works: *De l'économie moderne, discours fondamental sur la population* (London 1786); *Discours sur le commerce extérieur des nations européennes* (London 1787); *De l'économie politique et morale de l'espèce humaine*, 2 vols. (London 1796).

Consult: Inama-Sternegg, K. T. von, in *Jahrbücher für Nationalökonomie und Statistik*, vol. xxxiii (1879) 416-21; Jöhr, Adolf, *Jean Herrenschwand: ein schweizerischer Nationalökonom des achtzehnten Jahrhunderts*, Berner Beiträge zur Geschichte der Nationalökonomie, no. xiii (Bern 1901).

HERTZBERG, EBBE CARSTEN HORNE-MAN (1847-1912), Norwegian economist and legal historian. In 1877 Hertzberg became professor in the university at Oslo, first teaching political economy and later legal history. He was

also a director of the Norwegian Land Mortgage Bank and keeper of the public records.

After instruction by A. M. Schweigaard, whose life he wrote, he went to study legal history at Munich under the guidance of Konrad Maurer, whose history of northern law he later edited. Of his economic writings the earliest, *Om kreditens begreb og vaesen* (Christiania 1877), which dealt with the nature of credit, and *En kritisk fremstilling af grundsætningerne for seddelbankers indretning og virksomhed* (Christiania 1877), which dealt with the principles of the organization of banks of issue, were more theoretical than later works, in which his vision of history and practical sense of realities were more in evidence. This is true of *Det europæiske landbosamvirke* (Christiania 1901, written in collaboration with J. Bull-Törnøe), an inquiry into European agricultural cooperation, and *Den norske creditbank 1857-1907* (Christiania 1907, in collaboration with N. Rygg), which dealt with agricultural credit conditions. His change from a free trade to a protectionist tariff position decisively influenced legislation.

It is, however, as a legal historian that Hertzberg has left his deepest mark. He was a pioneer in his work *Grundtrækkene i den ældste norske proces* (Christiania 1874), dealing with the characteristics of the oldest Norwegian lawsuit and remarkable for its acute demonstration of the significance of *vitterlighed* (obviousness) and the consequent distinction between obvious and non-obvious cases. In this field belong also a series of papers of an exegetico-historical nature and the *Glossarium til Norges gamle love indtil 1387* (Christiania 1895), the masterly glossary to the ancient laws of Norway. But his greatest scientific achievements from a general point of view were the basic ideas which permeated his exceptionally brilliant work. He held that the study of the application and operation of law could not be distinguished from the study of law itself. He insisted on legal history as the true core of all history. He saw law as a product of life, and he was the most eminent Scandinavian exponent of the ideas of modern legal history.

FRANTZ DAHL

Consult: Taranger, Absalon, in *Tidsskrift for retsvidenskab*, vol. xxv (1912) 486-89, and in *Videnskaps-selskapet i Kristiania, Forhandlingar* (1912) 58-63.

HERTZENSTEIN, MIKHAIL YAKOVLEVICH (1859-1906), Russian economist and politician. Hertzstein studied law and economics in Russia and abroad and developed an early in-

terest in Rodbertus' theory of rent. When he was refused an appointment to a Russian university because of his Jewish origin Hertzstein obtained a clerical position in the Moscow Land Bank, where he soon attained a prominent rank. He was appointed *Privatdozent* at the University of Moscow in 1902 and professor of economics at the Moscow Agricultural Institute in 1904. At the same time he took a leading part in political life as a member of the Constitutional Democratic party, contributed to the influential liberal press and was elected in quick succession to the Moscow municipal council and to the first Duma. By his advocacy of a moderate program of land reform he incurred the hostility of the large landowners and their adherents and was shot by hired assassins a few days after the dissolution of the Duma.

Hertzstein's scientific interest was largely centered around the problem of credit, particularly that of land credit. In his book *Kredit dlia zemstva i gorodov* (Credit for zemstvos and cities, Moscow 1892), the best Russian work on the subject, he developed a program of enlarging the credit facilities and credit institutions for local autonomous bodies. In the last and best of his works, *Noveyshiya tehniya v uchenii o posemelnom kredite v Germanii* (Latest trends in the theory of land credit in Germany, Moscow 1905), he proved that the problem of land credit cannot be solved by the "single heir" system or by fixing the limits of indebtedness: such measures would only accentuate the unequal distribution of land. The growth of indebtedness is inevitable in capitalistic society, but some of its consequences may be removed by enlarging public land credit institutions, restricting or abolishing private mortgages and definitely separating short term and long term credit operations.

V. TVERDOKHLEBOV

Other works: *Reforma ipotechnago kredita v Germanii* (Reform of mortgage credit in Germany) (St. Petersburg 1900); *Ipotechnie banki i rost bolshikh gorodov v Germanii* (Mortgage banks and the growth of the large cities in Germany) (St. Petersburg 1902).

HERTZKA, THEODOR (1845-1924), Austrian journalist and economist. Hertzka was born of Jewish parents in Budapest. He was economic editor of the *Neue freie Presse* of Vienna from 1872 to 1879, when he founded the *Wiener allgemeine Zeitung*, which he edited until 1886. In 1889 he established the weekly *Zeitschrift für Staats- und Volkswirtschaft* and in 1901 became editor in chief of the daily *Magyar hirlap* in

Budapest. He wrote a number of volumes on trade and monetary questions and on the social problem but is best known for his novel *Freiland*, the story of the founding of a utopian state in equatorial Africa. Here productive associations under elected managers initiate production on their own responsibility, moved by self-interest and competing on the market for money profits which are distributed among the members according to work done. They pay no rent and borrow their capital, on which they pay no interest, from the state. The cardinal principle is the right of every citizen to join freely any association, full publicity being given to all data of production. Thus, Hertzka argued, the elimination of unearned income and a balanced income distribution could be effected automatically. He believed that the resulting increase of consumer purchasing power would lead to an extraordinary increase of production. Hertzka's concept is socialistic in that it criticizes capitalism for depriving the worker of the product of his work but liberal in that it aims at achieving social justice on the basis of free enterprise. It is utopian both as to the conditions under which an attempt to introduce the new scheme might become possible and in its assumption that through a few simple principles of organization the whole social problem may be solved directly. Although essentially utopian *Freiland* contains also some sound scientific analysis. It attracted much interest, helped to keep alive the belief in the possibilities of liberal social reorganization and led to an abortive attempt at utopian colonization. Its ideas survive in so-called liberal socialism and Franz Oppenheimer has recognized that his own sociological system is based on Hertzka's as Hertzka's was on Dühring's.

EUGENE GÖNCZI

*Important works:* *Die Gesetze der sozialen Entwicklung* (Leipzig 1886); *Das Wesen des Geldes* (Leipzig 1887); *Freiland, ein soziales Zukunftsbild* (Leipzig 1890), tr. by Arthur Ransome (London 1891); *Wechselkurs und Agio* (Vienna 1894); *Die Probleme der menschlichen Wirtschaft* (Berlin 1897); *Das soziale Problem* (Berlin 1912).

*Consult:* Hertzler, Joyce O., *The History of Utopian Thought* (New York 1926); Surányi-Unger, T., *Philosophie in der Volkswirtschaftslehre*, 2 vols. (Jena 1923-26) vol. i, p. 81-83; Oppenheimer, Franz, *System der Soziologie*, vols. i-iv (Jena 1922-29) vol. iii; Schmoller, G., *Zur Literaturgeschichte der Staats- und Sozialwissenschaften* (Leipzig 1888).

HERZEN, ALEXANDER IVANOVICH (1812-70), Russian political writer and pioneer socialist. Herzen, a brilliant representative of

that generation of intellectuals which matured in the period between the European revolutions of 1830 and 1848, was the illegitimate son of a rich nobleman and a poor German girl. He was educated by French and German tutors, underwent the influence of the romanticism of Rousseau and Schiller and studied natural sciences at Moscow University from 1829 to 1833. Under the double influence of the revolutionary tradition of the Decembrists of 1825 and the doctrines of Pierre Leroux and Saint-Simon, Herzen played a minor role in the underground discussion groups of Moscow students. He tried to refute eighteenth century materialism by means of German *Naturphilosophie* and the idealism of Schelling and later went over to the Hegelian left. In 1835 he was banished to a provincial town. Returning to St. Petersburg in 1840 and, after a second exile, to Moscow, where he remained from 1842 to 1847, he found his friends divided into the camps of "westerners" and "Slavophiles" and participated in their lively debates on the history, spirit and destiny of Russia. Without joining either camp he shared their common interest in Russia's "mission." Contrary to the liberal westerners he found promise in the archaic Russian village community (the mir); contrary to Slavophile traditionalists he looked for the mir to evolve into a socialist commune. He hoped that the Russian "barbarians" would bring this "new faith" to a decaying Europe as the ancient barbarians brought Christianity to dying Rome.

Herzen left the reactionary Russia of Nicholas I in 1847 just in time to greet the French and Italian revolutionary movements. He soon concluded that the revolutionary mask hid the face of the hated bourgeoisie and, when the new French Republic of 1848 turned reactionary and began to collapse, he saw no alternative except social revolution. For a moment he found himself in close touch with Proudhon's teachings, although his revolutionism remained political, not economic. In 1852 he fled to London from the new wave of European reaction. Political skepticism combined with personal misfortune—the deaths of his mother, son and wife—led Herzen to retire; he now wrote his famous memoirs. Despairing of future revolutionary progress in Europe he turned again to Russia, where new possibilities of political action opened for him with the accession of Alexander II and Bakunin's return from Siberian exile. He founded a periodical, *Kolokol*, in whose pages the free word first appeared in the Russian lan-



guage, unhampered by censor or police, exposing the government's secrets, criticizing bureaucratic abuses, approving the good intentions of the czar, the "liberator," and trying to dictate to him a reform program. A kind of open conspiracy arose between the émigré journalist and his numerous readers in Russia, including members of the upper classes and highly placed officials; but his personal influence, now at its climax, was soon brought to an end. The intentions of the government did not at all correspond to the utopias of a social reformer dreaming of a constitutional assembly and a thorough reconstruction of the state on a "communal" basis. The reaction which set in left no alternative to the young Russian socialists but revolutionary peasant uprisings, and the Polish revolution of 1863 seemed to prove that alternative a valid one. Unlike Bakunin, who joined the youth, Herzen argued against the use of force. Nevertheless, he defended the Polish revolutionaries, thus undermining his influence in Russian nationalistic circles. His subsequent attempts to preach patience, based on his distrust of the peasants' socialism and of revolutionary tactics, cost him his authority among the younger generation. Led by Chernishevsky, the younger declasse democrats rejected his theories. He died, disillusioned, depressed and lonely, in Paris.

PAUL MILIUKOV

*Works:* *Polnoe sobranie sochineni i pisem*, ed. by M. K. Lemke, 21 vols. (Petrograd 1919-23).

*Consult:* Labry, Raoul, *A. I. Herzen, 1812-70* (Paris 1928), and *Herzen et Proudhon* (Paris 1928); Sperber, Otto von, *Die social-politischen Ideen Alexander Herzens* (Leipzig 1894); Steklow, Georg, "Alexander Herzen und Nikolai Tchernischewsky" in *Archiv für die Geschichte des Sozialismus und der Arbeiterbewegung*, vol. viii (1919) 1-39.

HERZL, THEODOR (1860-1904), Jewish national leader. Herzl was born in Budapest and early became a proponent of racial assimilation and baptism. In 1891 he joined the editorial staff of the Vienna *Neue freie Presse* and became its Paris correspondent. He reacted to the virulent antisemitism of the Dreyfus affair by rejecting as impossible the theory that large scale assimilation could be a solution of the Jewish question. Antisemitism he saw as a deep rooted social phenomenon dependent upon the ubiquity and abnormal situation of the Jewish race and forcing the Jews to be a separate nationality even against their will. By proclaiming, "We are a people, one people," he ruled out the

theory of assimilation (that Jews were on y a religious community) and of disintegration (that Jews in different countries form different communities). In line with the then dominant *Nationalstaats-Idee* Herzl believed that a national group could satisfy its legitimate aims only by becoming sovereign over a given territory. The Jews, being a dispersed national group living under abnormal conditions (economic and political distress in eastern Europe and moral inferiority in western Europe), must become a nation by emigrating en masse, concentrating and creating a Jewish state, where they would be able to lead a free and normal life. At the same time they would liberate from the anxieties of the Jewish problem countries which they had heretofore inhabited in large numbers. Herzl looked first for an unpopulated territory large enough to receive millions of Jews, but for historical and sentimental reasons he later chose Palestine. He became the leader of the Zionist movement and the founder of the Zionist organization. As its first president from 1897 to 1904 he opened negotiations with the sultan of Turkey and representatives of European powers to obtain a charter which would be the legal basis of a Jewish state in Palestine. Although in his last book, *Altneuland*, Herzl proposed to create in Palestine a mixed "new society" in which Jews would be the moral and intellectual leaders without any predominance of numbers, language or national culture over non-Jews, it was his idea of concentrating the many millions of Jews in a Jewish state that, without proving realizable, exercised the chief influence both on the rebirth and orientation of Jewish national consciousness and on the post-war history of Palestine.

HANS KOHN

*Important works:* *Zionistische Schriften*, ed. by L. Kellner, 2 vols. (Berlin 1905); *Die Judenstaat* (Vienna 1891, 8th ed. Berlin 1920), tr. by Sylvie d'Avigdor as *A Jewish State* (3rd ed. New York 1917); *Altneuland* (Leipzig 1902, 9th ed. Berlin 1919); *Tagebücher 1895-1904*, 3 vols. (Berlin 1922-23).

*Consult:* Haas, Jacob de, *Theodor Herzl*, 2 vols. (Chicago 1927); Friedemann, Adolf, *Das Leben Theodor Herzls* (Berlin 1914); *The Herzl Memorial Book*, ed. by Meyer W. Weisgal (New York 1929); Kellner, Leon, *Theodor Herzls Lehrjahre 1860-1895* (Berlin 1920); Kohn, Hans, *L'humanisme juif* (Paris 1931); Böhm, Adolf, *Die zionistische Bewegung* (Berlin 1920).

HESS, MOSES (1812-75), German socialist and Jewish nationalist. Hess was born in Bonn, the son of a manufacturer. He had some business experience and later pursued rather unsys-

tematically the study of philosophy. After 1841 he was active in many communistic groups and lectured to revolutionary clubs of German artisans in Paris. He was one of the founders and editors and later the Paris correspondent of the *Rheinische Zeitung* (1842-43), which was an important factor in early German socialism despite its suspension by the Prussian government after fifteen months of publication. In 1863 he was associated with Lassalle's union and in 1867 he joined the International.

Hess was the chief representative if not the creator of that "true" or "philosophical" socialism which was demolished by the *Communist Manifesto* (1847). In numerous articles published during the 1840's in left Hegelian and early communist periodicals he developed his "politicising" philosophy. He urged Marx to socialism and won Engels for communism. By introducing the ideas of action and will he radically transformed Hegelian theory, which regards evolution as spontaneous and may lead to quietism. While Feuerbach applied his theory of self-alienation and objectification only to theology, Hess broadened it to take in historical and economic categories (politics, monarchy, property, money, the state). The concept of free labor, undistorted by private property and identical with real enjoyment, was crucial with him. Once established, it would not only overcome inequalities which technical development must create through capital concentration and mass impoverishment but would also develop the "essence" of man as a social species, to which the state (as "the embodiment of the idea of morality") leads but through which the state would finally be surmounted. Like most radicals of the 1840's Hess regarded socialism not as a bread and butter or a class question, but as a humanitarian question solved by education and the organization of labor. Socialism is to him practical ethics. While from 1846 to 1851 he seemed to approach historical materialism under Marx' influence, Hess continued to view non-economic factors as of fundamental significance for historical development and the achieving of socialism. Although the study of natural science led him to renounce all preferences for specific racial characteristics, he considered nationalities, with their separate endowments, to be the predestined instruments for the achievement of a free, united human race. In Jewry he saw the motive force in the movement toward such unity. The mission of Jewry extends far into the future: it is the guaranty of the coming of the Messianic

age, in which despotism and immorality will be abolished and in which communal life will be based on the recognition of God (knowledge of the unity of the cosmic, organic and social realms) and the self-limited freedom of the individual. For this supernatural task the Jewish people must be preserved as a nationality and secured by a national home in Palestine. He advocated Jewish colonization of Palestine with the support of France, the "creative genius of all human progress." Although his project aroused little enthusiasm at the time, Hess' theory became an important factor in the ideology of Zionism.

# THEODOR ZLOCISTI

*Important works:* *Die heilige Geschichte der Menschheit* (Stuttgart 1837); *Die europäische Trierie* (Leipzig 1841); *Rom und Jerusalem, die letzte Nationalitätsfrage* (Leipzig 1862, 2nd ed. 1899), tr. by M. Waxman (New York 1918); *Sozialistische Ansätze*, ed. by Theodor Zlocisti (Berlin 1920); *Jüdische Schriften*, ed. by Theodor Zlocisti (Berlin 1905).

*Consult:* Zlocisti, Theodor, *Moses Hess, der Vorkämpfer des Sozialismus und Zionismus* (2nd ed. Berlin 1921); Lukács, Georg, "Moses Hess und die Probleme der idealistischen Dialektik" in *Archiv für die Geschichte des Sozialismus und der Arbeiterbewegung*, vol. xii (1926) 105-55; Goitein, Irma, "Probleme der Gesellschaft und des Staates bei Moses Hess," *Archiv für die Geschichte des Sozialismus und der Arbeiterbewegung*, supplementary no. v (Leipzig 1931); Mielke, Karl, *Frühsozialismus: Gesellschaft und Geschichte in den Schriften von Weitling und Hess* (Stuttgart 1931); Kohn, Hans, "Moses Hess" in Kohn, Hans, and Welsch, Robert, *Zionistische Politik* (Ostrau 1927), tr. in *Menorah Journal*, vol. xviii (1930) 399-409.

HETHERINGTON, HENRY (1792-1849), English radical. Hetherington, a compositor by trade and an Owenite and freethinker by conviction, believed that it was necessary to dispel the ignorance of the masses before their political emancipation and subsequent happiness could be secured and that the cheap periodical was the best means available for such education. As proprietor, printer and publisher he led the working class protest against the newspaper stamp duties, the so-called "taxes on knowledge." On December 25, 1830, Hetherington began to publish the *Poor Man's Guardian* (London 1831-35), deliberately unstamped in order "to try the power of Might against Right" and to "deny the authority of our 'lords' to enclose the common against us," for which he served a sentence of six months' imprisonment. During 1832-33 he undertook the publication of the *Republican* and the *Destructive, or People's Conservative*. In 1832 he again was sentenced to prison and in the next

few years cheerfully sacrificed money and personal freedom in the agitation which was carried to a successful issue in 1835-36.

Hetherington was also an excellent orator and organizer. A staunch Chartist, he was treasurer of the London Workingmen's Association, founded in 1836, and an advocate of Chartist ideas in the *Twopenny Despatch* (London 1836-39). During the revival of Chartism in 1840 he was the leading figure in the new London society, the Metropolitan Charter Union, formed to unite all radicals and to keep Chartist principles before the public through the peaceful means of lectures, pamphlets, periodicals, the opening of reading rooms, coffeehouses and cooperative stores; in 1841 he was first secretary of the National Association for Promoting the Political and Social Improvement of the People. A strong believer in trade unions and political action for the working class, he was, says Holyoake, "the first trade unionist who told his colleagues that the cooperative workshop was the bulwark of the strike, and that they were not to rob any class, but take care no class robbed them."

ALFRED PLUMMER

*Consult:* Cooper, Thomas, *Life and Character of Henry Hetherington*, ed. by G. J. Holyoake (London 1849); Hovell, M., *The Chartist Movement* (Manchester, Eng. 1918) ch. iv.

HEUSLER, ANDREAS (1834-1921), Swiss jurist and historian. Heusler was a pupil of his father, Andreas Heusler, and of Johannes Schnell, F. L. Keller and Briegleb. His long life was spent in his native Basel. He was professor at its university from 1863 until 1916, president of the Basel Court of Appeal from 1891 to 1907 and served Basel as a legislator in drafting a code of civil procedure which was put into effect in 1875. Heusler's fame rests chiefly upon his work in two special disciplines, mediaeval German law and civil procedure. He wrote a study on possession, *Die Gewerbe* (Weimar 1873), and on execution in movables, *Die Beschränkung der Eigentumsverfolgung bei Fahrhabe* (Basel 1871). His greatest achievement, however, is the now classic work, *Institutionen des deutschen Privatrechts* (Leipzig 1885-86). In demonstrating the great influence of mediaeval German law (apart from the received Roman law) upon the existing civil law of Germany, Austria, Switzerland and other countries he fortified the traditions of the folk laws. In sharply contrasting the institutions of the German law in their historical development with

those of the Roman law he influenced the conservation of old Germanic institutions in the German and Swiss civil codes. Heusler stood for the conservation of historical and local differences of law without excluding necessary centralization in some essential matters.

EDUARD HIS

*Other important works:* "Die Nichtigkeitkeitsbeschwerde in schweizerischen Civilprozessordnungen" in *Zeitschrift für schweizerisches Recht*, vol. xv (1867) 103-68; "Die Grundlagen des Beweisrechts" in *Archiv für die civilistische Praxis*, vol. lxii (1879) 209-319; *Der Zivilprozess der Schweiz* (Mannheim 1923); *Deutsche Verfassungsgeschichte* (Leipzig 1905); *Schweizerische Verfassungsgeschichte* (Basel 1920).

*Consult:* His, Eduard, and Beyerle, Franz, in *Zeitschrift für schweizerisches Recht*, n.s., vol. xli (1922) 1-100; Stutz, Ulrich, in *Zeitschrift der Savigny-Stiftung, Germanistische Abteilung*, vol. xliii (1922) 64-114.

HEWITT, ABRAM STEVENS (1822-1903), American capitalist. Hewitt was an iron manufacturer of considerable importance who became a director of the United States Steel Corporation upon its organization in 1901. His chief significance, however, lies in his ideas on the relations between labor and capital. Hewitt's interest in this subject was intensified by the outburst of strikes during the hard times prevailing after the panic of 1873. He considered unions to be "at war with the fundamental principles of the social order," although he was willing to tolerate unions which did not strike. But Hewitt went beyond the mere opposition to unions which characterized the policy of most of his contemporaries. He urged the settlement of industrial disputes by government tribunals; final peace between labor and capital, however, was to be achieved only by the democratization of corporate ownership through employee stock ownership. "By abstinence, which is the parent of capital," said Hewitt in *The Mutual Relations of Capital and Labor* (New York 1878), the workers can in a generation acquire sufficient savings that "the whole capital invested in industrial undertakings might be transferred to the wage-earning class." He played an important part in the introduction of employee stock ownership and other welfare practises by the United States Steel Corporation. Hewitt supported the corporation's opposition to unionism and its suppression of the steel workers' strike in 1901; one year later he urged "stern repression" of the anthracite coal miners' strike, although public opinion and President Roosevelt favored arbitration of the dispute. He was a reform Democrat in poli-

tics and in 1886 defeated Henry George in the election for mayor of New York City.

LEWIS COREY

Consult: Smith, C. S., *Unveiling of the Statue of Abram S. Hewitt*, Address (New York 1905); Tarbell, Ida M., *The Life of Elbert H. Gary* (New York 1925).

HEYD, WILHELM VON (1823–1906), German economic historian. Heyd was born in Markgröningen, the son of a clergyman. Although he was educated to be a theologian he developed an early interest in the study of history. After completing his studies he made a protracted stay in Italy and brought back a lively interest in Italian commercial policy during the Middle Ages. For a time he acted as private tutor at the evangelical seminary in Tübingen and in 1857 he obtained the position of librarian at the Landesbibliothek at Stuttgart, which he held until his retirement in 1897. Heyd's chief work is the *Geschichte des Levantehandels im Mittelalter* (2 vols., Stuttgart 1877–79), the second enlarged edition of which appeared in French (*Histoire du commerce du Levant au moyen-âge*, tr. by M. Furcy-Raynaud, 2 vols., Leipzig 1885–86). Based on a vast array of facts culled from contemporary official documents, travel books of pilgrims, chronicles of crusaders and account books of mercantile establishments, the book is the most thorough and authoritative study of the commercial relations between the Roman-German world and the Byzantine Empire during the Middle Ages. This work was preceded by a series of studies which appeared originally in the *Zeitschrift für die gesamte Staatswissenschaft* in the years 1858–65 and were collected in an Italian translation under the title *Le colonie commerciali degli italiani in Oriente nel medio evo* (2 vols., Venice and Turin 1866–68). Scattered studies dealing with the house of German merchants in Venice and the development of commercial relations between Swabian cities and Italian cities, Lyons and Spain appeared in various historical publications (*Historische Zeitschrift* for 1874; *Württembergische Vierteljahrshefte für Landesgeschichte* for 1880 and 1893; *Forschungen zur deutschen Geschichte* for 1884). Heyd devoted also a separate book to the merchant company of Ravensburg which in the fourteenth and fifteenth centuries maintained active commercial relations with Italy, Spain and the Netherlands (*Beiträge zur Geschichte des deutschen Handels. Die grosse Ravensburger Gesellschaft*, Stuttgart 1890).

WILHELM STIEDA

Consult: Lang, W., in *Biographisches Jahrbuch*, 1906, vol. xi (Berlin 1908) p. 42–45; Fischer, Hermann,

"Die beiden Bibliothekare Heyd" in *Württembergische Vierteljahrshefte für Landesgeschichte*, n.s., vol. xxviii (1919–20) 265–323.

HEYN, OTTO (1860–1920), German monetary theorist. An independent and prolific writer, Heyn exerted a stimulating influence upon the discussion of currency problems in Germany. His studies were the outcome of his close contact with the realities of economic life; for years he was syndic of the Chamber of Commerce in Nuremberg. A forerunner of nominalism and chartalism, he believed that the value of the currency unit is based not on the value of the material of which the money unit is made, but rather on the latter's functions as a medium of exchange and a token of purchasing power. These functions impart to money an element of value independent of and apart from the value of its material content. While he did not believe in the feasibility or even desirability of a stable value of money Heyn recognized the necessity of confining the range of fluctuations within limits narrow enough to prevent undue disturbances of the price level. When these limits are observed and the supply of money is adjusted to the requirements of trade, paper money possesses distinct advantages over metallic currency. He urged, however, the maintenance of gold reserves as a means of stabilizing foreign exchange rates and thus paved the way for the development of the gold exchange standard. Furthermore, gold reserves are necessary as a concession to popular opinion, which still associates the soundness of token money with the existence of gold reserves.

FRANZ GUTMANN

Important works: *Papierwährung mit Goldreserve für den Auslandsverkehr* (Berlin 1894); *Kritik des Bimetallismus* (Berlin 1897); *Theorie des wirtschaftlichen Werths* (Berlin 1899); *Irthümer auf dem Gebiete des Geldwesens* (Berlin 1900); *Die indische Währungsform*, Schriften des Vereins zum Schutz der deutschen Goldwährung, vol. iii (Berlin 1903); *Unser Geldwesen nach dem Kriege*, Finanzwirtschaftliche Zeitfragen, vol. xxviii (Stuttgart 1916); *Über Geldschöpfung und Inflation* (Stuttgart 1921).

HIDALGO Y COSTILLA, MIGUEL (1753–1811), Spanish American revolutionist. A graduate of the college of San Nicolás in Valladolid, Hidalgo y Costilla later studied theology at the University of Mexico. He taught philosophy and theology at the former institution and was for a short time its rector. Noted as a man of vast learning and liberal views, he was haled before

the Inquisition several times on the charge of teaching heresies. He was ordained to the priesthood in 1778 and subsequently occupied a number of curacies. While he was parish priest of Dolores from 1803 to 1810 Hidalgo attempted to improve the wretched condition of the Indians by agricultural and industrial education. He taught them the culture of the vine and the cultivation of the silkworm with a view to establishing wine and silk industries, which were forbidden by the Spanish government. A factory was founded for making pottery, brick and other simple articles. Realizing, however, that social betterment was impossible while Mexico was governed for the benefit of Spain, he became active in the political revolutionary movement.

Hidalgo is known as the father of Mexican independence. The epoch of his greatest achievement fell within the last decade of the viceroyalty of New Spain, a vast kingdom which then extended all the way from the northern border of Central America to Texas, New Mexico and California. When news of a projected rising became known he started from his curacy of Dolores in September, 1810, with a few followers. His army grew rapidly as town after town fell into the hands of his looting troops and at one time his motley and crudely equipped horde of 80,000 was within eighteen miles of Mexico city. He was, however, decisively defeated on January 17, 1811, at the battle of Calderón.

Hidalgo fought for independence, liberty and social reform. Although he lacked the talents of a military leader and a statesman, his generation, with the possible exception of Morelos, evolved no greater or more constructive plan than his. The spirit of Mexican nationality may be said to date from his insurrection, for at his call thousands of Mexicans, particularly from the humbler strata, flocked to his standard. Over the towns which he conquered he set up his own councils. For the nation he planned to establish a congress "composed of representatives from all the cities, towns, and villages of the Kingdom, which should have as its principal object the maintenance of our Holy Religion and the passage of mild and beneficent laws adapted to the conditions of each community." He planned to banish poverty, encourage the arts and stimulate industry and to prevent the drawing away of Mexico's precious metals to Spain. His program was frustrated by death; but before his capture and execution he issued decrees freeing the slaves, declaring the equality of all Mexicans before the law, abolishing the tribute collected from the

Indians, reducing taxes and suppressing monopolies.

J. FRED RIPPY

*Consult:* Noll, A. H., and McMahon, A. P., *The Life and Times of Miguel Hidalgo y Costilla* (Chicago 1910); Fuent, J. M. de la, *Hidalgo Intimo* (Mexico 1910); Santibáñez, Enrique, *Hidalgo, iniciador de la independencia de México* (New York 1919); Robertson, W. S., *Rise of the Spanish American Republics* (New York 1918) ch. iii; Priestly, H. L., *The Mexican Nation* (New York 1923) ch. xii.

HIGGINS, HENRY BOURNES (1851-1929), Australian jurist. Higgins, the son of an Irish Methodist minister, came to Melbourne in 1870. There he studied at the university and was admitted to the bar in 1876. He was a member of the Victorian parliament from 1894 to 1900, when he failed of reelection because of his opposition to the Boer War. As a member of the Federal Convention of 1897-98 he opposed equal representation for the states in the Senate and advocated a greater degree of unification; unsuccessful in the convention, he agitated against the ratification of its proposals. He was a member of the first federal Parliament and federal attorney general in the short lived Watson Labour ministry of 1904, although he was not a member of the Labour party. He left Parliament in 1906 to become a justice of the High Court of Australia and in 1907 was made president of the Commonwealth Court of Conciliation and Arbitration. In 1921 he resigned the latter office after the passage of legislation which, he believed, seriously diminished the public usefulness of the court. He remained a member of the High Court, on which he worked with Sir Isaac Isaacs to widen the area of commonwealth powers.

Higgins is chiefly known for his work in the Arbitration Court, described in his *A New Province for Law and Order* (London 1922). He looked upon the court as a desirable application of the principle of substituting reason for economic force. His doctrine of a minimum wage based on the cost of living was the foundation of his entire arbitration policy. He felt that this cost of living, determined with reference to "the normal needs of an average employee regarded as a human being living in a civilized community," should be arrived at by statistical studies of carefully selected budgets of workers' families. In the absence of such studies, however, he attempted in the famous Harvester judgment of 1907 to set a standard of living in accordance with the evidence of the expenditures of women of the laboring class, although not entirely over-

looking the capacity of industries to pay. The standard of living fixed in that case has remained the basis for the calculation of the minimum wage in Australia.

G. V. PORTUS

*Consult: Palmer, Nettie, Henry Bournes Higgins, a Memoir* (London 1931).

**HIGHER CRITICISM.** In distinction from "lower," i.e. textual, criticism higher criticism seeks to understand the origin and development of Jewish and Christian sacred writings. While its beginnings as a science are coincident with the rise of modern historiography, use was made of some of its data and methods by early churchmen in their efforts to define the developing New Testament canon and by heretical groups in conflict with orthodoxy. Critical tendencies in the mediaeval and early Protestant periods were likewise inspired and limited by religious considerations. Thus Luther's rejection of the Apocrypha and certain New Testament writings was religiously motivated. The Renaissance with its great veneration for ancient literature, the Protestant Reformation with its doctrine of the sole authority of the Bible and the orthodox Protestant dogma of literal inspiration reinforced the traditional explanations of the origin and unity of the Scriptures. Yet the effort of Protestant scholarship to establish the original text did much to undermine belief in literal inspiration and so prepared the way for higher criticism. More important sources of the development of critical study were the rationalism of the seventeenth and eighteenth centuries and its conflicts as well as those of Catholicism and Arminianism with orthodox Protestantism. The philosophers Spinoza and Hobbes, the Catholic Richard Simon and the Arminian Grotius laid the foundations for the new science while the Catholic physician Jean Astruc first discerned the composite character of the Pentateuch. The rise in the eighteenth century of the aristocratic ideal of life with its religious tolerance and the founding of new universities under state rather than ecclesiastical control with consequent freedom of research in religious subjects, as at Halle and Göttingen, gave further impetus to the movement. Pietism combined with rationalism to prepare Protestant scholarship for participation in objective Biblical studies; like rationalism Pietism sought the basis of authority in the individual rather than in an external and social code, while unlike rationalism it maintained a constant interest in the Scriptures. Under these influ-

ences Semler, Ernesti, J. D. Michaelis and other Protestant scholars continued the work of Biblical criticism during the latter half of the eighteenth century. Lessing, Bishop Lowth, Alexander Geddes and Herder influenced by the literary revival contributed to the understanding of Biblical literary forms; and Schleiermacher's reorientation of theology created conditions favorable to the further development of critical studies.

In the nineteenth century the acceptance of a developmental view of history and the rise of the new historiography inaugurated a new era in higher criticism. De Wette and Eichhorn carried forward the study of Old Testament sources by means of historical as well as literary methods while D. F. Strauss, F. C. Baur and Ernest Renan applied to the New Testament the views of historical development suggested by Hegelian or positivist philosophy. If the hypotheses based on these or later evolutionary philosophies were sometimes discovered to be inapplicable to the data, they led in other instances to verifiable insights. Thus the Hegelian theory led to a complete misunderstanding of *Mark* but pointed out the decisive importance of the difference between post-Pauline and pre-Pauline thought. Comparative studies in mythology and folklore, dependent also on philosophical theories of uniform stages of development in divergent cultures, produced interesting speculations about the historicity or mythological character of Biblical heroes such as Abraham or Jesus or about the origin in totemic tabu of certain Old Testament laws. More enduring gain for the understanding of the history of Biblical literature accrued from the use of the data and methods of the new sciences based on the evolutionary view, particularly of sociology, ethnology and anthropology, and from the study of the larger oriental and Mediterranean environment with which this literature was closely related. Of particular importance were the archaeological and ethnological studies which led to the knowledge of early Semitic religion; the discoveries of cognate oriental documents, such as the Code of Hammurabi, the Tel-el-Amarna tablets and the Oxyrhynchus papyri; the study of non-Biblical Jewish writings—especially the apocalyptic and rabbinic literature—and of the Hellenistic mystery religions. Kuenen, Wellhausen, W. R. Smith and Hermann Gunkel applied the historical method which the evolutionary approach and the new data made possible to the Old Testament, while H. J. Holtzmann, A. Harnack, J.

Weiss, A. Schweitzer and B. Bacon were among those who dealt most effectively with early Christian literature.

Literary criticism, continued in connection with these historical studies, established the composite character or at least the editorial redaction of most Biblical writings. The editorial combination of older documents was first recognized and analyzed in the case of the Pentateuch with its four main sources. Underlying literary sources have also been traced in the historical books; in the prophets, particularly *Isaiah* with two or three component parts; in *Psalms* with its hymn collections from various periods of Hebrew worship; in the Gospels of *Matthew* and *Luke* with their common reliance on two main sources, of which *Mark* is one; in *Acts*, *11 Corinthians* and in other writings. Source analysis made possible the discrimination of editorial additions while linguistic and historical studies led to the discovery of ancient folklore elements, songs and laws, embedded in the sources themselves. The effort to distinguish preliterary sources has been markedly successful in the analysis of Old Testament writings and is being applied also to the study of the Gospels. The demonstration of the composite character of sacred Scriptures as well as other evidence has made impossible the acceptance of the authorship traditionally associated with many books, but criticism has led to conservative results in a few instances, as in the case of the major Pauline Epistles. The chronological and historical organization of the material so discriminated has been undertaken by means of reference to cognate oriental documents, to the prophetic movement, which is generally accepted as the source of Hebrew monotheism, to *Deuteronomy* as the product of this movement and the basis of Josiah's reform in the seventh century B.C., to the ritualistic and legal developments beginning with *Ezekiel* and to the connection of the book of *Daniel* with the Maccabean revolt in the second century B.C. In the case of the New Testament recognition of the Gospel of *Mark* as the oldest Gospel, of the presence of the apocalyptic element in Jesus' teaching and of the character of the changes involved in the evolution of the faith from a Jewish to a Greco-Roman religion has been of similar value.

The general result of the process of analysis and organization may be summarized as the acceptance and understanding of both literatures as the social products of the two religious groups and as the reflection of their history.

With its demonstration of the historical relativity of religious ideas and mythologies, previously accepted as absolute, higher criticism has been an important factor in releasing men from the authority of traditional forms. By applying the conceptions and methods of the evolutionary approach to the very standard which traditionalism opposed to the principle of development it contributed to the general acceptance of that principle, while the active conflict within religious groups over its methods and results tended to give wide dissemination to the evolutionary concepts involved. The loss of the absolute Biblical standard led within religious circles to ever renewed attempts to define the meaning and content of religion by means of a rational or empirical and contemporary approach. Criticism's concentration of attention on the historical movements connected with prophetism and the historic Jesus also affected religion profoundly.

While higher criticism has been called a "primarily Protestant phenomenon" it has flourished also among Catholic modernists, of whom Loisy must be especially mentioned, and among liberal Jews. It has been cultivated primarily in institutions not under direct ecclesiastical control and has been either rejected or accepted only with hesitation and has been distorted by its application to apologetic and polemic purposes by Catholic, Protestant and Jewish orthodoxy. The antithetic distortion of its methods and results has characterized its use by antireligious groups or individuals. Developed most highly in Germany, where theological faculties were free from direct ecclesiastical control, its findings were resisted for a long time in England and America, not without the additional animus to which political conflict at times gave rise. Accepted first in America by eastern and urban sections of Protestantism, the conflicts which arose over it were complicated by the intrusion of sectional and economically influenced thought patterns; while in Judaism similar social factors, including those connected with the relative adjustments to new environment of earlier and later immigrations, affected the acceptance or rejection of its methods and results.

H. RICHARD NIEBUHR

See: SACRED BOOKS; RATIONALISM; MODERNISM; FREETHINKERS; ENLIGHTENMENT; DEISM; FUNDAMENTALISM; ACADEMIC FREEDOM; EVOLUTION.

Consult: Nash, H. S., *The History of the Higher Criticism of the New Testament* (New York 1900); Schweitzer, A., *Von Reimarus zu Wrede* (Tübingen

1906; and ed. with title *Geschichte der Leben-Jesu-Forschung*, 1913), tr. by W. Montgomery as *The Quest of the Historical Jesus* (London 1910); Cheyne, T. K., *Founders of Old Testament Criticism* (London 1893); Jones, M., *The New Testament in the Twentieth Century* (London 1914); Kittel, R., *Die alttestamentliche Wissenschaft in ihren wichtigsten Ergebnissen mit Berücksichtigung des Religionsunterrichts* (Leipzig 1910), tr. by J. C. Hughes as *The Scientific Study of the Old Testament* (London 1910); *The People and the Book*, ed. by A. S. Peake (Oxford 1925); Smith, H. P., *Essays in Biblical Interpretation* (Boston 1921); Robertson, J. M., *A History of Freethought in the Nineteenth Century* (London 1929) chs. vi and xiv.

HILDEBRAND, BRUNO (1812-78), German economist. Hildebrand first studied theology but soon turned to the study of history and economics. He was appointed lecturer at the University of Breslau in 1836 and professor at the University of Marburg in 1841. Forced to leave the country on account of political differences with a reactionary government, he fled to Switzerland, where he taught first at the University of Zurich and from 1856 at the University of Berne. While in Berne he founded the first statistical bureau in Switzerland. In 1861 he returned to Germany as professor at the University of Jena and director of the statistical bureau of Thuringia.

Hildebrand was one of the founders of the historico-ethical school of economics. He rejected the attempt of the classical school to set up natural laws in the realm of social development and conceived economics as a science of culture (*Kulturwissenschaft*) based on historical observation and statistical measurement, the purpose of which is to trace the actual course of economic development, to appraise it in the light of the ethical and cultural standards of the time and to point out ways and means of raising society to ever higher levels of development. In his well known stage theory he distinguished a natural, a money and a credit economy. Through his monographs he inaugurated exact research in economic history and through his statistical seminars in Berne and in Jena he promoted the cultivation of statistics as a tool in scientific inquiry. He put ethical considerations in the forefront of economic discussion; but he sharply opposed the remedies proposed by socialism, which, he believed, would increase rather than alleviate human suffering.

Hildebrand's views influenced the work of the younger historical school, as represented by Schmoller and others, and of the socialists of the chair, like Brentano and Wagner. He prepared

the way for many social reforms, which he propagated in the *Jahrbücher für Nationalökonomie und Statistik*, founded by him in 1862, and was instrumental in the organization of the Verein für Socialpolitik in 1872.

HANS GEHRIG

*Important Works:* *Die Nationalökonomie der Gegenwart und Zukunft* (Frankfurt 1848; new ed. by Hans Gehrig, Jena 1922).

*Consult:* Conrad, J., in *Jahrbücher für Nationalökonomie und Statistik*, vol. xxx (1878) i-xvi, giving bibliography of Hildebrand's works; Gehrig, Hans, "Bruno Hildebrand Gedenkworte" in *Jahrbücher für Nationalökonomie und Statistik*, 3rd ser., vol. xliii (1912) i-xvi; Gottfried, Franz, *Studien über Bruno Hildebrand* (Kirchheim 1928).

HILDRETH, RICHARD (1807-65), American historian, economist and publicist. Trained for the law, Hildreth became the chief editorial writer for the Boston *Atlas* and contributor to numerous periodicals. He stimulated Whig opposition to the annexation of Texas and advocated temperance and the abolition of slavery. In 1836 he published *The White Slave*, or *Archy Moore, the White Slave* (Boston; new ed. New York 1855), reputed to be the first antislavery novel. He opposed the Whig stand on the bank question, advocating open competition in banking privileges and unlimited right of note issue. After his retirement from active journalism Hildreth turned to philosophy and history and published two volumes of a projected series on the science of man, *The Theory of Morals* (Boston 1844) and *The Theory of Politics* (New York 1853), which although unoriginal are significant for their acceptance of the idea of evolution in morals and for their attempt at a scientific sociology.

Hildreth's best known work, *The History of the United States* (6 vols., Boston 1849-52; rev. ed. New York 1877-80), covers the period from the beginnings down to the Missouri Compromise. It is remarkable chiefly for the iconoclastic, unflattering pictures of the Puritan fathers in the early volumes and the passionate federalism of the later. Hildreth, the first realistic American historian, wrote: "It is due to our fathers and ourselves to present for once . . . the founders of our American nation, unbedaubed with patriotic rouge, wrapped up in no fine spun cloaks of excuses and apology, without stilt, buskins, tinsel, or bedizennment, in their own proper persons." Volumes four to six, covering the years 1789 to 1821, are pervaded by animosity toward Jefferson and his democratic principles



but are otherwise thorough and accurate and are valuable for their emphasis on economic influences.

HENRY STEELE COMMAGER

*Other works:* *The People's Presidential Candidate . . . William Henry Harrison, of Ohio* (Boston 1839, 3rd ed. 1840); *Banks, Banking and Paper Currencies* (Boston 1840); *Despotism in America* (Boston 1840, new ed. 1854); *Theory of Politics and the Causes of Political Revolutions* (New York 1853); *Japan as It Was and Is* (Boston 1855; 2nd ed. with title *Japan and the Japanese*, 1860).

HILL, JAMES JEROME (1838-1916), American railroad magnate. Hill was born in Canada and emigrated to the United States in 1856. He worked as a clerk in St. Paul for several years, then became an independent shipping agent and commission merchant. In 1878 Hill and a group of associates bought at a low price the bonds of the St. Paul and Pacific Railroad, which had failed in the panic of 1873 mainly because of reckless financing and exploitation by its promoters. Hill reorganized the poorly built railroad then extending only 500 miles, developed it into the Great Northern system of 4000 miles and became a millionaire. He consciously based his business plans on the agricultural and industrial development of the American northwest and its transportation needs, concentrated his interests in that region and planned to monopolize its railroads. He participated in the syndicate promoting the Canadian Pacific Railway, which was subsequently linked up with the Great Northern. In 1889 he tried to secure control of the Northern Pacific Railroad but failed. His opportunity came with that railroad's bankruptcy in 1893 and its reorganization by J. P. Morgan and Company; as public opinion was against consolidation of competing lines, Hill and his associates bought stock in the reorganized Northern Pacific to bring the two railroads together by the device of placing practically a controlling interest in both companies in the hands of the same parties. By 1900 he was in control of a system of 10,300 miles. He extended the system west and south to the Pacific coast, with a steamship line to China and Japan, and strove actively to develop Asiatic markets for American trade, particularly for the products of the northwest.

As his interests broadened to include directorships in banks and insurance companies, Hill became one of the most important figures in the Morgan system of community of interests. Rivalry between the Hill-Morgan and Harriman groups led to a struggle for control of the North-

ern Pacific Railroad which precipitated the disastrous stock market panic of 1901. The rival groups merged their interests in a holding company, the Northern Securities Company, dissolved in 1904 by decision of the United States Supreme Court—a decision which destroyed the possibility of using holding companies to create legal monopoly.

Hill combined an unusual grasp of practical railroad problems with a flair for ruthless competition and acquisition. In the Great Northern strike of 1894 he rejected arbitration and called for state troops to suppress the strikers. He opposed effective regulation of the railroads; behind regulation, he believed, loomed public ownership and socialism. Hill's ideas, characteristic of an age of expansive capitalism, are incorporated in his book *Highways of Progress* (New York 1910).

LEWIS COREY

*Consult:* Pyle, J. G., *The Life of James J. Hill*, 2 vols. (New York 1917); Dibble, R. F., *Strenuous Americans* (New York 1923) ch. v; Myers, Gustavus, *History of the Great American Fortunes*, 3 vols. (Chicago 1910) vol. iii, ch. xiv.

HILL, OCTAVIA (1838-1912), English housing reformer. Octavia Hill was a granddaughter of the sanitarian Dr. Southwood Smith and as early as 1852 taught with her sisters at the Ladies' Guild managed by her mother. There she came under the influence of Maurice and later of Ruskin, for whom she copied pictures. She had become increasingly conscious of the evil effects of existing housing on the health and morale of the working classes, and she decided that living conditions could best be improved by putting the management of tenement property in the hands of educated women. In 1864 she began her new plan through Ruskin's help with the purchase of three residential courts. While her aim was primarily to interest the tenants in improvements and she insisted on adequate space per family, following Ruskin's advice she made the properties self-supporting. As a result "philanthropy and 5 percent" became popular enough to enable her greatly to expand her work. After twenty years she was made the manager of the dwellings of the Ecclesiastical Commissioners in the slum areas of south London and with her trained assistants, who might now be called social workers, she was managing over five thousand houses. The city of Edinburgh borrowed her methods and they were copied on the continent and even in America. Today members of the Association of

Women House Property Managers formed by her pupils and coworkers have charge also of crown and even of county council properties.

Like her sister Miranda she was a leading member of the Commons Preservation Society, which has kept intact some of the commons and open spaces in and near London, and a founder of the National Trust for Places of Historic Interest and Natural Beauty. She was an early member of the London Charity Organization Society and in general she preferred voluntary action to state aided policies. She served as a member of the Royal Commission on the Poor Laws from 1905 to 1909 and signed with reservations the majority report.

EDITH ABBOTT

*Principal works:* *Homes of the London Poor* (London 1875, new ed. 1883); *Our Common Land* (London 1877); *House Property and Its Management* (London 1921); Testimony before the Royal Commission on Housing, in Great Britain, Royal Commission on the Housing of the Working Classes, *First Report*, Parliamentary Papers (1884-85) vol. xxx, p. 288 308.

*Consult:* *Octavia Hill, Early Ideals, from Letters*, ed. by E. S. Maurice (London 1928); *Life of Octavia Hill as Told in Her Letters*, ed. by C. E. Maurice (London 1913); Chase, E., *Tenant Friends in Old Deptford* (Lon-

**HILL, SIR ROWLAND** (1795-1879), English postal reformer. Hill was the son of a poor schoolmaster and became a teacher when very young. In a school that he established with his brothers at Hazelwood he instituted a novel system of pupil self-government which was widely imitated both in England and abroad. For a time he was in touch with Robert Owen and was interested in developing a model agricultural community. He founded a society to promote inventions and invented a rotary printing press. But Hill is best known for his part in the introduction of penny postage. During the seventeenth century postage rates had been increased until the postage on a letter from London to Edinburgh was one shilling and fourpence. Members of Parliament and many other officials enjoyed the franking privilege, and the high rates fell chiefly on those least able to bear them. Hill proposed prepayment by means of an adhesive stamp and argued that the distance a letter was carried had little or nothing to do with postal costs. After much opposition from the government and the post office department, whose permanent officials greeted his plans for postal reform with ridicule and contumely, Hill's suggestions were adopted by Parliament in 1839 and put into operation the next year. Hill ac-

cepted a temporary position at the Treasury, which exercised a controlling influence over the post office, and was eventually appointed chief secretary. Opposition to his projects declined steadily and he introduced many reforms in his department, including the principle of promotion by merit. The lower postal rates resulted in an enormous increase in the number of letters carried and gross and net revenue increased considerably, although not so much as is popularly imagined.

J. C. HEMMEON

*Important works:* *The State and Prospects of Penny Postage* (London 1844); *Home Colonies* (London 1832); *Post Office Reform* (London 1837, 3rd ed. 1837).

*Consult:* Hill, B., *The Life of Sir Rowland Hill*, 2 vols. (London 1880).

**HINC MAR OF REIMS** (c. 806-82), archbishop of the see of that name. He was the dominant figure in the government of the West Frankish Kingdom under Charles the Bald and as such was one of the most important political and ecclesiastical figures of the ninth century. He is one of the best representatives of its normal political ideas and principles, which are, like all the normal concepts of the Middle Ages, plain and intelligible today. To Hincmar the purpose of political society and government was the maintenance of justice; that is, he represents the tradition of Cicero and the stoics, the tradition of the Roman law and the main tradition of the Christian fathers. Indeed it is noticeable that he expresses his judgment in the terms of the famous phrase of St. Augustine, "Remota itaque justitia, quid sunt regna nisi magna latrocinia," passing over in silence the unhappy attempt of St. Augustine to eliminate the conception of justice from the definition of the state. He was also directly influenced by St. Isidore of Seville's classical distinction between the king and the tyrant. He represents then, in the first place, the inheritance from the ancient world. But, in the second place, he also sets out very clearly the fundamental principle of the Middle Ages that the king is under and not over the law and that this law expresses not merely his own will but the general consent of his faithful subjects, thus asserting that conception which most sharply distinguishes the political civilization of the Middle Ages from that of the Roman Empire.

Finally, as an ecclesiastical statesman he represents the normal position of the ninth century, that the spiritual and the temporal powers were separate and independent of each other, while

in many details the two jurisdictions might cross. The king had his place in the appointment of bishops, and the bishop in the election and coronation of kings. The disastrous conflict of the two authorities which filled western Europe with chaos and confusion from the eleventh to the thirteenth centuries was yet undeveloped.

A. J. CARLYLE

*Works:* For Hincmar's writings see *Patrologia latina*, ed. by J. P. Migne, vols. cxxv-cxxvi (Paris 1852); "De ordine Palatii" has been reprinted in *Monumenta Germaniae historica*, Legum Sectio II, vol. ii (Hanover 1897) p. 517-30.

*Consult:* Schrörs, Heinrich, *Hinkmar, Erzbischof von Reims* (Freiburg i.Br. 1884); Lee, G. C., *Hincmar, an Introduction to the Study of the Revolution in the Organization of the Church in the Ninth Century* (Baltimore 1897); Perels, Ernst, "Eine Denkschrift Hinkmars von Reims im Prozess Rothads von Soissons" in *Gesellschaft für ältere deutsche Geschichtskunde*, n.s., vol. xlv (1922) 43-100; Lasne, E., "Hincmar et l'empereur Lothaire" in *Revue des questions historiques*, vol. lxxviii (1905) 5-58; Carlyle, R. W. and A. J., *A History of Mediaeval Political Theory in the West*, vol. i (2nd ed. Edinburgh 1927) chs. xvii-xxi.

**HINDUISM.** See **BRAHMANISM AND HINDUISM.**

**HINOJOSA Y NAVEROS, EDUARDO DE** (1852-1919), Spanish legal historian. Hinojosa was educated at the universities of Granada and Madrid and became a professor of Spanish law and later of Spanish ancient and mediaeval history at the latter institution. He was a member of a number of learned societies, including the Academia de Ciencias Morales y Políticas.

Hinojosa is an outstanding figure in the history of Spanish law. He represented the tendencies of the German historical school and introduced into Spain the methodology of modern comparative legal history. A group of his disciples founded the *Anuario de historia del derecho*. His writings show a solid juristic background, a thorough knowledge of the investigations carried on by all the leading scholars of central and western Europe in the field of legal history, a mastery of the auxiliary sciences and an ability to interpret and evaluate unpublished documents.

Hinojosa's intellectual life may be divided into two periods. At first his primary interest was Roman law and later he became absorbed in the study of Germanic institutions; but his interest in both fields was always from the point of view of Spanish law. To his Romanist period belong the *Historia del derecho romano según las más recientes investigaciones* (2 vols., Madrid 1880), a

popular work based especially upon the research of modern German students, and a treatise on the reception of Roman law in Catalonia published in *Mélanges Fitting* (2 vols., Montpellier 1907-08, vol. ii, p. 391-408). His *Historia general del derecho español* (Madrid 1887, 2nd ed. 1924), which ended with a discussion of Visigothic sources, was a valuable although incomplete survey and systematized the results of previous investigations of the history of Spanish law.

Far superior to these works were Hinojosa's contributions to Germanic law. In *El elemento germánico en el derecho español* (Madrid 1915) he defended the thesis of the Germanic character of Spanish mediaeval law in a masterly way, analyzing with especial care blood vengeance and other Germanic legal institutions. *Estudios sobre la historia del derecho español* (Madrid 1903) included papers on such interesting mediaeval institutions as the municipality in León and Castile and the denial of sepulture to debtors. It also contained an illuminating essay entitled "El derecho en el Poema del Cid" which made evident the value of literary sources for the study of a country's legal history. Hinojosa also wrote on the artificial fraternity and the domestic community. His most important work, however, was *El régimen señorial y la cuestión agraria en Cataluña durante la edad media* (Madrid 1905). Its chief topic was the relationship between the land system and social classes in Catalonia during the Middle Ages and it supplied a great deal of new information gleaned from local archives. Many of its conclusions shed light upon the general problems of European mediaeval law.

JOSÉ OTS Y CAPDEQUI

*Other important works:* *Los nuevos bronce de Osuna* (Madrid 1878), in collaboration with Rada y Delgado; *Influencia que tuvieron en el derecho público de su patria y singularmente en el derecho penal los filósofos y teólogos españoles de los siglos XVI y XVII* (Madrid 1890).

*Consult:* Ots y Capdequi, José, "Los más grandes cultivadores de la historia del derecho español" in University of Valencia, *Anales*, vol. iv (1923-24) 117-59; Sánchez, Gato, in *Revista de derecho privado*, vol. vi (1919) 161-64; Diego, Clemente de, in *Revista de ciencias jurídicas y sociales*, vol. ii (1919) 145-50.

**HINSCHIUS, PAUL** (1835-98), German jurist. Hinschius was professor at the universities of Halle, Kiel and Berlin. He took an active part in the struggle of the German government against the Roman Catholic church, the so-called *Kulturkampf*; called upon by the Prussian minister Falk, he assisted in drafting the well known May

laws of 1873. The national law of personal status of 1875 also owes much to Hinschius in form and content. This part of Hinschius' work cannot be regarded as of permanent importance; indeed, the *Kulturkampf* regulations have practically all been repealed.

Hinschius owes his enduring fame to his scientific work in the canon law. At first a close follower of Aemilius Ludwig Richter, he soon far surpassed him. Because of his rigorous scientific objectivity, Hinschius succeeded in penetrating the spirit of the canon law despite his own Protestantism. His reputation was firmly established through the publication of the *Decretales pseudo-isidorianae et capitula Angilramni* (Leipzig 1863), for which he had prepared himself through extensive travel in order to study sources. The first scientific edition of the false decretals, it is unsurpassed to the present day.

Hinschius' chief work, however, is the *System des katholischen Kirchenrechts mit besonderer Rücksicht auf Deutschland* (5 vols. and the first part of vol. vi, Berlin 1869-97). This was only part of a work the whole of which was planned to comprise the Protestant as well as the Catholic canon law, but even with respect to the latter Hinschius was able to complete only the subjects of hierarchy and church administration. Nevertheless, the work must still be considered as an outstanding achievement of European canon law, history and philology, his rare knowledge of the source material pertaining to both the canon and secular law, and his powers of dogmatic exposition—all these enabled him to master his tremendous subject. He fulfilled the task he had set himself, which was to give a realistic and objective account of the process of the merging of Roman, Germanic and canon law. Interesting both from the viewpoint of legal history and the general history of civilization, Hinschius' work may be regarded as the culmination for his age of the method of the historical school in the field of canon law.

EUGEN WOHLHAUPT

*Consult:* Seckel, Emil, in *Realencyklopädie für protestantische Theologie und Kirche*, ed. by J. J. Herzog and A. Hauck, vol. viii (3rd ed. Leipzig 1900) p. 90-97; Stutz, Ulrich, in *Allgemeine deutsche Biographie*, vol. I (Leipzig 1904) p. 344-60; *Die juristische Fakultät der Universität Berlin*, ed. by Otto Liebmann (Berlin 1910) p. 50-51, 387 and 421.

HIPPOCRATES AND THE HIPPOCRATIC COLLECTION. Hippocrates, "father of medicine," was born on the island of Cos about

460 B.C. Next to nothing is known of him and few if any of the works which bear his name can be his. There is in fact no adequate evidence that he wrote anything. His younger contemporary Plato mentions him but throws no light on him or his work.

The so-called Hippocratic Collection is a miscellaneous series of Greek medical texts, the nucleus of which was probably put together by a book dealer in the third century B.C. to meet the demands of learned buyers in the Alexandrian market. Accretions continued until the third century A.D. The constituent works vary in date from about 500 B.C. or a little earlier to about 250 A.D. The collection is variously divided, the number of its texts ranging from about 60 to about 100. They vary in viewpoint, motive and scientific value but all of them display an entirely rational and highly sophisticated spirit. These texts, which are the earliest complete scientific treatises extant, all exhibit the conviction that order reigns in nature and that the character of that order can be elicited by investigation.

The collection has always been treated by medical men with a respect amounting to reverence. The dignified Hippocratic oath, although certainly not devised by Hippocrates and probably not written before 200 A.D., is still a part of the initiatory medical ceremony in some universities. There are at least six pathological conditions described in the collection to which the name of Hippocrates is still attached in modern medical nomenclature. The most striking and perhaps the most ancient members of the collection are: *Airs, Waters, Places*, which is the first work on climatology; *The Sacred Disease*, which treats of epilepsy and contains a superb vindication of the scientific method; *Epidemics, Books I and III*, which includes the earliest clinical case notes now known; *Prognostics*, which is supplemented by *Regimen in Acute Diseases* and contains some of the most characteristic passages; *Aphorisms*, from which many quotations have passed into modern speech, such as "Art is long, life is short," "One man's meat is another man's poison," "Desperate diseases need desperate remedies"; *Wounds of the Head*, a fine surgical work which molded the standard of practise in those matters with which it is concerned until well into the eighteenth century; *Fractures, Dislocations, Instruments of Reduction*, which describes the so-called Bench of Hippocrates, an instrument of reduction still in use, and methods of reduc-

tion of dislocations, some of which are in accord with modern practise.

The Hippocratic method of medical treatment is that known as the "expectant method." The physician should merely assist nature and must be very careful that "his treatment shall at least do no harm." Few drugs are used and those in simple form. There must be no officious interference with, but a careful promotion of, nature's own tendency to healing.

CHARLES SINGER

*Works:* Littré, Émile, *Oeuvres complètes d'Hippocrate*, 10 vols. (Paris 1839-61), Greek and French; for English editions see that by Adams, Francis, *The Genuine Works of Hippocrates*, Sydenham Society Publications, 2 vols. (London 1849), and the Loeb Classical Library edition by W. H. S. Jones and E. T. Withington, vols. i-iii (London 1923-27).

*Consult:* Singer, Charles A., *Short History of Medicine* (Oxford 1928) p. 13-26; *Pandys Real-Encyclopädie der klassischen Altertumswissenschaft*, ed. by Georg Wissowa and Wilhelm Kroll, vol. viii (Stuttgart 1913) cols. 1801-52, with bibliography. A bibliography of recent works on Hippocrates and the Hippocratic Collection by F. E. Kind will be found in *Jahresbericht über die Fortschritte der klassischen Altertumswissenschaft*, vol. clxxx (Leipzig 1919) p. 5-20, 43-49.

HIRE-PURCHASE SYSTEM. See INSTALLMENT SELLING.

HIRSCH, BARON MAURICE DE (1831-96), German-Jewish financier and philanthropist. Hirsch was born in Munich but lived for almost his entire life in Paris. He acquired a great fortune in the fields of banking and railroad construction and later spent a large part of it in many constructive philanthropic enterprises. His purpose was to interest the Jewish population of eastern Europe in productive labor through a system of broad social aid. He helped support the Alliance Israélite Universelle in Paris: in 1873 he donated 1,000,000 francs to the schools maintained by the alliance in the Orient and eastern Europe and he continued to contribute large sums toward the work of this society. In the late 1880's Hirsch concentrated his philanthropic activities chiefly on the Jews of eastern Europe, especially on those in Russia. It was his aim by awakening in the Jewish population an interest in agriculture and handicrafts to improve their economic condition and to raise the general level of their living as well as to offset the prevailing notion that Jews are in general not suited to manual labor. He informed the Russian government of his willingness to donate 50,000,000 francs for the creation of a

broad network of Jewish agricultural schools and farms as well as trade schools and workshops, but because of stipulations by the Russian government the plan proved to be unfeasible. Having convinced himself of the impossibility of helping the Russian Jews in their own country, Hirsch decided on the organization of mass emigration in the form of colonizing groups which were to settle in Argentina. A special commission was organized by him in 1890 and sent to Argentina to investigate conditions and purchase large tracts of land. In order to interest the Russian government in his plan Hirsch dispatched a member of the British Parliament, Arnold White, into Russia and in the autumn of 1891 founded in London a special society, the Jewish Colonization Association (known by its initials, JCA) with a capital of £2,000,000 paid entirely by himself. This capital was augmented by Hirsch and later by his widow, Clara Hirsch.

According to Hirsch's plan in the course of twenty-five years over 3,000,000 Jews were to emigrate from Russia and to settle in Argentina; the colonists were gradually to pay back the loan advanced them on their land and implements, and this money was to be used for further colonization purposes. The Russian government, eager to rid itself of the masses of Jewish paupers, gave its approval to the JCA in 1892. The broad plan met, however, with unsurmountable obstacles in execution. During the first three years only about 6000 Jews were established in Argentina, of whom only one half actually settled in the colonies founded by the JCA in the provinces of Buenos Aires, Santa Fé and Entre Rios. The main flow of the emigration turned not to agricultural Argentina but to the industrially developed North American states. Nevertheless, Hirsch's experiment served as a vital stimulus for the subsequent flow of immigrants into Argentina and for the creation of an important Jewish center in South America.

Hirsch carried out the same idea of interesting the Jewish population in physical labor in Galicia and in Bukovina, where in 1891 he established the Hirschscher Schulfond with a capital of 25,000,000 francs. The activities of this foundation consisted in organizing agricultural schools, trade schools and workshops, which in 1905 had reached the number of 48 with an enrolment of 7800 students. After the World War, as a result of the depreciation of the capital which was deposited in Vienna, the schools in Galicia were taken over by Poland and those in Bukovina by Rumania.

In 1891 Hirsch established in New York a special Baron de Hirsch Fund with a capital of \$2,500,000 to aid Jewish immigrants to the United States and promote the idea of physical work among them. Trade schools for the children of the immigrants, night schools for adults, children's homes, agencies for immigrant aid and shelter, were established by this foundation and agricultural colonies were founded in New Jersey and in Canada.

E. TSCHERIKOWER

*Consult:* Leven, Narcisse, *Cinquante ans d'histoire*, 2 vols. (Paris 1911-20) vol. ii, p. 347-70, 420-93; Dubnow, Simon, *Weltgeschichte des jüdischen Volkes*, tr. by A. Steinberg from the Russian, 10 vols. (Berlin 1925-29) vol. x, p. 190-94, 303-06; Straus, O. S., "Studies of Notable Men: Baron de Hirsch" in *Forum*, vol. xxi (1896) 558-65.

HIRSCH, MAX (1832-1905), German social reformer and labor leader. Hirsch was the founder of the German trade unions which were named for him and Franz Duncker. These unions had the same general character as the educational unions of artisans organized before the Revolution of 1848 by liberal politicians for the primary purpose of spreading liberalism among the working people. Although unions existed among the tobacco workers and printers, the labor movement was hampered by the laws against combination; these laws were abolished in Prussia in 1867 and an active organization of unions began. Liberals and Social Democrats struggled for political control of the newly formed unions. Hirsch published a series of *Workers' Letters* in 1868 in which he described the structure, ideas and activity of the English trade unions and urged them as a model for the German workers. The Social Democrats issued a call for a national organization of labor unions; Hirsch issued another call, in the name of some unions under liberal influence, for the establishment of trade unions on English lines—that is to say, unions organized for cooperation between labor and capital instead of on the basis of the class struggle. The Social Democrats refused to permit Hirsch to speak at their congress, whereupon he called a general workers' meeting, which laid the foundation of the *Gewerkvereine*, the Hirsch-Duncker unions. Thus from the start the German labor union movement was split into rival socialist and democratic-liberal organizations.

The historic importance of Hirsch lies in his attempt to organize German unions on the English model attached to the liberal movement—a liberalism, however, which he insisted must rec-

ognize the workers' right to organize and develop their interests. The Hirsch-Duncker unions did not meet with any great response from the workers; at the very beginning the movement received a severe setback in the unsuccessful Waldenburg coal strike of 1869-70. This setback strengthened Hirsch's opposition to strikes and to unions as a means of struggle. It strengthened also his opposition to socialism; in 1876 he demanded that workers entering the *Gewerkvereine* must declare in writing that they were neither members of nor sympathizers with social democracy. Hirsch's opposition to socialism, his liberalism and insistence on class harmony were against the current of ideas among the workers; they created discord and hampered the development of the movement, aggravated by a rigid centralization which restricted the freedom of action of provincial and local unions. The *Gewerkvereine* were weakened also by Hirsch's opposition to compulsory old age and disability insurance, although he was generally strongly in favor of social reform. In consequence the Hirsch-Duncker unions gradually lost all significance, while the social democratic, or "free," unions came to dominate the labor movement.

Hirsch's most valuable accomplishment was in the field of popular higher education. The Humboldt Academy in Berlin, of which he was founder and general secretary, remains testimony of his activity in the labor education movement.

G. BRIEFS

*Important works:* *Der Staat und die Versicherung* (Berlin 1881); *Die hauptsächlichsten Streitfragen der Arbeiterbewegung* (Berlin 1886); *Die Arbeiterfrage und die deutschen Gewerkvereine* (Leipzig 1893); *Volks-hochschulen* (Berlin 1910).

*Consult:* Pache, Oskar, *Max Hirsch, ein Bild seines Lebens und Wirkens* (Bremenhaven 1894); *Aus der Humboldt-Akademie, Dem Generalsekretär Herrn Dr. Max Hirsch zu seinem 70. Geburtstag* (Berlin 1902); Gleichauf, W., *Geschichte des Verbandes der deutschen Gewerkvereine (Hirsch-Duncker)* (Berlin 1907).

HIRSCHFELD, OTTO (1843-1922), German historian. During his preparatory years at Königsberg, Bonn and Berlin Hirschfeld was deeply influenced by Lelars, Friedländer, Ritschl, Jahn, Böckh, Droysen and Theodor Mommsen. He was initiated into the critical methods of philology and the new methods of research in inscriptions and became acquainted in Rome with the problems of topography and archaeology. In the auspicious period when because of Mommsen's genius for organization the vast material of inscriptions from the entire Roman world

offered itself as valuable source material for the deeper study of the organization and history of the Roman Empire, of its government and institutions, and especially of life in the provinces he concentrated with energy and skill, as one of the first independent followers of Mommsen, on Roman history. After 1872 he was professor of ancient history, first in Prague, then in Vienna and finally for thirty-two years at the University of Berlin, where as successor to Mommsen he contributed enormously to the enrichment of the field opened up by that scholar.

Between 1865, when he came to the fore with the first historical work on Roman municipal priests in Africa, and his death Hirschfeld published in nearly a hundred works studies on Roman tradition and Roman writers and on the political, military, social, economic, legal and administrative problems of the Roman state and its provinces, devoting special attention to the history of Gaul. Through this profound study of original documents concerning life in the Roman Empire he acquired the mastery over the material which allowed him to write early in life *Untersuchungen auf dem Gebiete der römischen Verwaltungsgeschichte* (Berlin 1877), which in 1905 reappeared entirely rewritten as his chief work, *Die kaiserlichen Verwaltungsbeamten bis auf Diocletian*. With the epigraphic method Hirschfeld penetrated into all fields of life; cautious, critical in detail, learned in the broad scope of his work, he reconstructed from a thousand fragments the structure of the organization of the imperial administration. Always analytical but never achieving a great historical synthesis, he was until his death a true disciple of the master of Roman history and of the organization of scientific work.

WILHELM WEBER

*Consult:* Kornemann, Ernst, in *Jahresbericht über die Fortschritte der klassischen Altertumswissenschaft*, vol. ccii (1927) 104-16; Wilcken, Ulrich, "Gedächtnisrede des Hrn. Wilcken auf Otto Hirschfeld" in K. Akademie der Wissenschaften, Berlin, *Philosophische-Historische Klasse, Sitzungsberichte*, vol. xlii (1922) xcvi-civ.

HIRTH, FRIEDRICH (1845-1927), German sinologist. After spending several years in the study of classical philology, in 1870 Hirth entered the International Chinese Maritime Customs Service organized by Sir Robert Hart. In the various localities in which he was stationed he devoted himself to a thorough study of the Chinese language and was especially attracted by the problem of the relations of ancient and

mediaeval China with the West, with central Asia and with the regions beyond. The result of his researches was the work *China and the Roman Orient* (Shanghai 1885), an investigation of ancient Chinese accounts of the Asiatic provinces of the Roman Empire. This work made Hirth known throughout the world of scholarship and led him to make further studies. In 1894 appeared the first part of *Die Länder des Islâm nach chinesischen Quellen* (T'oung Pao, vol. v, supplement, Leyden), which Hirth planned to make an extensive study of the subject and in which the Chinese texts concerning the caliphate at the time of its greatest expansion were to be collected and explained. Unfortunately the work progressed scarcely beyond the introduction.

After Hirth left the Chinese service in 1897, however, he published a series of historical works, such as the treatise "Über Wolga-Hunnen und Hiong-nu" (Akademie der Wissenschaften, Munich, *Philosophisch-philologischen . . . Klasse, Sitzungsberichte*, vol. ii, 1899, p. 245-78) and "Sinologische Beiträge zur Geschichte der Türkvolker" (Académie Impériale des Sciences de St.-Petersbourg, *Bulletin*, 5th ser., vol. xiii, 1900, p. 221-61), and also turned his attention to the history of Chinese art and to Chinese archaeology. In 1896 he had published *Über fremde Einflüsse in der chinesischen Kunst* (Munich 1896), an essay which had received considerable notice, and in 1897 he presented a treatise *Über die einheimischen Quellen zur Geschichte der chinesischen Malerei* (Munich 1896; tr. by A. E. Meyer, New York 1917) before the Congress of Orientalists in Paris. From 1902 to 1917 he occupied the newly founded chair for the study of Chinese at Columbia University. His lectures in New York appeared in a volume entitled *Ancient History of China to the End of the Chou Dynasty* (New York 1908) and together with W. W. Rockhill he published a translation of Chao Ju-kua's "Description of the Barbarous Peoples" as *Chau Ju-kua, His Work . . . Entitled Chu-fan-chi* (St. Petersburg 1911).

Hirth's historical works have now been largely superseded, but he traced new paths for the investigation of the ancient history of central Asia and the extension of Chinese influence to the West. He was one of the first to bring into prominence the study of Chinese art.

OTTO FRANK

*Consult:* Hirth, F., "Biographisches nach eigenen Aufzeichnungen" in *Asia Major: Hirth Anniversary Volume* (London 1923) p. ix-xlviii, and bibliography of Hirth's works, p. xlix-lvii.

## HISTORY AND HISTORIOGRAPHY

|                               |                              |
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**HISTORY.** *The Concept of History and Historical Analysis.* There is no branch of knowledge which in the course of intellectual evolution has exhibited more varied modalities and answered to more contradictory conceptions than has history. There is none which has had and continues to have more difficulty in discovering its definitive status.

History has its beginnings in the primitive representations which the mind made of the past. While physical phenomena would be known even without the intervention of someone to describe and classify them, the historical past exists only to the extent that there is an image of it—in other words, to the extent that it is recreated by the mind. The mind, however, can create as well as recreate. At first merely playing with the past, the mind came through the myth to attempt to take full and immediate possession of it. On the other hand, practical necessities have caused the particular circumstances of public and private life to be noted down. Genealogies, records, annals and chronicles register with more or less exactitude successions of names and events as guideposts for the memory. A sort of technique formulated by groping was in this way developed. Thus the entire development of history has a twofold source, or threefold if one takes into account the aesthetic pleasure derived from the playing of imagination and sensibility on the past, which explains the great number of easy and dangerous compromises between art and history.

The Greek word *istoria* originally meant research, exploration or information. Later it took on the connotation of the results of research, a verbal or written account. Through the Latin *historia* it passed into the Romance languages and most of the Indo-European tongues. In contrast with this Greco-Latin word there is the Germanic word *Geschichte*, which comes from *geschehen* (to take place, to happen). In the seventeenth century this word began to be used to designate a collection of historical data and in the eighteenth century such use became increasingly

frequent. In the nineteenth century *Geschichte* finally supplanted the term *Historie* and was used by German historians and philosophers to designate the collection of human facts and their evolution. In the twentieth century the term *Historie* is regaining ground.

In the etymology of these two words—history and *Geschichte*—may be noted two different points of view with respect to the past. With the use of the latter term the accent is placed on the event, *das geschichtliche Geschehen*; in the former on the evocation, the evocative effort. Doubtless the Germanic word has long permitted the double orientation of both the objective and the subjective aspect and signifies the *historiam rerum gestarum* just as much as it does the *res gestas* themselves, and similarly the Greco-Latin word is applied to facts objectively considered as well as to their subjective reproduction. But one of the terms denotes a more intuitive, the other a more critical tendency.

In the evolution of the discipline of history these two mental attitudes have not been without effect. There has been a tendency, an effort, to take broad possession of the past, to revive it by a play of the imagination or to penetrate it by a burst of speculation. Art and philosophy have variously falsified history for the artificial satisfaction or the vain amusement of the mind. And it was the natural survival of this naive and spontaneous exercise that filled the world with myths falsely representative and explanatory. On the other hand, practical needs and the judicious desire for knowledge have established facts, collected solid masses of material and slowly created sure methods. But this work, scientific in appearance, is in reality only preparatory. True science meets with the same ambitions, seeks to solve the same problems, as were imposed on mythical thought and philosophical speculation.

In order to define the role played by history in the achievements of knowledge it must be noted that there exists for the mind a general point of view, which is the historical point of view, the



point of view of change. If everything in the realm of the real were subject to immutable laws, there would be no history. But neither would there be a possibility of history if everything in the realm of the real were universally and perpetually changing, if there were but chaos and anarchy. It will thus be noted that history is related to something which changes as opposed to or in connection with something which remains constant or repeats itself. And it will be noted also that in the broadest sense history comprises nature as well as humanity, as illustrated by such works as Cuvier's *Révolutions du globe* and Darwin's *Origin of Species* and *Descent of Man*. In its narrow acceptance, and it is in this sense that the term will be used here, history is the study of change in humanity. Many other definitions of history in the narrow sense have been proposed. Ernst Bernheim in his classic *Lehrbuch* says: "The science of history is that science which investigates and presents, in their context in psychophysical causality, the facts, determined by space and time, of the evolution of men in their individual as well as typical and collective activity as social beings." Henri Pirenne's more sober definition is: "The object of the study of history is the development of human societies in space and in time." The formula that history is the study of human facts of the past, although general and perhaps even a little vague, excludes no element of history and does not prejudice the result of the discussion to follow.

Among the ancients even in the case of those who were most eager for truth, even, for example, in the case of him who wished to acquire it forever, history was considered as a work of art, a literary genre. In the humanistic historiography of the Renaissance rhetoric placed in the service of politics or of morality played a greater role than the search for truth. And even in the nineteenth century, when in the romantic period history suddenly sprang into life and vigor, the part played by art was considerable: the imagination played too freely on insufficiently established facts. But this imagination—in its activities both picturesque and psychological—had advantages not possessed by rhetoric; and the historical sense which was being born in the absence of the critical sense, which was still scarcely awakened, caused the knowledge of the past to progress in the direction of the resurrection of environments and the fathoming of souls of peoples as of individuals. History as it is conceived today may blossom into art, may be crowned with philosophy; but it is primarily and necessarily the solid

establishment of facts and the precise exposition of the facts established, a task, as will be seen below, singularly difficult and delicate; in short, the pursuit and the expression of truth.

In contrast to the study of the present, which even in the case of phenomena is direct, the study of history is sometimes characterized by the indirect procedure to which it must have recourse. Of past facts there remain only traces, vestiges, monuments, documents. These monuments, which apprise the historian, these documents, which instruct him, are of all kinds; the sources of history, as has been said, are infinitely varied. There is an intentional tradition, oral, written, of determinate form, and an unintentional tradition. By a manifest paradox the documents and monuments of this last category—acts, letters, newspapers, various objects and material remains of public and private life—are frequently more useful to modern historians than the historical annals and chronicles of the first category, than the writings of most historians previous to the nineteenth century. It might be called "militant history," this history which by explorations, by excavations, pursues and recovers, sometimes at the price of painful effort and even danger, the disparate, scattered and often buried materials of history.

Inventories or indexes and depositories—archives, libraries, museums—of documents and of monuments have been formed. The so-called auxiliary sciences have come into being. Although attempts have been made to limit the number of these sciences, all sciences are or may be auxiliaries of history. Among them, however, may be distinguished those which as true techniques facilitate for the historian the pursuit and the utilization of the materials in which the past is to be found. Rules of criticism, external and internal criticism, have been derived from experience and reflection and allow him to disentangle from the texts more surely and more rapidly the sum or the parcel of truth which they contain.

The goal and accomplishment of scholarship are the finding and fixing of as many as possible of the infinite number of facts of the human past. And these facts accumulate to such an extent that especially since the beginning of the twentieth century the sentiment has at times been expressed that the mind will finally be overwhelmed by them and that furthermore the effort is vain, since no matter how huge and heavy is the mass of facts acquired, the totality of the past can never be reconstituted. To these

fears and complaints it has been replied that "history is not the accumulation of events of all sorts which have made themselves known" (Fustel de Coulanges); that doubtless not all facts are of equal interest and that there are details which "are of practically no importance in the total aspect" (Langlois); that the work of research and criticism must be regulated first to avoid useless repetition and then to proceed more directly to the essential point. There is scholarly work which is blind curiosity and there is scholarly work which is directed curiosity and constitutes true analysis. Pure scholarship is an end in itself; analysis leads toward synthesis. "Years of analysis are required for one day of synthesis," said Fustel de Coulanges and it is with this day in view that work should be performed.

The immediate result of the work of scholarship is included in monographs; and these monographs result in special histories. While monographs have been accumulating, the development of special histories has increased. Geiger lists some twenty-five special histories; the list could be increased. It is evident that the diverse manifestations of human activity, the various aspects of the life of men in society, can be studied separately. There are political history; economic history; history of institutions, political, legal, economic; religious history and ecclesiastical history; history of ideas, philosophical, moral, social; history of science, of literature, of art, of popular customs and traditions. But every country, every province, every town, every institution, every religion, every science, every literature, every art—even, in every literature or art, every genre, every school—has or can have its history. It is a process of breaking into tiny pieces, which can go on to infinity; and it is as a result of this process that the need for synthesis arises. If synthesis is illegitimate without analysis, true analysis is bound up with synthesis. A work of synthesis is thus pursued parallel to the work of analysis, and this work takes place under various forms more or less empiric or systematic.

*Synthesis in History.* Of the various forms of synthesis the most elementary form is the synthesis of crudition. The established facts are recombed with no other purpose than that of presenting them easily in dictionaries or encyclopaedias, in indexes or manuals. They are listed alphabetically or grouped according to subject matter. These instruments, precious to the historian, inform him as to the condition of the work. Certain bibliographical rubrics in publi-

cations, such as the general reviews, have been conceived in order to provide a periodical inventory of what has been done and what is yet to be done. Thus in the purely technical sphere it is sought to remedy the disadvantages of scholarship and to organize analysis.

But a more elaborate and moreover a current form of synthesis is the synthesis of reconstitution. Narration, which is spontaneous history and which in certain of the ancients and in certain historians of the early nineteenth century had achieved vigor as well as picturesqueness, stripping itself of all ornament, of all literary artifice and nourishing itself rather on the product of scholarship, is able to group in chronological series, to group effectively in works of a real value, a considerable number of well established facts. This kind of synthesis, which provides a more or less lively or pallid image of the past, does not aim to explain nor does it give any explanations except by chance. But works of this type, empirical as their construction may be, have an incontestable practical usefulness. They provide the mind with a first, indispensable contact with the past and are useful to other historians who aim higher than a mere recital of facts.

Synthesis of reconstitution has various degrees of extension and presents various modalities. It may embrace all of humanity—universal history, history of humanity, world history—or a people or only one period, one element in human life or in the life of a people. The term general history should be regarded with suspicion; it is used often but has diverse connotations. General history may be either a history which without being universal has a wide extension in space or in time or in both (*allgemeine Geschichte*) or a history which embraces the diverse elements of human activity or those of a people (*Gesamtgeschichte*). At times, and this is somewhat paradoxical but answers a special conception, it is a predominantly political history.

In synthesis of reconstitution historians have adopted two very different attitudes: that of political history and that of cultural history. From this division has resulted a struggle which has been vigorous especially in Germany in connection with the assault upon the theories of Lamprecht and which has not yet entirely ceased. To the idea that the state plays a preponderant role in the life of the peoples; that the acts of governments, the facts of internal policy, of diplomacy and of war constitute the core of history, there has been opposed the thesis that

the object of history is civilization; that is, a collection of facts on very different planes, among which economic and intellectual facts are of prime importance. Political history, direct descendant of that pragmatic history—so brilliantly represented by Thucydides, Polybius, Tacitus and Machiavelli—which is concerned with affairs, with the motives of statesmen, and which is orientated toward political action has lost some of its prestige. History tends to embrace life in the entirety of its aspect and thus to unite all the special disciplines and all the so-called historical sciences which have sprung from analysis. In all countries of high culture there has emerged since 1900 a movement oriented in this direction of synthesis. The *Revue de synthèse historique* provided it with a strong stimulus. A characteristic manifestation is the so-called new history in the United States and elsewhere.

Attempts at historical synthesis have often been prompted by a desire to construct a logical explanation for the development of civilization. They have assumed the form of that which Voltaire first called the philosophy of history, but which existed before him. Philosophy of history may be said to represent the transformation of the naively audacious burst of speculation of the old mythologies and the disentangling of the speculative element contained in the work of ancient historians by a series of thinkers beginning with Augustine. The philosophy of history has been characterized in the past by the effort to explain human events by going back to the source or sources of historic causality; but it has been characterized by an insufficient knowledge of facts, insufficient often not so much through the fault of the historian-philosopher as through the actual conditions governing the research. Finally and inevitably the explanation has been by its very nature too *a priori*; it has proceeded from a general philosophy rather than from the actual subject matter of history or it has been incomplete and one-sided because it has proceeded from incomplete observation of that subject matter.

The two schools which have represented this tendency in the broadest and most spectacular manner are the Christian and the German idealist. The former since the *De civitate Dei* of Augustine has attached the indefinite sequence of events to the divine will; the other in Hegel's system attaches it to the Idea or more exactly derives it from the Idea by dialectic. The materialistic conception of history is opposed to

both of these schools. They are magnificent but misleading constructions. The criticism which demolishes them, however, should not cause them or many other less broad conceptions to be despised. In all of them not only is implicit an invitation to understand, but also there remain ideas which may be put to valuable use. The exclusionism of explanations on the basis of the great man (the hero), of environment, of race or of ethnic genius cannot be accepted, but their every detail must not be rejected. Thus not the principle of the philosophy of history but the way in which it is practised is to be condemned. If the term is in bad repute it is because of the use which has been made of it; the concept is still legitimate.

Indeed in Germany especially the term philosophy of history is in fairly current usage. But a distinction is made today between *materiale Geschichtsphilosophie* and *formale Geschichtsphilosophie*. The one is traditional philosophy which pretends to disentangle the skein of history; the other is reflection concerning history, pure theory, and is often called also *Geschichtslehre* or *Geschichtsslogik*. *Geschichtsslogik*, properly a philosophy concerning history, has been held by many modern theorists to culminate in the negation of all true philosophy of history, in the submission under the influence of a false conception of science to the discretion of those engaged in the profession of history—scholars who establish the facts and narrative historians who assemble them. As used by Aristotle the word history contrasts research into the facts with the logical work of explanation. Also with Bacon, who furthermore follows the scholastics, history is that knowledge of the individual which is founded on memory as opposed to philosophy, whose instrument is reason. But modern theorists do not see history merely as a preliminary knowledge which furnishes the subject matter of the rational science; they see it as a science *sui generis*, which can have as its object only the individual and the non-recurrent.

The concept of a science of the individual seems *contradictio in adjecto*. Nevertheless, there are many theorists, both historians and philosophers, who contrast facts of succession and facts of repetition (Xenopol) or facts and laws (Naville) or singular and universal facts (Rickert). To the science of laws, or of the universal, various names are given: natural (Rickert), nomothetic (Windelband), systematic (Eduard Meyer), theoretical or conceptual (Croce); but all of these thinkers agree in distinguishing it

definitely from the "science of particular and individual things," which are characterized by their uniqueness in space and in time and which require merely that their causal connection be reconstituted. This is the narrow, unassuming conception to which has been applied the name of *histoire historisante*. In the case of mere change, however, no history is conceivable: the flow of things has an internal element of permanence. "Particulars carry generalities within them," said Ranke, and even according to Rickert the contingent permits elements of generalization. As a matter of fact the study of individuals, of various groupings, of peoples, of institutions, of creations of the mind, not only unites with them a more or less considerable number of phenomena but by a more or less conscious comparison is bound up with an entire set of psychological manifestations individual or collective. "Everyone knows that the basis of all human reasoning is a comparison. Even when we open our eyes and see, it is a comparison or a series of comparisons that we make without thinking of it. When we observe a historical fact, there always exists in our mind, even without our being aware of it, a term of comparison" (Fustel de Coulanges).

But traditionalist history performs other and more marked acts of generalization. From biological phenomena the evolutionary concept has so well penetrated into all classes of phenomena that every historian is led to posit directed, orientated developments with progressions and retrogressions and in doing so is followed by many others. In Germany the name *entwickelnde* or *genetische Geschichte* is given to history in which this preoccupation is evident. Under the name *Geistesgeschichte* a contemporary school assigns a preponderant part to the mind, to intellectual and moral evolution, but contrasts the understanding achieved by psychology (*verstehen*) with the explanation set forth by the natural sciences (*erklären*). On the other hand, an increasing number of historians emphasize the importance of the social element. Certain of them even see the possibility of distinguishing laws within it. But they transfer the laws of society from history to the natural sciences. Between nature and history they postulate a hiatus.

It is certain and cannot be too emphatically stressed that the natural sciences should not be roughly copied, arbitrarily transposed into history, as has at times occurred. Every science has its particular characteristics, a status appropriate

to its object. But humanity is bound up with nature. History cannot be an empire within an empire; it cannot escape certain principles which govern all knowledge. Scientific synthesis therefore, which constitutes the science of history, is the endeavor to generalize, to disentangle a complex causality in order to discover general factors without eliminating any of them a priori.

A conception of historical synthesis elaborated by discussion in the course of the past three decades has been constantly gaining ground and figures in some degree and more or less explicitly in the various undertakings of the new history. This conception seeks to profit from all the previous efforts of philosophers as well as of professional historians, to retain from the former whatever aims and elements are capable of survival and from the latter the results of their long and patient work, thus to rise methodically from the particular to the general with the aid of those who were in too great haste to do so. In other words, it attempts to found legitimate synthesis at once on analysis and on premature syntheses.

Causality in history is infinitely complex, and it is this fact which explains why history had such difficulty in constituting itself as a science. Causality is woven from very diverse elements, which, however, may be divided into three categories: contingency, necessity and logic. There are in history contingent phenomena, and it is on this point that the *historiens historisants* have especially insisted. Chance is the phenomenon which is the effect neither of a law nor of a will but of a coincidence of a series of independent phenomena and which thus is not and cannot be foreseen by the human mind.

Individuality is the sum of all the phenomena resulting from chance and relative to a human being, a collectivity, an epoch, a group or a crowd. Chance and individuality play an incontestable role in historical explanation and therefore synthesis profits from the labor of the most traditionalistic historians, those most refractory to the concept of science. Furthermore it has been realized that even in contingency there is stability. If chance is at the origin of individuality, whose characteristics are not infinitely variable but can be arranged under determined types, then individuality is found to be relatively an element of permanence.

There are also in history phenomena which come within the realm of science, phenomena of necessity. These are the institutional facts, those which lead to the organization of men in society.

In this organization there exist necessities, relationships which derive from the nature of things, laws. Institutions constitute in history a permanent element which sharply limits contingency. And the development of institutions, in fairly large measure, seems itself to be subject to laws. Therefore synthesis profits from the labor of sociologists. Sociology is a distinct discipline only in so far as it is a comparative study of institutions. It furnishes synthesis with the result of its comparisons, permitting synthesis more easily to segregate the social element of history and to define its role more precisely.

There are finally in history phenomena of an order which may be called logic—to avoid the word finality, which is in bad repute and inadequate. Deeply rooted tendencies and ideas most certainly form an element of primary value. Thought in individuals and in generations either weaves its thread continuously or repairs it when it breaks. It is there perhaps that the evolution of humanity finds its inmost, characteristic law. Therefore synthesis profits from the labor of the idealistic philosophers of history as well as from that of psychologists and logicians.

Such are the articulations of causality: contingency, necessity, logic. Three orders of facts—fortuitous and individual, social and logical—are the warp and woof of history and are so interwoven that they cannot be disentangled by science. And the essential problem of synthesis consists in studying the interaction of the three orders of causality, in seeking to discover in what measure logic penetrates the institutional and eliminates contingency.

In order that history may be truly a science the historian, however limited his task, must locate its position in universal history, must be conscious of its problems and to the extent that his work allows must be concerned with the role of the explanatory factors or at least of some definite factor. And in order that history may be truly a science it is also necessary that these explanatory principles be considered as directive hypotheses, until they make themselves felt unreservedly and result in accord among historians.

The laws of history will most certainly eventually be established, but in a different manner than has been conceived by some who have pretended to formulate them or by others who deny such a possibility. There is a tendency to apply the word law to the relationships of succession and of coexistence which present the greatest degree of extension and of constancy and especially to those which can be expressed by a

mathematical formula. But the absolute character of law is rather in the mind than in reality. If one leaves aside pure mathematics, which is, considered correctly, a construction of the mind, law is in reality only a general fact. It is not necessarily universal and eternal; it manifests itself in history; it can be created in history, a "function of the times." Generalities, similarities, uniformities, are equivalents of the word law although looser than the latter in its rigid connotation. Law is not an absolute; the general is a degree of law. All things hold together, are imbued with each other and clarify each other in the realm of reality. There is history in nature; there is nature in history.

*Methodological Progress of History; Facts and Choice of Facts.* The composition of history, it is said, is essentially the accomplishment of two operations: first to establish the facts and then to work them up. This was the procedure of Herodotus and Thucydides, of Fustel de Coulanges and Mommsen; so all historians proceed today. But while this statement is true it is only roughly so.

Establish the facts: this formula is too simple if one means by it essentially to recognize and demonstrate their authenticity. It would perhaps be satisfactory if history as conceived today were woven simply of events related in sufficiently numerous and explicit documents and if the entire problem consisted in picking out among these documents only those which are worthy of belief, rejecting the others for good and sufficient reasons and then with the events established by sure evidence composing "narrations of time past" as exact and precise as possible. Such was the case when history was concerned with the deeds of princes. Was a certain prince born at such a place in such a year? Did he at such an age marry a certain princess? At such a place did he achieve a decisive victory over a neighbor? "Establish these facts," then the formula has a clear, precise and simple meaning. But, for example, the progressive decline in the value of the *livre* of Tours from the time of Charlemagne to the revolution is not, properly speaking, an event. The decrease in salaries in the course of a certain period and the simultaneous general rise of the cost of living, these too are not events. But they are most certainly historical facts; and they are much more important than the accidental disappearance of a certain sovereign or the fall of a certain minister.

It is not valid to object that these are not facts

but collections of facts. Would then the assassination of Henri IV by Ravallac in 1610 be a "fact"? If it is analyzed, if it is decomposed into its elements, material and spiritual, it is seen to be the combined result of general laws, of particular circumstances of time and of place, of circumstances still more special peculiar to each of the individuals who were at the scene of the assault at the time when "the event" occurred. It will then be seen clearly that a historical fact whether it concern a decision, an action or a human invention is never something elementary, a simple body. It is a complex, the elements of which must be dissociated. Furthermore the historical fact is by no means always "given." Very often the historian must in some degree create it with the aid of hypotheses and conjectures by delicate, impassioned labor. Moreover these facts are not apprehended immediately and directly. Patient scholars cooperating among themselves slowly establish them with the aid of thousands of judiciously questioned observations and thousands of pieces of numerical data, not "given" but extracted from the documents.

Such historical research inevitably involves the process of selection of fact; by what right, it is asked, in the name of what principle, would the historian make his choice? And is not selection the negation of an impartial, true and honest work of science? In reality, however, all history is selection—selection of the facts of the chance which destroyed en masse certain vestiges of the past or preserved others; selection of the deeds of man, which because of the abundance of documents necessarily summarizes, shortens, accentuates, eliminates; and finally selection of the facts created by the historian, of historical facts. To concur in the view that this is not a scientific attitude is to be ignorant of all science and of its conditions. It is to pretend that the histologist has only to put his eye to the lens of a microscope to discover immediately definite facts which can be utilized as they are, while in truth the essential portion of his labor consists in creating and interpreting the objects of his observation with the aid of singularly complicated techniques. In addition to histology, the science of nature, there exists also statistics, the impartial knowledge of figures and numbers. Statistics selects from among these figures and numbers, and only by manipulating with a directive hypothesis the data furnished by chance does the statistician increase the total of human knowledge.

What is of primary importance, what should direct all historical work, is the construction

and the bringing to light of comprehensive, planned programs of research. These programs should be the work of the most eminent historians who have reached the extreme point of research in their field, close collaboration with their colleagues. They must know the exact scope of the science which they are cultivating, what are its possibilities, what direction it should take and what definite questions it should first attempt to answer.

Supplied with his directive idea the historian seeks and discovers the indispensable documents; having discovered and secured them he criticizes them; having criticized and sifted them he explains them; having explained them he correlates them into homogeneous series, classifying the facts in each according to chronological order; and finally he examines the reciprocal relationships within this series: the continual actions and reactions—the interaction.

*The Materials of History: History and Its Related Sciences.* "History is made up of texts," said Fustel de Coulanges. While this is in one sense true it implies that where texts are lacking there is no history, that the concept of history is indissolubly bound up with that of written text to such an extent that before what is conventionally called the invention of handwriting there can be no talk of history. Contrary to this conception of history Leibniz at the beginning of the eighteenth century already affirmed that history should also be based on monuments and enumerated among these monuments, in addition to inscriptions and texts properly so-called, seals, coins and medals, drawings and pictures, ruins of buildings, dead bones and funeral urns, even languages, "the most ancient monuments of the human species," and fables and folk tales, "in which there is gold." The conception of a history founded solely on texts goes back to the time when historians considered the service of princes their essential end. As long as they retained as their primary concern internal and external politics of states, the primacy of the written document—of more or less official annals, of chronicles and histories often controlled by the rulers, of inscriptions, of charters, of diplomas issuing directly from kings or high personages—was a matter of course. But later historians studied institutions as such; then the total civilization of a group of men instead of two or three directing figures; and finally masses of peoples considered in turn in their political, social, economic and intellectual life (general and universal history). The conception of the written text as

the sole source of historical knowledge now appears as a relic of the past.

From this it follows that to the ancient and traditional list of disciplines which are included under the name of auxiliary sciences, which are not really sciences but techniques for the purpose of subjecting various categories of written documents to a preliminary treatment that renders them usable *de plano*, there must be added techniques of another order.

The list of traditional auxiliary sciences is well known. According to Leibniz the list was as follows. Chronology had as its purpose the furnishing of the historian with the means, as rapid and easy as possible, of translating into so-called absolute chronology dates given in relative chronology. Epigraphy was the codification of the contents of graven texts; palaeography that of manuscript texts. Diplomatics applied the rules of criticism to charters, diplomas, letters, registers and the like. Sphragistics studied seals and stamps. Numismatics at the time under discussion was not a science of coins, which it is tending to become; an indispensable auxiliary, even an integral part, of economic history, which had not been long in existence, it furnished above all portraits of princes and dates. These together with heraldics, which occupied a modest place, formed the first group of techniques indispensable to the historian of kings and their high actions.

Curious minds soon added to these tested disciplines others wider in scope or of different nature. There first developed the discipline of classical philology, which is devoted to the establishment and interpretation of ancient authors and to the criticism of texts. Then came that part of bibliography which is called historical bibliography and which first aimed to enumerate the best books on the principal periods or questions of universal history; it was soon transformed to teach the difficult art of utilizing the bibliographical instruments proper to assist historians. Then came antiquities, which through scholarly collectors introduced into history taste and the full understanding of the unwritten document. Finally there appeared a geography half philological, half historical, furnishing means of identifying the ancient names of peoples, of towns and of places or of tracing on maps the limits of states and of dioceses. This was a logical grouping: all these techniques covered exactly the field of the needs of a history defined by an almost exclusive concern for rulers and by a relatively restricted extent in time

and space. But the framework broke down in proportion as history was transformed or in proportion as hitherto minor techniques came into the ascendancy.

The transformations of history itself marked the disappearance of one of the auxiliary sciences most highly prized by old authors—genealogy. It is unnecessary to emphasize here the capital interest of this science for a history which was almost completely identified with kings, princes and their houses. As a matter of fact it is not exact to say that genealogy has disappeared. The truth is that it has seen itself gradually replaced by demography, a newcomer, which seems to have delayed its entrance into the world of history until the king of former times was replaced by demos, the sovereign of today, the modern object of the study of historians.

Many of these other disciplines have assumed the character of autonomous sciences but when utilized by the historian are transformed into auxiliary techniques. Linguistics and its various provinces, archaeology, geography, comparative law and other disciplines independent of history, whose number is ceaselessly increasing precisely in the measure that history itself annexes new territories, are continually being appropriated by the historian for his own use. History in proportion as it becomes more scientific enters into closer and closer relations with the other sciences, discovers similarities among their procedures and their methods and especially with increasing precision measures the close solidarity which unites it to them. The relations of history with psychology and sociology particularly have raised difficult questions. When sociology began to organize itself as a science innumerable controversies arose between ardent, ambitious sociologists and historians. The latter took active part in the disputes or affected to despise in sociology a reincarnation of old philosophies of history. But now it is most commonly agreed that the grouping of men in society creates an object of particular study; that from the interaction of individual consciousnesses there results a reality formed doubtless by individuals but not superimposed by them and none the less imposed on them; that this is thus a matter for special research, which naturally should not be conducted from an *a priori* standpoint—for example, from the standpoint of a constructive psychology making in advance decisions concerning social tendencies and needs—but, on the contrary, by determining rigorously with the aid of the sciences related to the various categories

of essential social facts the institutions by means of which great functions are accomplished. Of especial interest are the juridico-political function, which in the life of an isolated being outside all society would evidently answer no purpose, a fact which demonstrates its essentially social character; and the economic function, which seems to be a social organization and a powerful development of rudimentary individual needs.

It is well realized that between such researches and those of historians there are close connections as well as reciprocities and borrowings. The social functions, for example, are evidently subject to the action of historical contingencies; the contingencies, on the other hand, have to take into account the expressions of necessity, the social laws which limit their scope. But precisely what is the distinction between the work of the sociologist and that of the historian? The one exerts himself by concentrated work of comparison to detach specific necessities, to characterize and classify social types, to create their statics and their dynamics. The other utilizes the data furnished by sociology the better to understand and clarify the role of the social element in history; he knows, however, that besides the necessary—besides those laws which are explained above—and besides the contingent he will strike facts, logic, ideas; and he therefore avoids sacrificing to one of these three orders the other two. He thus, for example, eschews the adoption of a purely sociological interpretation of history, in which the social being is considered as an irreducible item of data, as the primordial source of all human facts. This is an act of prudence, which at once reserves and introduces a very great question, that of the role in the history of the individual—that “intermediary between chance and necessity”—and of his position at the various stages of evolution in relation to society.

One often hears a formula which is compelling by its very simplicity: “Psychology treats of the individual; sociology of the group.” More carefully expressed this becomes: on the one hand is the social, the particular object of sociology, the specifically social, the product of society as such (not the collective); and on the other hand are what are called individuals, including both the individual and the collective. This antithesis is dangerous, preserving as it does the common confusion as to what is social and what is collective. It leads naturally to setting not only social but also collective against individual. This is legitimate but always on one condition, that it

be not forgotten that under the term collective are grouped phenomena of heredity, of imitation, of contagion and the like, which are of the order of contingency and not of social necessity; and also, inversely, that in the heart of an individual consciousness the collective plays a very large part. Individuality is one and only one of the aspects of the individual. Besides the peculiarly individual traits there are inherited traits, and in this domain an immense field is still open to research particularly for those who are working to constitute a science of characteristics. There are also strictly collective traits. For example, can the mechanism of the memory (to remain in a domain familiar to the historian) be understood outside this collective framework of the memory, the importance of which has been well demonstrated and without which man would be incapable of reconstituting and of reliving his past?

The importance of a psychology devoted to the study of that which in current conceptions is called the individual (as opposed to the collective) is limited by collective psychology, whose progress alone will be able to determine any decisive progress of history. The problem of knowing how man, the actor of history, the agent of historical work, is made presupposes the existence of a psychology capable on the one hand of furnishing the historian with well combined actions of general types responding to human averages and on the other of defining with precision what in a certain person exceeds these averages or remains below them.

*Periodization.* There is no methodological problem of greater import within the field of history than that of periodization. It is not merely an exterior problem of arrangement and of disposition for the sake of convenience but a basic problem capable of receiving the most varied solutions; these, however, may be classed under two principal rubrics.

For those who attach primary importance to acts and consider history as a succession of events the problem is to know whether this succession, which appears continuous, is not in reality made up of a series of distinct pieces joined end to end, each retaining its unity; and whether there is not an advantage in considering it in this way. Large pieces may be considered to represent the traditional divisions of history into ancient, mediaeval and modern; smaller pieces within the large are centuries, empires or reigns. Each of these is circumscribed by events which are promoted to the dignity of limits and con-



sidered as inaugurating or terminating distinct and in a certain measure autonomous phases of human evolution.

The defects of this conception are obvious. In the first place, it is valid only for European history, which appears less and less worthy of exclusive interest. Of what significance, for example, is the concept of the Middle Ages (only moderately clear as it is) as soon as one extends the limits of this Old World, this Christian and European civilization, which alone gives that concept meaning? If the contingent, the necessary and the logical all exist in history and if they must all be considered at once, the weakness of this system is that it is based entirely on the contingent.

At the opposite pole there are those who, impressed by the insufficiency and the puerility of this cutting up of facts into periods marked by definite or approximate dates, profess that in history much more importance should be attached to movements than to acts and that what is worthy of attention is less the succession of events than the continuous stream of men. The problem, they say, is not to segregate slices of facts between events which are said to mark limits, but in the perpetually moving mass of human beings to apprehend successions of groups filling the same office as the successions of periods. Thus there came into being, notably in the mind of Cournot, the theory of generations, taken up again by O. Lorenz and later by many others, which tended to substitute for periods secular or otherwise this living, human concept of generations begetting each other. Three generations fill about a century; a grandfather, who flourishes from 1500 to 1530, passes to his son, who flourishes from 1530 to 1560, a treasure of traditions and experiences in part inherited, in part augmented by him. And the son in turn transmits the balance sheet of his heritage and acquisitions to the grandson, who spans the generation from 1560 to 1590. Then a new cycle begins with the three generations of the seventeenth century succeeding those of the sixteenth.

This idea is attractive at first glance. It seems to preserve for the past the characteristic, so essential in life, of ceaseless development and renewal. It seems to solve by simple omission the absurd and irritating problem of dates and limits. Finally, it seems to substitute for periods—inoperative and artificial abstractions—a human and living reality. But it brings up innumerable difficulties. It is doubtful that the his-

torian of antiquity is capable of contrasting usefully the three generations which peopled Rome during the fifth century before Christ or that the historian of the Middle Ages can base anything at all on the particular and distinct characteristics of the three generations of the eleventh century—those of 1000, 1030, 1060. A Frenchman might feel capable of contrasting the two generations of 1660 and 1690, that of Pascal and that of Fontenelle. But do these generations resemble their contemporaries, the German, English, Spanish and Italian generations? In other words, is the contrast of the generations of 1660 and 1690 the same in these various countries as at Paris? And furthermore is it even the same at Bordeaux, at Marseille, at Brest as at Paris? Can the generation in fact be defined in such a way as to allow some illusion of the value of the concept to remain?

It is wise therefore to note simply this, that there exist in the history of human societies certain moments at which the concordant effects of a vast and simultaneous process are particularly apparent; when facts of various orders—political, economic, religious, intellectual—seem to be connected by a particularly strict bond; when, for example, it is at once perceptible that printing is becoming widespread and producing its first effects, that a new spirit and a new method, critical and rationalistic, are being manifested in those who are known as the humanists, that great discoveries are enlarging the known world and the horizon of ideas, that in the different nations of Europe the progress of royal power with its centralizing and unifying tendencies is being accelerated, that, finally, the first manifestations of the capitalistic system and spirit are beginning to make themselves felt. These are all facts which it is very difficult to dissociate and which working simultaneously on the men of certain countries at a certain epoch create in them a definite mentality easy to grasp and contrasting at once with past and future periods. And, on the other hand, between these periods of concentration there are periods of indecision, of dissolution, waste spaces of history in which the adventurous advance guards collide with the lagging rear guards. Are frontiers to be traced between these unstable, moving forces? This is the chimaera of dates and limits. But to seek what heralded and prepared for these momentary states of equilibrium, of temporary, impressive stability, or to discover what new elements are being progressively substituted for the old—this is a field of research which contains no element of the arbi-

trary, which can be applied equally well to all histories of all periods and of all peoples whether in the Orient or the Occident, in Europe or in America, in Asia or in Africa. There is no need to eliminate these old concepts which have become part of usage, antiquity, the Middle Ages, modern times, and which moreover by dominating the labor of scholars have acquired an incontestable practical value. History is a science of duration; therefore its division should be chronological. It is a science of man; therefore its divisions should also be looked for in man.

*The Problem of Objectivity and the Concept of Universal History.* Much has been said, since historians as well as detractors of history have existed, on the congenital infirmity of those bold spirits who take the human past as their object of study. Certainly in every science an element of confusion and disorder is always present in the results achieved, even in the work of the wisest. But when human societies are the subject matter this results in great complexes of complexes. The study of human societies is not only of an almost inconceivable diversity and multiplication of aspects but is of such a nature that no man, however balanced he may be, however determined to maintain himself on the line of strict impartiality, can ever escape from the thousand biases created in him by the many particular acquired or inherited traits of his personal nature. Nor can he avoid the influence of his own theoretical ideas concerning the relative value and the comparative role of the various factors economic or religious in the evolution of societies; or the secret influence exercised upon him without his knowing it by his nationality, his religion, his social position, his avowed or unconscious affinities with, for example, the bourgeoisie or the working class; not to mention the subtle and profound influences emanating from his historical environment, each one of them reflecting on to him in its way the general life of his time.

Against so many serious causes of error what precaution is possible? To preach criticism and impartiality, that the historian should remain as unmoved before human facts of the past as the naturalist observing the wing of a mosquito under the microscope or the astronomer viewing a familiar comet through the telescope? But by his very definition the scholar exerts himself with all his being toward impartiality; without it he excludes himself from the realm of science. It is not purposeful distortion by the partisan disguised as a scholar which is of supreme impor-

tance, but the unconscious involuntary distortion, the distortion which the bona fide historian does not even perceive, the error committed by him at the very moment when he feels himself the most rigorously impartial of all observers.

The only possible remedy consists in the progressive broadening of history, in the replacement of the idea of particular histories by the broad and salutary idea of a universal history, of which all particular histories are but chapters. For the final goal of the historian is not to make known certain groups of men at certain periods, but humanity in the totality of its representatives. This is yet of course but an ideal. How many historians are there working on the enormous task of establishing a universal history? Among these historians how many possess a clear vision of the goal to be pursued? And to what extent will those who do possess this vision be hindered by the lack of general organization of historical studies from drawing from it the desired reward? But this ideal does exist, and historians have it constantly before their eyes to inspire them in all their activities and to make them realize forcibly that all historical work should be "a contribution to the history of human societies in their totality," and that it will be valid in the measure that it is useful for the general knowledge of these societies. It is not a question of creating a school of universal historians, who in the present condition of research would necessarily be merely philosophers of history, rashly generalizing from a few discoveries and for the rest filling the gaps in our ignorance by preconceived theories. The same and modest essential is that all those performing historical work should have the precise feeling of the unity and of the ultimate objective of the science which they are cultivating and that each one should exert himself to enrich his patrimony.

Thus gradually the ideas of discipline, of subordination of individual view in a general direction, of internal organization of the work—these ideas inherent in every efficacious work of science will penetrate in their turn into history, will continue to assure its gradual transformation into a science conscious of its goal and of its means and notably will solve a capital problem, that of the objectivity of the historian. The various studies, all tainted by the very hands of their authors, by an important coefficient of error, of illusion and of personal blindness, will constantly control each other; the "involuntary biases" too will correct each other and to a large measure cancel out.

This is the certain reward to be derived from the practise of this comparative method, the possible benefits of which have been illustrated notably by Henri Pirenne and which historians will increasingly put to technical use. History in a closed circle is stupid. History can be a science only in the measure in which from being descriptive it becomes explanatory. Now explanation includes above all comparison; or, to put it more explicitly, how is one to describe correctly if one does not compare mentally? How is one not to be deceived, as was Fustel de Coulanges as to the true nature of the gens, if one has eyes only for ancient Rome?

HENRI BERR  
LUCIEN FEBVRE

**HISTORIOGRAPHY.** *Antiquity.* Historical writing in the modern sense was hardly developed among the peoples of the ancient Near East. The discovery of writing and the beginnings of the measurement of time made possible the preservation of temple records, which form the first historical annals. The highly developed civilizations of Egypt and Mesopotamia produced nothing worthy of the name of history. The few short notices of the exploits of the Egyptian pharaohs and the few lists of kings that have been preserved were all prompted solely by an interest in glorifying the ruling monarch and the events of his reign. In Babylonia the original form of historical writing was the dedicatory building inscription. Among the Assyrians there developed the custom of preserving royal annals which recorded in chronological sequence the ruler's military and hunting exploits and his building operations. A critical faculty was non-existent and the purpose here also was to glorify the monarch for posterity. All disparaging facts were omitted, exaggerations were common and all the records were impregnated by the religious element. All events however commonplace they might be were regarded as effected by the divinity and all conquests and buildings were dedicated to it.

Of all the peoples of the ancient Orient the Hebrews alone developed a true historical sense. The historical portions of the Pentateuch, *Judges*, *Kings* and *First Maccabees* far surpass any of the other historical records of the ancient Near East, although the tendency toward an "undigested chaos" remains, a sound critical faculty is still lacking, legends and folk tales are confused with historical data and there is a marked prejudice in the selection of materials. There

appears for the first time a conception of history that goes beyond purely military records, and such questions as social development and the history of migrations are given due attention. The underlying purpose, however, is religious and didactic; historical interests in themselves remain of secondary importance.

The penetration of Greek and Roman influence into the Orient was largely responsible for the historical works of Manetho and Berossos as well as of Josephus. Manetho, a Hellenized Egyptian of the third century B.C., compiled in Greek a list of all the pharaohs and originated the system of grouping names according to dynasties. Berossos, a Babylonian priest of Bel, attempted in the same century a history of Babylonia based on existing records. The works of both of these authors, however, have been preserved only in fragments.

Real historical writing began with the Greeks. Mythology and miraculous accounts gave way to a more critical attempt at narrating events as they occurred. History was chiefly narrative and was regarded more as a branch of literature than as a separate discipline, a fact which accounts for the overemphasis on style and rhetoric so characteristic of almost all the ancient historians with the possible exception of Polybius. The historian was not simply the erudite scholar who weighed sources, consulted texts and balanced evidence; rather he was the practical man of affairs, who devoted most of his book to a description of events in which he himself had participated. Politics and military history were almost the exclusive subject matter. Beginning with the prose works of the Ionian city chroniclers and the work of Hecataeus of Miletus, Greek historiography reached its flowering in Herodotus, Thucydides and Polybius.

Modern critics are dubious whether Herodotus, the historian of the Persian wars, always understood strategy or tactics, and he certainly had not Thucydides' almost morose interest in chronology; but his survey of the world in which the Persian wars were fought, of the nations that fought them—their traditions, political and social ideas, growth and expansion—is a miracle of the art of story telling and for its breadth and truth invaluable to social historian, anthropologist and humanist. He drifts and digresses, "writing what he hears," and it was long before critics recognized him as a supreme artist and as the pioneer of the broadest and most modern treatment of history. Climate, diet, clothing, tribal usage, religious belief—all are within his scope but with

the Greeks' exquisite sense for proportion. Thucydides was the first to treat of politics with the grasp of a philosopher. He had the political instinct and had been in politics himself. He wrote the history of the Peloponnesian wars because he saw from the first that they would be significant. Human nature, he held, would never greatly change, and therefore a close and accurate record of what really befell would be forever valuable. He carefully divides his story into years, groups his subject matter and precisely narrates the military movements. His account of the revolution in Athens in 411 B.C., precisely charting the fluctuations of popular mind and mood, is a masterpiece. Xenophon has nothing like his grasp of political issues, of policy and national reactions. He can describe vividly what he has seen—the accounts of the return of Thersibulus (a Garibaldi-like narrative) and the retreat of the ten thousand are alive from start to finish—but history in the large sense is beyond him. Polybius, although with much less art than Herodotus, writes the history of a later period in a manner somewhat resembling that of the latter. The son of a Greek statesman, long a political *détenu* at Rome, the lifelong friend of Scipio, the confidant of princes, a soldier and an explorer, he describes the Hellenistic Mediterranean world. He begins with a challenge to the reader; how is it that in fifty-three years, scarcely a lifetime, every political relation in the world is changed and Rome dominates all? Other men write histories of races and episodes—some, histories of the whole world—without realizing the significance of the West; they “knock off Rome in a couple of pages”; he insists on the meaning of Rome and her rise and makes it his task to show it the reasonable outcome of Roman character and polity.

The Romans made no original contributions to historiography. They were more interested in the practical use of history as a guide to statesmen and orators and as presenting models for conduct and action.

Dionysius of Halicarnassus and Livy both presented mere narratives of the antiquities of Rome. Livy was a born story teller, a lover of the past. But for all the art of his narrative, its value as a brilliant transcription of other men's works and its significance as an interpretation of Roman sentiment and patriotism, he is not a historian in the same sense as the major Greek historians. He is careless, uncritical and interested solely in glorifying the Roman national tradition. Dionysius writes at greater length and

less critically, with a constant reference to Roman usage and tradition.

A very common practise of ancient historians was to ornament their narrative with fictitious speeches delivered by the important characters. This practise was followed by Thucydides but became more popular after Isocrates and his followers developed the art of rhetoric. Thucydides used the speech very frequently to sum up the half intangible factors, as moderns phrase it, that make a situation; later historians wrote speeches of no probability or value for the sheer pleasure of rhetorical composition. Polybius commented caustically on these and on the historians who confounded tragedy and history. He wrote singularly few speeches in his history and these appear to be genuine; they are short and to the point. Tacitus was the master hand among the Romans in making literature of history, suggesting what he does not say, picturing character in brilliant phrase, tempering event with epigram. Ammianus Marcellinus in the fourth century A.D. similarly wrote a splendid history of his period in a Latin touched by late Greek rhetoric.

Economic, constitutional and intellectual history are almost entirely ignored by ancient historians. No modern historian of a great war could generally ignore finance, transport, commissariat and commerce; in Thucydides they are all touched upon, but the reader is supposed to assume them. It is debated today whether economic issues in politics, national or international, bulked as large then as they do now. An exception is the *Ways and Means* (*Poroi*), attributed to Xenophon, in which economic questions are considered and which is really the oldest extant economic tract. Nor does the ancient historian linger to say much of literature, art or religion. Herodotus once alludes to Aeschylus and once to Pindar. Thucydides mentions no philosopher, architect or man of letters as such; he implies art and drama and he has oblique allusions to religious belief which lead moderns to assume he had none himself. Yet in the speeches inserted in his history Thucydides speaks with emphasis of the rich intellectual life of Athens—particularly in the famous funeral oration of Pericles, which briefly yet fully surveys all the higher interests in which his countrymen excelled. No such epitome of a nation's life has ever been made, an epitome that illumines rather than enumerates. Later historians rarely attempted anything of the kind.

Another type of history achieved in the Greek

world was that of the short biography of the significant individual who makes history. The *Evagoras* of Isocrates, the first example of this genre, was immediately eclipsed by Xenophon's *Agésilas*. The influence of this development is seen in Polybius, but its great exponent is Plutarch with his long and most delightful series of *Lives* of famous Greeks and Romans. The most widely read document of the kind is undoubtedly the *Gospel of Luke*, which as a work of art owes its scheme to Isocrates and recalls at once the reserve of Thucydides and the human feeling of Herodotus.

An interesting problem in ancient historiography is that concerning the equipment and qualifications of the ancient historian. It is clear that Eusebius, living about 325 A.D., had a large library to draw upon and probably secretaries to do some of his transcription and perhaps some of his selection. Josephus had assistants who attended to his style, and their hands are distinguishable in his work. But it is difficult to know how Herodotus and Thucydides gathered and preserved their memoranda. Parchment and paper were not invented; earlier writing materials must have been bulky and very expensive. Probably memory played a larger part than today. Collections of decrees (*psaphismata*) and the like were sometimes available but scarcely sufficient in themselves. Sometimes, as with Tertullian's citation of Pilate's rescript on the crucifixion, the document seems to have been inferred rather than seen. Polybius quotes monuments that he appears to have seen; Livy refers to one that he did not trouble to inspect; Tacitus improves the Latin of an inscription he quotes. The conditions of book construction saved ancient historians from prolixity in footnotes, references and appendices; they had to jettison their notebooks and tell their story. Forgery, myth and legend, especially where early history or outstanding personalities were concerned, put the ancient historian on his mettle. Some merely rationalized the fable by leaving out the improbable elements; others saw more clearly that such a procedure was vague and uncritical. Not all reached the level of Eratosthenes, who suggested that the map of the real travels of Ulysses would be made when the cobbler was discovered who stitched the bag in which Acolus tied up the winds. Marvels, portents and miracles each handled as he saw fit; but their total omission does not necessarily make a historian's work more faithful as a representation of the contemporary mind. Of all ancient historians Polybius is the

one who most often and most freely discusses the historian's art. He is clear that a man must have done the thing he is to write about; he must have traveled and seen, he must have borne his part in the political life of his country; Timaeus on his sofa for thirty years in Athens is no model for historians. Polybius is not alone in recognizing that a historian has to understand personality, but he has an almost Carlylean realization of what a single man, a hero, may do. He recognizes also that if history is to teach anything, if it is to have its value as an interpretation of human experience, the great essential is truth.

T. R. GLOVER

*Mediaeval Europe.* Mediaeval European historiography is characterized by its assumption of the universal cogency of the Christian religion. It is more universal in scope than ancient classical historiography and in its beginnings is frankly controversial against the still surviving paganism. The mediaeval philosophy of history finds its best expression in Augustine's *De civitate Dei*. Augustine with pronounced propagandist aims set himself to trace the finger of God in all the confusion of the contemporary Roman world. His first ten books are devoted to the refutation of those who had contended that Christianity was responsible for this world ruin. He shows, with great learning and with a wealth of illustrative material from standard Roman authors whose works have since been lost, how the Assyrian Empire had lasted longer than the Roman and how Rome itself had been sacked in earlier days by the Gauls and had constantly been drenched in blood by fratricidal strifes. In all this its gods had been of no avail. He then proceeds to show how all these events were really providential; that Rome's conquests had resulted in the survival of the fittest and that the Roman Empire had welded the world into one so that Christ might be born into it and Christianity might inherit its universal dominion. Thus it may be said that Augustine distinctly implies the idea of progress through the ages. The main ideas of the *De civitate Dei* dominated the whole western world during Augustine's own time and for at least a thousand years after.

The interest in universal history goes back before Augustine's time to Sextus Julianus Africanus, a distinguished soldier and a Christian, who about 220 wrote a universal history, of which only fragments embedded in later authors remain. Eusebius of Caesarea (c. 265-340) writing in Greek followed in the footsteps of Africa-

nus. He took his material for a world history partly from him and partly from other authors. Eusebius moreover developed the system of chronology which became the basis for all subsequent mediaeval historians and chroniclers. The chronicle of Eusebius was translated into Latin by Jerome (c. 400) and brought down to 378, the year of the beginning of the barbarian victories over the empire. A similar chronicle, based on Bible history with additions from heathen authors and with strong antipagan tendencies, was composed by Sulpicius Severus, a younger contemporary of Jerome. Orosius, Augustine's faithful pupil, wrote at his prompting a *Historia adversus paganos* in seven books. He utilized the standard Roman historians and dealt first with the early history of the Babylonian, Roman, Macedonian and Carthaginian empires and then with the period from 378 to 417 A.D. His doctrinal bias was for the public of those days a positive merit and his influence throughout the Middle Ages was very great.

Universal history was attacked again at a later date by Isidore, bishop of Seville (d. 636). He was the last great encyclopaedist of the west during those days when considerable wreckage of earlier Latin learning still survived here and there and his writings consist almost entirely of scraps from older authors. Besides his universal *Chronicle*, he wrote a *History of the Goths, Vandals and Suevi*. But all his work is marred by his inaccuracies and by his fanciful habit of guessing at the origin and nature of things by a very unscientific etymological method. Embracing the apocalyptic ideas of an imminent Second Coming, which were widespread in all phases of mediaeval thought, he consecrated the idea that world history might be divided rhythmically into six periods, of which the last was by implication now nearing its end.

When the barbarian conquerors began to settle down and Christianity had proved itself the strongest centralizing factor in society and only such ancient literature survived as was preserved in Christian libraries, the controversialist spirit of the early writers died out. It was no longer needed; the points for which Augustine had so hotly contended were now taken for granted. Theological bias did not decrease; indeed it became greater, but now it rather assumed the form of superstitious credulity in a society comparatively illiterate and saturated with crude beliefs which the church had rather venerated over than eradicated. At the same time contemporary or subcontemporary

history became sufficiently important to attract here and there men of real historical sense. The *History of the Goths* by Theodoric's great minister, Cassiodorus, must have been a work of very great value, full of trustworthy information about these people who were making a new Europe out of the old Roman world. But here, as in so many other cases, the original has been driven out by the compendium contained in the *Origin and Deeds of the Goths* written by Jordanes (c. 550). The work of Gregory, bishop of Tours (d. 594), coming slightly later may be taken as a type of the new historiography bred of the great events that had marked the two centuries since Augustine. He wrote a *History of the Franks* in ten books and seven books on miracles. His history begins with a brief compendium of world history from the traditional sources but it soon comes down to his own Gaul and its first Frankish king, Clovis. Gregory had himself played a great part on the political stage and his story was written at first hand, or at least from living traditions of court and church. Moreover the author had a real conscience. He had grisly stories to tell, which might offend powerful folk, but he comforted himself with a quotation from Sallust: "It seems a hard task to write history; first, because we have to reconcile facts with words; and secondly because whensoever you blame men's transgressions, many folk ascribe your words to malevolence and envy." Yet as a born poet he sees all life dramatically; and, however incorrect his Latin grammar may be, the literary side of his book is even more prominent than its scientific side. Therefore, like those of Eusebius, Jerome and Orosius, his book presently became a classic; Fredegarius (c. 630) and other Frankish chroniclers built their own later records on his foundations.

The Venerable Bede (673-735) was also a historian whose main value consisted in his personal knowledge and his grasp of living tradition. His *The Ecclesiastical History of the English Nation* with a few slighter works put him among the foremost historians of the Middle Ages. He was a model monk, a man of wide and solid learning, a good Latinist, a mathematician interested in chronology, a critic accustomed to weigh his authorities, in so far as mediaeval orthodoxy permitted criticism in the face of miraculous stories, and anxious to disclaim all personal credit for what he had borrowed from others.

The lives of saints and collections of miracles represent another numerous class of writings which are found among the earliest of Christian

records and which subsisted to the last—not altogether with undiminished fervor and popularity perhaps but still in sufficient volume to outweigh the more strictly historical writings of their time. Such writings, however unhistorical they often are in their direct form, nevertheless contain precious incidental information as to the social life of their time. But many of them unquestionably tended to debase the currency of historical truth. Thus Agnellus in his *Vitae pontificum ravennatum* (839) confesses that there were some individuals concerning whom he could find neither documentary nor traditional evidence; yet he writes their lives with the help of God and the prayers of the brethren.

Side by side with these compilations of world history, records of contemporary history and lives of saints there grew up gradually a series of annals. Monasteries kept handbooks or tables giving the date on which Easter fell in each particular year; at some time it naturally occurred to someone to fill in the rest of the line with the record of one single event of that year, as in many modern almanacs. Copies of these tables were often made for other monasteries or for cathedral libraries; as they migrated they became fuller and fuller, until the Easter Table had grown into a brief volume of annals. Then came another inevitable stage; some writers took these bald notes and wove them into a continuous and picturesque narrative, still keeping the order year by year. Thus the annals grew into a chronicle, which is the characteristic form of mediaeval historical writing.

The structure of the chronicle in its annalistic form was decentralized like the decentralized feudal society which had given it birth. Some of the chronicles, like those of Liutprand, Guibert of Nogent, Jocelin of Brakelond, Villehardouin, Joinville, Salimbene, Ramon Muntaner and the *Scalacronica*, are personal and autobiographical and diverge from the main chronicle type. Others, like the chronicles of Evesham or Meaux or Walsingham's *Lives of the Abbots* of St. Albans, tell little more than the story of a single monastery or, like the *Chronicle of Florence* of Dino Compagni and the French *Chronicle of London*, of a town. But many deal with whole countries or even with the whole of Europe and a little beyond. Moreover occasionally something like formal schools of historians are found. The great abbey of St. Denis had a succession of chronicles under more or less definite royal patronage continuing one from another in Latin from about 1250 to 1368 and in French down to

1380. At St. Albans again, although the theory of a succession of officially appointed historians has been abandoned, there is only one gap in the succession from at least the latter half of the twelfth century down to 1422. This, however, can be said of only a few out of the many monasteries.

As civilization advanced, the chronicle outgrew its original limitations. While keeping its chronological order, it often became a real history. This movement coincided with the general revival which began roughly about the year 1000 and by 1100 had become a veritable renaissance. The influence of the crusades, the general movement of expansion, the great increase in knowledge and the effect of the political and theological controversies were reflected in the later historical writings. A more critical spirit developed with a greater discriminating use of sources as well as a more realistic insight into political events and movements. On the whole, no land produced such great chronicle historians as England. Apart from Bede there were William of Malmesbury (d. c. 1143), learned, critical and an admirable Latinist for his time; his contemporaries Henry, archdeacon of Huntingdon (c. 1084–1155), and Ordericus Vitalis (1075–c. 1143); and a whole group of northern chroniclers. William of Newburgh showed strong critical sense, repudiating the mainly fabulous *History of the Britons* by Geoffrey of Monmouth (c. 1100–54) as “ridiculous figments” and crying shame on “the negligence of modern men” for having recorded so little of the great deeds of their time. On the continent, although many chronicles of great interest were produced especially by eye witnesses of the crusades, the only writer who can be set beside William of Malmesbury is Bishop Otto of Freising. But William, archbishop of Tyre (d. c. 1135), by compiling a general story of the crusades from his predecessors' records and bringing some real criticism and literary skill to the task took a definite step forward toward modern historiography. The change of spirit is especially noticeable in his dealings with the earlier chroniclers whom he uses. They explain everything from above; he already prefers to explain things from below. To them all is miraculous or providential; he tries to find and to stress natural human causes. Already therefore there are faint signs of the breakdown of what may be called “wonderism.” In the next century the St. Albans monk Matthew Paris (d. 1259) reached the high water mark of the true chronicle. In the fourteenth century a further

step forward was taken. Froissart (c. 1400) was far less bound to chronology than most of his predecessors. Indeed, fascinating as he is, neither chronology nor accuracy of fact is his forte; he is first and foremost a consummate literary artist. Even before him the citizen chronicler had come upon the scene. The best of these was Giovanni Villani (d. 1348), who brought into his story the acumen of a business man and the tidings which came to his native Florence by trade routes from all parts of Europe; it may even be surmised that for his narratives of foreign affairs he utilized the business news letters which came in his way. Indeed Italian chronicles multiply during this century in both number and value. The Latin classics had never been entirely neglected in Italy; they now appeared more definitely as models. The Renaissance had already begun, and history profited by it. Meanwhile decentralized feudalism was giving place to the centralized modern state, and historiography took on the color of the new society. Writers viewed their subject from a higher standpoint, saw it more as a whole, philosophized more deeply and brought more documentary vouchers. This voucher system had already begun to some extent in England, where the struggle between king and barons had done much for political education. The Burton annals, for instance, quote valuable public documents, and Matthew Paris is inestimable in this respect. But in this field Italy reached somewhat nearer to the modern ideal than any other country. The *Chronicle* of Farfa as early as 1100 is in many ways extraordinarily modern and accurate; it is a collection of original documents connected by a thread of narration. Caffaro (c. 1080-1166) presented his *Annals* to the consuls and Council of Genoa, and they were copied and placed among their archives. Thenceforward the work was officially patronized; it was continued by various officials of the city. In 1270 Jacopo d'Oria together with other collaborators began his work on the Genoa chronicle; in 1280 he was made official annalist and keeper of the archives and in 1294 he publicly presented his work to the podesta and councilors. His work represents systematic historiography and is not without the critical spirit, although the main note was naturally the glorification of Genoa.

The greatest strides in historical writing were taken by the statesmen historians of the later mediaeval generations. Matthew Paris showed real political sense and the widest political interest. He had traveled and held responsible offices

and at St. Albans he could talk with other travelers of all ranks and from all countries; the king could bid him sit and listen to discussion of matters of state; but his outlook after all was a good deal limited by his monastic status and the interests of his Benedictine order. There is naturally more freedom of thought, more criticism and more systematic political philosophy in men like Aeneas Sylvius (d. 1464) and Philippe de Commines (c. 1447-1511). The former had been among the busiest and not the most scrupulous of politicians at the Occumenical Council of Basel. Commines had been minister first to Charles the Bold of Burgundy and then to his rival Louis XI of France. Each had spent his life in reducing politics to a science and each possessed that sense of form, that clarity of thought and conciseness of style which are far commoner in the Latin countries than elsewhere.

Mediaeval historiography, generally speaking, is a mirror of mediaeval society. It is impregnated with the religious and eschatological preoccupations of the age. For its foundation it had the wreckage of classical history; upon this it built until society had become sufficiently settled to evolve a literary type of its own. But down to the very end of the period there was a great lack of science in the modern sense. Historians almost without exception refrained from ever calling in doubt any of the dogmatic facts which were binding on faith. Material circumstances were unfavorable and the spirit was not strong enough to overcome them. Books were scarce; even at great monasteries successive catalogues often bear witness to the very limited number of books written or acquired between one age and another. The Middle Ages never revived or rediscovered the simple system which had obtained in pagan Rome of training a sufficient number of competent scribes to assemble the books in one room and multiply by dictation the book to be copied. Even of so great a work as the *Chronica majora* of Matthew Paris it is doubtful whether there were ever half a dozen complete copies in existence. The strictest of reformed Benedictines, the Cistercians, did little for history; indeed in their earliest fervor they rather reprobated it as frivolous. Again, the Benedictine monasteries retained a great deal of their original individualistic spirit; it is true that there was much interchange through passing guests and through the bearers of mortuary rolls, yet there was less literary communion than might have been expected. Most of the chronicles



therefore are rather parochial in their outlook. There existed a Greek school of chroniclers, who wrote with more political insight and more delicate psychology than any but the best of the Latins; yet these were almost altogether ignored or even unheard of in the west. Roger Bacon, anxious as he was to put other subjects on a higher footing by organizing translations from the Greek and by the application of scientific method, did not extend this zeal into the domain of history. Research did not receive general encouragement. Here and there a chronicler persuaded travelers to make inquiries for him, but on the whole the temptation was very great to take the first story and inquire no farther. Very few authors are free from impossible legends; for example, that Tiberius destroyed Jerusalem as an act of just retaliation for the crucifixion or the absurd fables about Mohammed or that concerning Pope Joan, which was not only repeated from chronicler to chronicler but even quoted at the Council of Constance. To these must be added deliberate forgeries, such as the pretended Donation of Constantine and the False Decretals, which remained practically unquestioned for centuries. There are not many of the great monasteries which have no forgeries among their early charters.

The mediaeval historian as compared with the ancient and the modern has the child's keen interest in men and things, the child's directness of observation and picturesqueness of expression and often just that little point of naïve malice which lends such charm to a child's report of what he has seen and heard. But his calculations of numbers, for instance, can scarcely ever be trusted, and nearly always exceptionally great allowance must be made for his professional or religious bias. He has his characteristic virtues and his characteristic defects. The most important truths contained in his work are often to be derived only indirectly: while he is chiefly concerned to tell one thing he unconsciously reveals another. The typical mediaeval history, at least up to the thirteenth century, may fairly be compared with red Indian natural history—curiously true and observant where daily hunting contact is concerned but beyond that lacking all sense of probability or evidence or sequence of cause and effect.

G. G. COULTON

*Modern Europe.* Modern European historical science begins with the period of the Enlightenment. The Renaissance had plowed the ground,

had brought forth from antiquity new models of historical writing and had given rise to the beginnings of historical criticism. Machiavelli in his *Istorie fiorentine* (1532) established the nation as the unit in historical writing and was followed by the German Sleidan, the Frenchman de Thou and the Englishman Clarendon. Guicciardini's *Istoria d'Italia* (1561) provided the model for the treatment of the nation state in its foreign relations, which was followed by Chemnitz for Sweden and Pufendorf for Brandenburg. The works of all these writers were built upon increasingly rich documentary material.

The religious conflicts arising out of the Protestant revolt sharpened the critical faculty and also intensified the desire for authentic documents. The Catholic *Annales ecclesiastici* (1588–1607) of Baronius, which were set up against the work of the Protestant Magdeburg Centuriators, was the first historical work which could make use of the numerous documents of the Vatican archives. The *Acta sanctorum*, published after 1643 by the Jesuits and used for the same defensive purpose, marks the beginning of the methodical collection of source materials. This example was followed in Germany in the *Scriptores rerum brunsvicensium* (1707–11) collected by Leibniz and the *Scriptores rerum austriacarum* (1721–25) by Pex; of even greater importance were the *Scriptores rerum italicarum* (1723–51) collected by the Italian Muratori and the *Recueil des historiens des Gaules et de la France* (1738–1833) begun by Dom Bouquet. Religious struggles in Italy were reflected in the works of Paolo Sarpi (1552–1623) and Pietro Giannone (1676–1748), who laid the foundations for the study of ecclesiastical institutions and of constitutional history.

The age of discovery and the commercial revolution brought about a widening of the scope of historical interest to include non-European lands and peoples and were reflected particularly in the works of the Spanish and Portuguese historians of the fifteenth to the seventeenth century. The historiography of the Iberian Peninsula during this period was marked by a broad interest in affairs and institutions beyond the events connected with royalty and the military as well as by a greater interest in contemporary events. The philosopher of history Vives considered many of the modern historians to be the equals of the classic writers and he urged the scholar to go into the trade marts and workshops for detailed knowledge of events. Lopez de Gomara held the discovery of America to be the

most important event after creation and the coming of Jesus. Paez de Castro pointed out the necessity of the comparative study of the customs and institutions of the New World and their relations with those of Europe. The collection of geographic and ethnographic materials moreover was actively fostered by the Spanish and Portuguese governments and explorers were provided with questionnaires for this purpose. Both the humanistic writing of history and the confessional kind, however, turned for the most part from the world of inductive thought. Up to the end of the eighteenth century the prevailing interpretation of history continued to be one that was based upon ancient authorities and founded on the Christian philosophy of history. It is with the period of the Enlightenment that a wholly new historical viewpoint developed out of the intellectual foundations laid in the seventeenth century.

The French historians of the Enlightenment, particularly Montesquieu and Voltaire, discarded the Christian interpretation of history as well as all its valuations and blazed the path for a scientific and critical interpretation of history. They made the decisive step of placing the science entirely upon its own feet, eliminating traditional authorities as well as the connection with theology. Reasoning criticism was no longer considered as merely a destroying power but rather as the means of attaining higher knowledge. They endeavored to write universal human history by including Asia and America in the range of their survey, and in hursting the bonds of state and church history and aiming to bring within their orbit all phases of social life they laid the foundations for a general history of human culture. The content of the first world history of the Enlightenment, the *Universal History from the Earliest Account of Time to the Present* (London 1736-65), was not, it is true, the application of the philosophy of enlightenment to history but rather the digestion of an unprecedented amount of material on all peoples and all ages. It was by no means a masterpiece but it bore the new viewpoint through numerous translations into the cultured circles of the entire West. The historical writings of Voltaire, Montesquieu, Hume, Robertson and Gibbon, distinguished by an increasing preoccupation with the literary form of their presentation, achieved a popularity hitherto never attained by historical works and spread the gospel of enlightenment throughout Europe.

In place of the Christian interpretation of

history the historians of the Enlightenment set up a new dogma based on the idea of the progress of humanity and with the victory of reason as its highest goal. It was, however, an idea of progress without development and thus led to one-sidedness, to an overestimation of their own age and to a lack of understanding and sympathy with the historical epochs in which the rule of reason was lacking. The individual as well as the manifold character of historical development was neglected and the altogether too rationalistic concept of causality as represented in their catastrophic theory of history simplified their interpretation in an illegitimate manner. A really profound immersion in the past was contrary to the whole tenor of the movement. What the Enlightenment contributed to the science of history in the way of fundamental principles was never lost, not even in Niebuhr or Ranke. But it had to be supplemented before it could make another advance.

Opposing voices against the ideas of the Enlightenment were raised in Italy, in Germany and after the beginning of the French Revolution in the person of Edmund Burke in England. The Italian Vico, in his *Scienza nuova* (1725), proclaimed the principle of the intrinsic worth of each age and the role of each epoch in preparing the way for the succeeding one. When Winckelmann in 1764 brought Greek art to the notice of the world and raised it to the level of an imperishable ideal, the concept of progress was shattered: a far distant past was greater than any present. Similar results were produced by the researches of those who, like Justus Möser, investigated the history of their local homelands and also saw in the past values which could not be reconciled with the growth of reason. The publication of local historical sources had called attention to the individual forces of the past and emphasized emotional values which the Enlightenment had not known. The German generation of 1760 to 1790 was torn by the conflict of the acceptance or the rejection of the Enlightenment. Herder is the typical representative of this generation. In his early work *Auch eine Philosophie der Geschichte zur Bildung der Menschheit* (1774) he applied the principle of development to cultural history and was one of the first to recognize the significance of the Middle Ages. His *Ideen zur Philosophie der Geschichte der Menschheit* (1784-91), which bears the spirit of the Enlightenment in its very title, in the universal historical breadth of the subject and in the cultural interpretation of history, is at the

same time far from a rationalistic consideration of history. Herder exhibits the influence of Winckelmann and the antirationalist spirit of the *Sturm und Drang*, which emerged later in romanticism. The reaction was even stronger in Burke, whose *Reflections on the Revolution in France* (1790) although not really a historical work exerted a profound influence in England and on the continent as a declaration of war against the Enlightenment. The unhistorical elements in the theories of the Enlightenment were revealed with political vehemence without, however, clearly indicating a more penetrating point of view.

A further impetus to the development of the historical sense was supplied by the romantic movement. Litterateurs like Chateaubriand and Sir Walter Scott aroused an enormous interest in the study of the past. Romanticism emphasized the law of continuous development, recognized the significance of tradition, gave cognizance to the irrational and the individual in history, replaced the ideal of humanity by that of nationality and thus laid the basis for the subsequent doctrine of the folk soul. Although romanticism contributed nothing of importance to the development of more scientific methods of investigation and research and although many of its historical conceptions are so false that they must perforce be pushed aside by any earnest investigator, it did, however, direct the attention of the historian to new problems and suggest new methods of approach. Perhaps more significant in this respect was the influence of Hegel. Hegel's desire to unify world history was a truly scientific achievement. He endeavored to explain history not by its own laws but with the weapons of philosophy and by means of such concepts as the struggle between freedom and unfreedom and the realization of the absolute spirit in history. His influence on historians was especially exhibited in the case of F. C. Baur and the Tübingen school and historians like Chicherin in Russia.

New elements for the development of scientific history came partly from historical research itself and partly from the ranks of classical philology. The source editions published during the eighteenth century both by the academies and by individuals contained materials which emphasized the individual fact and the local neighborhood; but an even greater impetus toward the application of a new method to the historical sources came from the philological criticism of the sources. Friedrich August Wolf's

*Prolegomena ad Homerum* (1795) set up a new program for the application of critical methods to historical texts. His example was followed by Barthold Georg Niebuhr, who achieved immediate fame throughout Europe on the publication of the first volume of his *Römische Geschichte* (1811). It is true that the earliest Roman history had been criticized some seventy years previously by French savants, but Niebuhr's special trail blazing achievement in historical research lay in the consistent performance of source criticism, in the separation of all that was handed down into its constituent parts and in the excavation of the remaining usable material. Niebuhr transformed Wolf's philological method into a historical one and established a law for all criticism of historical sources; he thus gave historical research a firm scientific foundation. Thenceforth dilettantism and science were clearly differentiated. Niebuhr's influence upon the following generation was as great as his achievement merited: the modern science of history dates from him. About the same time the science of the history of law was founded under similar influence by Eichhorn and Savigny.

Even more significant for the development of history as an independent science was the work of Leopold von Ranke. Ranke opposed the historical views of both the romanticists and the Hegelians. He represents the fusion of the historical ideas of the eighteenth and nineteenth centuries. Whatever endured from the Enlightenment and whatever came from Herder, from Friedrich August Wolf and classical philology, from Niebuhr and finally from romanticism Ranke absorbed, fashioned and developed in so far as these ideas accorded with his standpoint. For him the definite ascertaining of the historical facts was the first and highest duty; what he wrote in his monograph *Zur Kritik neuerer Geschichtsschreiber* (1824) became the basis of all source criticism. In desiring to show "how it actually happened" he pointed the way to inductive research. No doubt Wolf and Niebuhr were his teachers in this, but he applied their theorems—extending them into a method—to the entire field of history. His trend toward universal conceptions linked him with the Enlightenment; but as he placed the research of the detail before all universal history, he turned enthusiasm into science. He was inspired by romanticism, since he also considered the national state and the folkways to be the enduring elements in history; but he carefully refused to allow contemporary tendencies and romantic

sentiments to affect his conception of history. Although he rejected abstract philosophy of history, his works express conceptions of universal history which also represent a bit of philosophy of history, without, however, being characterized by rigid system or dogmatic compulsion. He surveyed times and peoples, comprehending their differences and their unity, and he expressed in artistic form what he had brought to light by research and intuition. The opening of the archives, which France had begun after the revolution, first allowed him to exploit the new, immeasurable field of work with the spirit of a discoverer and with this new material to lay firm bases for research into the history of modern times.

Ranke's influence can scarcely be overestimated. It was not confined to Germany but was recognized throughout Europe. In Germany Sybel, Waitz, Giesebrecht and their numerous disciples continued the work of the master along their several specialized lines, although the growing political coloration of their writings led them away from Ranke. Most of these historians were influenced by the movement for German unity. The so-called Prussian school of historians, which advocated Prussian leadership in Germany, was nationalistic in the Prussian sense as well as liberal. Ranke with his liberal conservative attitude wanted to stand above the parties, and thus he remained the conscience of German historical science even during periods when it entered with nationalist political vehemence into the struggle over Germany's transformation. This struggle involved even those who did not belong to Ranke's school, such as Droysen, who made ancient history an independent historical science and at the same time was the most powerful advocate of the Prussian point of view; Häusser; and last of all Treitschke, whose *Deutsche Geschichte im 19. Jahrhundert* (1879-94) was the most one-sided and yet the richest and most beautiful historical monument of Germany's national movement.

The growth of nationalism in the nineteenth century while detrimental to the achievement of a more critical and scientific approach to historical problems did, however, provide a great impetus for the writing of history. It was in large measure responsible for the organization and publication of the great collections of source materials. Inspired by the ideal of uncovering the folk origins of the various nationalities, these national historians developed simultaneously a most expert and critical method for the handling

of source materials. The *Monumenta Germaniae historica*, the collection of sources of German history of the Middle Ages, which was begun in 1826, evolved under the leadership of Pertz into the development of an editorial method which thenceforth became a standard for all expert publications. The search for all obtainable manuscripts, the ascertaining of the oldest and best, the determination of the extent to which any source depended upon its eventual predecessors and the producing of a philologically perfect text for printing, making use of all important variants of tradition—all this furnished a methodological foundation for the publication of sources. What Pertz did for source editing Böhmer carried further for documents: his *Regestas*, which reproduced the contents of the documents in the most concise form although with adequate literal extracts, made it possible to open up this almost illimitable field of research. In France Mabillon's palaeographic work received further impetus in the founding of the École des Chartes in Paris in 1829. Guizot in 1833 organized the Société de l'Histoire de France and began the publication of the *Collection de documents inédits sur l'histoire de France*. England had its *Rolls Series* and Spain its *Colectión de documentos inéditos par la historia de España*. Similar steps were taken by most of the smaller nationalities in the latter half of the nineteenth century, resulting in such works as the great Croatian-Dalmatian source collections started by Kukuljević-Sakcinski and Racki. Together with the collection of documents came also the development of national history. Luden, Raumer and the Prussian school in Germany; Guizot, Michaud, Lamartine and Henri Martin in France; Green, Froude and Macaulay in England; Lafuente in Spain; Cuoco and Botta in Italy; P. A. Munch in Norway; P. J. Blok in Holland, all were influenced by the nationalist current and in turn contributed considerably to its further stimulation. This close relationship between history and nationalism is evidenced even more strongly in the Slavic countries and in Hungary. Palacky in his *Geschichte von Böhmen* (1844-67) although under German influence founded a purely national Czech school of historiography, which became the backbone of the nationalist movement. Lelewel performed a similar service for Polish historical research. In Russia Karamzin wrote the first important national history; under the influence of the Slavophiles attempts were made to trace in Russian history the continuity of the so-called inherently

Russian folk traits and institutions. Jewish historiography likewise was stimulated by the growing national movement and bore fruit in the great national histories of Jost, Graetz and Dubnow.

The growth of liberalism and the democratic traditions of the French Revolution have also left a deep impress on historical writing. These tendencies are exhibited in Germany in the writings of Rotteck and Gervinus and in Dahlmann's works on the English and French revolutions. In Russia writers like V. I. Sergeyevitch and V. N. Latkin attempted to discover in early Russian history the embryos of liberal institutions analogous to the representative institutions of western Europe. In France, where the attitude toward the revolution and toward Napoleon was of great importance for a long time, the struggle over these principles so colored historical writing that the really scientific element was slow to make itself felt. Romanticists like Thierry and Barante contributed little to historical research and even in the case of Michelet it may be doubted whether the art of the representation compensates for the great defects in the research. Thierry, Guizot, Thiers and their disciples were imbued with the doctrines of political liberalism and looked to history to supply them with support of their theories. De Tocqueville attempted to correct these liberal theories and Quicherat insisted on precise source criticism. As director of the *École des Chartes* he contributed much to the auxiliary disciplines. Only with Fustel de Coulanges does French historical science begin to be concerned with factual research, to reject all abstractions and to seek for objective knowledge. Under his influence there ensued a great mass of detailed studies on mediaeval history, on French institutions and on social life. Traces of nationalist bias still remained, however, as in the controversies concerning the relative importance of the Roman and Germanic elements in mediaeval society; and the attitude toward the revolution has continued to be closely bound up with the current political struggles.

In England the romanticist conception of history was followed by a liberal period characterized predominantly by Macaulay. Macaulay was not a great historian although very erudite; but he attained great popularity through his liberal *Weltanschauung*, which was in accord with the time, through his popular art of description and through the depicting of a period which was very dear to the Englishmen of his day. Although he wrote from the same liberal

point of view, Grote with his *History of Greece* (1846-56) stood much higher than Macaulay. Influenced by Niebuhr, especially in rigid source criticism, Grote maintained his position for a long time despite his prejudice in favor of Athenian democracy. To some extent he broke through the spell of the ideal which Winckelmann had cast over the Greeks. It is doubtful whether Thomas Carlyle can be called a historian, for he was a worshiper of greatness rather than a real analyst of this greatness. He was a master of dramatic description and viewed the historical process as consisting solely of great personalities; he simplified the complex into good and evil, positive and negative, as he happened to see the matter.

Italian historical research followed a similar course during the nineteenth century. The liberal tendencies overcame romanticism, and under the influence of nationalist ideas there arose a historiography which was of importance for the world of ideas of the new Italy but which was markedly lacking in methodological research. With Pasquale Villari, Malfatti, de Leva, Comparetti and Pais there began in the second half of the century a work of criticism which was very much under German influence and which resulted in a renaissance of historical research leading to the publication of numerous editions of mediaeval sources, to important work in the history of classical antiquity and to exhaustive studies on the Italian Risorgimento.

In Spain and Portugal the "Inquisition" theory of Iberian decadence, which found support in the work of Llorente and Herculano, enjoyed considerable prominence in the struggles between liberals and reactionaries. There is also present the continued attempt to establish the existence of a cultural tradition in the peninsula and to provide a solid historical basis for the pan-Hispanic movement and thus vindicate the colonizing work of Spain and Portugal. The work of Menéndez y Pelayo and his followers in the first respect has been very fruitful. The attempt was also made to incorporate the Hispano-Arabic culture into this tradition. The disaster of 1898 contributed greatly to a discussion of the Spanish national character as shown in its various accomplishments or lack of accomplishments. Perhaps the culmination of the threads in modern Spanish historiography is to be found in the work of R. Altamira, whose *Historia de España y de la civilización española* (1900-11) was the first work of synthesis based on the new methods. Altamira, who is also a

leader of the pan-Hispanic movement, seeks to discuss every aspect of civilization and gives considerable attention to the cultural achievements of the Spanish people. He holds that the work of various individuals in this field should merit attention even though they had no especial influence, for they indicate the potentialities of the national character.

Great changes in historical outlook were brought about by the interaction of history with the other social sciences. Auguste Comte, influenced by Condorcet and Saint-Simon, thought it was possible to apply the methods of natural science to history, to discover its laws and to predict the future. In spite of all his errors due to insufficient knowledge of the historical facts and to his opposition to everything metaphysical his ideas proved to be a fertile stimulus and no doubt contain an element of truth which will endure throughout the future. For Comte turned historical research away from the predominant emphasis upon great personalities and the state toward a consideration of community phenomena, out of which the state arose originally and which form the basis of historical events. Since his time the sociological point of view has entered into all profound historiography. To Comte is also due the idea that the evolution of intellectual life is the basis of history and that every people has a mass psyche, out of which grow all its actions and customs. To these ideas Taine added the concept of the milieu or environment as the explanation of historical events, a concept which was utilized by so many historians of the latter part of the nineteenth century.

French positivism was transplanted to England in Buckle's *History of Civilization in England* (1857-61), which made a much stronger impression than Comte himself had ever been able to create. Buckle used the methods of natural science which aimed at the statistical investigation of mass movements; he was not interested in individual facts or in personalities. He was also firmly convinced that cultural development is based solely upon science and he accepted without discrimination whatever fitted in with his liberal theories. As he spoke in the scientific spirit of the time, his work met with considerable approval. But the acceptance of the German historical method in England during the 1860's again limited Buckle's success.

The industrial revolution had also brought about an increasingly greater concern with social and economic history. The writings of Lorenz von Stein and Karl Marx directed attention to

the interaction between state and society, to the greater significance of economic factors and to the element of class struggle in history. The Marxist point of view while not completely adopted by historians did, however, open up new fields of investigation and was particularly significant in the development of economic history (*q.v.*). In Communist Russia it has become the ruling point of view and is the guiding principle in the historical writings of M. Pokrovsky and his pupils. The historical traditions of Kluchevsky dominant in pre-war Russia have been almost completely submerged.

Archaeology and anthropology have been of particular significance in pushing back the limits of history and bringing prehistory within its field. The study of the ancient Near East and classical antiquity has been especially benefited by the stimulus of these sciences. The deciphering of hieroglyphics by the Frenchman Jean-François Champollion, which was practically completed by 1822, and the slow deciphering of cuneiform writing by the German Grotefend in 1802 set wholly new tasks before the historical explorers of the Near East. In his *Geschichte des Altertums* (1852-57) Max Duncker condensed the first results of this research. A new culmination in historical research of antiquity was reached in the *Römische Geschichte* (1854-55) of Theodor Mommsen. Mommsen built up his work upon all the remains of the past—upon manuscripts and inscriptions, laws and customs, coins and works of art, works of literature and religious traditions—and there is no doubt that he outdid considerably his great predecessor Niebuhr both in acuity of criticism and in the faculty for positive synthesis. Most of all he surpassed Niebuhr in the art of his writing, which was extremely vigorous and alive, often too colored by contemporary events but causing the reader to relive the past. The reconstruction of the civilizations of the ancient Orient was continued in the works of Lepsius, Mariette, Maspero and Rawlinson. The flood of new material and the complexity of the problems raised resulted in an increased narrow specialization within this field of inquiry. It was only in the monumental work of Eduard Meyer that a mind was found sufficiently erudite and encyclopaedic to be able to survey the whole complex of ancient civilization. The revival of intellectual history in the nineteenth century is greatly indebted to the work of Jakob Burckhardt. His *Kultur der Renaissance in Italien* (1860) represents the first scientific statement of a history of culture in

terms of intellectual history. The battle of *Kulturgeschichte* as against political history was continued in Germany by W. H. Riehl, Eberhard Gothein and Lamprecht; while Gomperz produced a masterful work on Greek thought, and Dilthey through his philosophical works as well as through his penetrating studies in the intellectual history of the seventeenth and eighteenth centuries inspired the cultivation of the so-called *Geistesgeschichte* in Germany. In England a somewhat different form of intellectual history was represented by Lecky's studies on European morals and rationalism and Leslie Stephen's work on English eighteenth century thought.

Institutional and constitutional history also broadened into new lines of investigation under the influence of the study of primitive society and the use of the comparative method. Gierke in Germany, Maitland and Vinogradoff in England and Kovalevsky in Russia are the outstanding representatives of these tendencies.

Thus European historical science was much more firmly established at the turn of the nineteenth century than it had been one hundred years before. Out of the research of individuals there had grown a firmly founded science with a well developed methodology and embracing all the fields of history. The ideological systems of the eighteenth and the beginning of the nineteenth century had been forced into the background—historical research determined its own goals. Germany, England and Scandinavia devoted themselves almost exclusively to the ascertainment of facts; whereas the philosophy of history was given greater weight in France, Italy, Rumania and Russia. Everywhere new specialized fields developed: state and constitutional history, history of culture, history of religion, history of the church, economic history, the auxiliary historical sciences, not to mention the related fields such as ethnology, prehistoric research, sociology, intellectual history, historical geography and geopolitics. Although historical research seemed to result in specialized history it always received new impulses for the extension of its aims and for the universal statement of its results both from within itself and from its related sciences. This endeavor of European historical science was represented primarily by Karl Lamprecht. His goal was a general historiography embracing everything: the discovery of historical laws, especially by means of comparative research, and the establishment of the psychic as the foundation of historical development. In Lamprecht the positivist and

natural scientific concepts were united with the universal historical ideas of Herder and of the Enlightenment, and there was no field of historical life which he did not endeavor to include within the scope of his research. The execution did not quite satisfy the magnitude of these goals, but he became a source of stimulating suggestions for all historical research.

A full explanation for the general rise of European historical research during the nineteenth century would be incomplete without mention of the large organizations which undertook the publication of the most important source editions or of the voluntary groups of savants who joined in the publication of big collective works. Government funds made possible the establishment of historical institutes, such as the *École des Chartes* in Paris, the *Institut für Österreichische Geschichtsforschung* and during the last quarter of the century the *Istituto Storico Italiano* in Rome. Organic collective labor has become indispensable for historical as well as for natural science. The historical journal thereby became a necessary accessory. The oldest historical journals are the *Archiv für ältere deutsche Geschichtskunde* founded in 1820, the Danish *Historisk tidsskrift* in 1840, *Archivio storico italiano* in 1842, *Archiv für österreichische Geschichte* in 1848. The fullest development, however, followed only in the second half of the century. The *Historische Zeitschrift* began in 1859, the *Revue des questions historiques* in 1866, the *Revue critique d'histoire et de littérature* in 1866, the *Revue historique* in 1866, the *Mitteilungen* of the *Institut für Österreichische Geschichtsforschung* in 1880, the *Historisches Jahrbuch* of the *Görresgesellschaft* in 1880, the *Rivista storica italiana* in 1884, the *English Historical Review* in 1886 and the Swedish *Historisk tidsskrift* in 1889. By the end of the century all the larger European countries had their own historical journals in addition to a multitude of provincial and local organs. This made possible an exchange such as previous years had never known, and there developed a group of scientific collaborators who were able to subject all questions to highly diversified treatment. The writing of co-operative history is illustrated in the huge synthesis of universal culture attempted by Henri Berr in the *L'évolution de l'humanité* series, in the several Cambridge histories, in the *Propyläen Weltgeschichte* edited by Walter Goetz and the *Peuples et civilisations* series edited by Louis Halphen and P. Sagnac. International cooperation of students of history is carried on through

the International Committee of Historical Sciences.

The World War led to a grave interruption of the great work of collaboration. During the war historiography had been placed in the service of the causes of the various nations, and for some time after the war it was set tasks which were the outgrowth of the conflict. An enormous amount of documentary material was published, and the history of the last few decades before the war as well as of the World War itself placed before historians a task which absorbed all their available resources. Historical science profited by being able to test its strength on new and difficult problems and to show that it had become an indispensable power in the life of nations. But alongside such work, devoted primarily to the present, there is again arising a powerful tendency toward universal history.

WALTER GOETZ

*Islam.* The writing of history was one of the earliest disciplines cultivated by the Arabs after the rise of Islam. The natural interest of Moslem Arabs in legends and anecdotes relating to pre-Islamic days (*ayyām*) with their intertribal wars and epoch making events, such as the breaking of the Ma'rib dam, the digging of the Zamzam Well and the expedition of the "owners of the elephant" (Koran 105); the desire of early caliphs to scan the records of preceding kings and rulers; the interest of the believers in collecting traditions (*ḥadīth*) relating to Mohammed and his first followers; the necessity of ascertaining the genealogical relationship of each Moslem Arab, his kinship to the Prophet and his precedence in accepting Islam, all of which determined the amount of stipend he received from the state treasury; the elucidation of passages in Arabic poetry—one of the earliest and most fully developed forms of Arabic expression—and the identification of persons and places cited in religious works; the anxiety of conquered peoples to put on record the past achievements of their races as a counterbalance to Arab chauvinism, all these pointed the way toward historical research and composition. The main sources for Moslem history were therefore pre-Islamic stories transmitted by word of mouth, oral traditions relating to the life and campaigns of the Prophet and of his companions (*ṣaḥābah*), genealogical lists which also served as army rolls, poetical compositions including ballads, and the Koran and other theological works.

Al-Nadīm mentions a Yamanite story teller,

'Abid ibn-Sharyah, who composed for Caliph Mu'awiyah (661–80) a number of works dealing with the ancient history of south Arabia, one of which evidently survived until the time of al-Mas'ūdi (d. 956). But the earliest works that have been preserved were composed during the Abbasside regime (after 750) and comprised biographies (*ṣirah*), books of conquest (*maghāzī*), genealogies (*ansāb*) and classified sketches (*tabaqāt*) of traditionists, poets and the like. The oldest biography is that of the Prophet by ibn-Ishāq (d. 767), which has been preserved only in the recension of ibn-Hishām (d. 834). Al-Wāqidi of Medina (747–823) has left the earliest work of importance on the Moslem wars of conquest, and his secretary ibn-Sa'd (d. 845) the first great book of classified biographies. The leading historian of the Islamic wars, after al-Wāqidi, was the Persian al-Balādhuri (d. c. 892), who was one of the first to integrate the many stories of the conquests of various cities and lands into one comprehensive whole under the title *Futūḥ al-Buldān* (ed. by M. J. de Goeje as *Liber expugnationis regionum*, Leyden 1866; tr. by P. K. Hitti and F. C. Murgotten as *The Origins of the Islamic State*, 2 vols., New York 1916–24), thus ending the era in which the monograph was the typical form of historical composition.

In these early historical works and in others which followed the form of presentation was that of the stereotyped religious tradition (*ḥadīth*). Each event is related in words of eye witnesses or contemporaries and transmitted to the final narrator, the author, through a chain of intermediary reporters. Thus al-Balādhuri introduces his story of the capitulation of Najrān to the Prophet: "Bakr ibn-al-Haitham related to me, that 'Abdullah ibn-Ṣāliḥ related to him, on the authority of al-Layth ibn-Sa'd, on the authority of Yūnus ibn-Yazīd, al-Ayli, on the authority of al-Zuhri, who said . . ." The same tradition may be repeated on the same page with slight or no variation except in the list of the transmitters.

This tracing of the event to its ultimate source served to develop exactitude, as did also the insistence on dating occurrences even to the month and day. But the authenticity of the reported fact generally depended upon the continuity of this chain (*isnād*) and the confidence in the integrity of each reporter rather than upon a critical examination of the fact itself. Aside from the use of personal judgment in the choice of the series of authorities and the arrangement



of the data the historian exercised very little power of analysis, criticism, comparison or inference. In the introduction to his monumental work *Ta'rikh* (ed. by M. J. de Goeje as *Annales quas scripsit*, 15 vols., Leyden 1879-1901) al-Ṭabari gives expression to this principle when he declares, "We only transmit to others as has been transmitted to us."

By the time of al-Ṭabari (838-923) the situation was ripe for formal historical composition. The idea of chronological collocation of events now developed into a plan of complete series of annals. Whereas in medicine and philosophy Greek influence was paramount, in historical writing the Persian example was followed. The model was provided by such works as the Pahlavi *Khudāi-nāma* (The book of kings), which ibn-al-Muqaffa' (d. 757) translated into Arabic under the title *Siyar Mulūk al-'Ajam*. Al-Ṭabari's annals (*Ta'rikh*), in which the arrangement was chronological with the events tabulated under the year of the Moslem era in which they occurred, constituted the first universal history. This annalistic method was followed among others by Miskawayh (d. 1030), after whom Arabic historical composition started on its decline with ibn-al-Athīr (d. 1234) and abu-al-Fida (1273-1331). Thus the Moslem historian, who in the first two centuries was a traditionist, became now a chronicler. In his encyclopaedic *Murūj* (ed. and tr. into French by A. C. Barbier de Meynard and A. J. B. Pavet de Courteille as *Les prairies d'or*, 9 vols., Paris 1861-77, vol. iv, p. 89) al-Mas'ūdī (d. c. 956), who after al-Ṭabari was the greatest historian Islam produced, inaugurated a new system. Instead of grouping events around years he grouped them around kings, dynasties and topics. His treatment although followed by ibn-Khaldūn and minor historians did not enjoy such favor as al-Ṭabari's annalistic method. To all Arabic chroniclers political history was history par excellence: the economic and social aspects of life were touched upon only incidentally. Historical causation was mainly providential because of Allah's constant interference.

Neither the late Abbassides nor the crusading periods produced great historians. After ibn-al-Athīr the following authors, Sibṭ ibn-al-Jawzi (1186-1257), Bahā' al-Dīn of Aleppo (1145-1234) (Saladin's biographer), Usāma ibn-Munqidh (1095-1188) and abu-Shāma (1203-68), provide valuable material regarding military and cultural contacts between Franks and Moslems. Most of this material has been translated into

modern European languages, although earlier Arabic works remained practically unknown to mediaeval Europe. Ibn-Khallikān (1211-82) was the first Moslem writer to compose what we might term a dictionary of national biography. Before him Yāqūt (c. 1175-1229), a freed slave of Greek origin, composed a most comprehensive dictionary of learned men and ibn-'Asākir (1105-76) wrote in eighty volumes the biographies of distinguished men connected with Damascus.

Most of the historians of the Mameluke period (1250-1517), represented by ibn-Taghri-Birdi (1411-69), followed the traditional methods of historiography. But al-Maqrizi (1364-1442) deviated from the trodden path by emphasizing in his *al-Mawā'iz wa-al-I'tibār fi Dhikr al-Khāṭa' w-al-Āthār* (ed. by Gaston Wiet, Cairo Institut Français d'Archéologie Orientale, *Mémoires*, vols. i-v, Cairo 1911-27; tr. into French by Urbain Bouriant and Paul Casanova as *Description topographique et historique de l'Égypte*, pts. i-iv, Paris 1895-1920) the topography and antiquities of Cairo; and ibn-Khaldūn (1332-1406) in his *Muqaddimah* (ed. by E. M. Quatremère and tr. into French by W. M. de Slane as *Prolégomènes d'Ebn-Khaldoun*, 6 vols., Paris 1858-68) was the first to formulate a comprehensive philosophy of Moslem history. In fact ibn-Khaldūn was the first to lay down what may be considered scientific principles for the writing of history, viewing it as a record of man's social development dependent upon physical and natural causes and upon the impact of environment on the individual and the group. This philosopher of history, however, failed to apply in his own work *Kitāb al-'Ibar* (7 vols., Bulak 1867; partly tr. by H. C. Kay as "The History of Yaman" in 'Umārah ibn-'Alī al-Ḥakami, *Yaman: Its Early Mediaeval History*, London 1892, p. 138-90; larger part tr. into French by W. M. de Slane as *Histoire des berbères* . . . , 4 vols., Algiers 1852-56) the scientific principles which he himself had enunciated. Nor was his influence on subsequent historians as great as one would expect. Until the present day Arabic historiography has not freed itself from conventional trammels and is still treated as a branch of Arabic literature or Islamic science. Such modern scholars, however, as the Christian Syrian-Egyptian Jurji Zaidān (d. 1914) and Moslems trained in European universities are beginning to apply critical methods to the vast accumulation of Arabic material. This western technique has scarcely affected Moslem works in

Persian but has been adopted successfully by such Turkish historians as Ahmed Djewdet Pasha (c. 1822-95) and Mustafa Nûri (d. 1890).

PHILIP K. HITT

*China and Japan.* The Chinese early showed an interest in accurate chronology, and the orderly arrangement and preservation of historical writing have for centuries constituted one of the four grand divisions of Chinese literature. Until recently the most venerated of the classics was *Shu ching* (Canon of history, tr. by James Legge, *The Chinese Classics*, 5 vols., Hongkong 1861-72, vol. iii, pts. i-ii), parts of which were believed to date back to the twenty-third century B.C. But it is now clear that part of the lore dealing with the so-called "model emperors" of antiquity was crystallized as history at a much later time. The inscribed "oracle bones" discovered in Honan in 1899, however, go back at least to the twelfth century B.C., and certain historical poems in *Shih ching* (Canon of poetry, tr. by James Legge, *The Chinese Classics*, vol. iv, pts. i-ii) were brought together only a few centuries later. In the time of Confucius (551-479 B.C.) and Mencius (372-289 B.C.) it was already a well established custom for both the ancestral Chou house and the feudal kingdoms to support chroniclers whose posts were commonly hereditary. But the only chronicle of this period which has survived is the so-called *Ch'un ch'iu* (Spring and autumn annals, tr. by James Legge, *The Chinese Classics*, vol. v, pts. i-ii) and its three commentaries dealing with the period 722-481 B.C. This happens to be the chronicle of the kingdom of Lu in which Confucius lived, but it is certain from references in Mo-ti, Mencius and other sources that each of the Chou feudal kingdoms had its own annal, of which unfortunately none but that of the Lu kingdom survived after 206 B.C. This work is strictly chronological with such data as victories, defeats, murders, famines and strange cosmic phenomena recorded in the briefest possible language under the year, season, month and day of the reigning prince. The name of Confucius was early associated with it, not merely as its compiler but as one who used it as an instrument for political and social reform. Later philosophers and historians professed to find therein evidence of Confucius' interest in the "rectification of terminology"; that is, his deliberate use of language designed to indicate his "praise or blame" of the events recorded. For this reason Mencius says that on the completion of the spring and autumn annals "rebel-

lous ministers and villainous sons were struck with terror." Following this example it became a recognized function of later historians not merely to record facts but to pass ethical judgments upon them. History came to be regarded as a mirror, not in the sense of giving a faithful reflection of the past (which it often did) but one wherein rulers and others in authority might discern which types of conduct to emulate and which to avoid. In consequence of this ethical interpretation of the past the concept of change and movement was almost eliminated from Chinese history, which came to be regarded as a record of seemingly static ideas. This tendency is observable in the great *Tzu chih t'ung chien* (Mirror for help in government) completed by Ssu-ma Kuang in 1084 as well as in Chu Hsi's *T'ung chien kang mu* (Mirror of history), a reconstruction and condensation of the former. De Mailla's French translation of the substance of the latter (13 vols., Paris 1777-85) passed on to the West the above concept which did so much to vitiate the true picture of China's past.

In the *Kuo yü* (Narrative of the states), written by an unknown author possibly in the early fourth century B.C., the chronological form is for the first time abandoned in favor of a connected narrative covering not merely one state or one rank of society but several kingdoms, and these from a much broader social point of view. This step was carried to its logical conclusion by Ssu-ma Ch'ien (c. 145-c. 87 B.C.), the outstanding individual historian of Chinese antiquity, whose *Shih chi* (Historical records, partially tr. into French by É. Chavannes, 5 vols., Paris 1895-1905) became the first general history of a consolidated China and the model of all the ensuing dynastic histories, constituting in themselves a great historical library of more than four thousand chapters. The data in these official histories is with minor variations brought together under the following five categories: imperial biographies, tables on chronology and ranks of nobility, records of noble families, monographs on the arts and sciences and biographies of eminent men and women irrespective of social position. This arrangement made it comparatively easy for the reader to get at the facts but involved needless repetition and destroyed the continuity of history by assembling materials topically similar but chronologically unrelated or disjointed events that should be treated as wholes. These and other merits and demerits of Ssu-ma Ch'ien's arrangement were fully criticized by Liu Chih-chi (661-721) in his great

work on historiography, *Shih t'ung* (The comprehensive study of history), published in 710, as well as by Cheng Ch'iao (1104-1162) in the preface to his *T'ung chih* (General history) published in 1161.

The first historian to overcome the defects of both the chronological and categorical arrangements was Yüan Shu (1131-1205), who reorganized the materials of Ssu-ma Kuang's work, mentioned above, under the title of *T'ung chien chi shih pen mo* (Complete history), which was published in 1173. He introduced to China a universal model which was followed in hundreds of privately written histories after his time—bringing the material together not under predetermined categories, but topically and strictly according to the data in hand. The superiority of this form is due to the fact that it made possible an exhibition of the causal relationships between events and the tracing of broad movements in their entirety.

In the seventeenth and eighteenth centuries there was a new emphasis on historical method involving a return to ancient texts, a wide search for evidence and the establishment of hypotheses as the basis of a new originality. This is exhibited in the work of Hu Wei (1633-1714) on the cosmological basis of the Sung philosophy, of Yen Jo-chü (1636-1704) on a forged text of the *Shu ching*, of Ts'ui Shu (1740-1816) on unreliable data in ancient histories and of Chang Hsüeh-ch'eng (1738-1801) in stressing the importance of local histories, archives and hitherto unused government documents.

With the modern cultural renaissance in China came also an increased development of historical research and scholarship. This new movement, inspired chiefly by the work of K'ang Yu-wei and Liang Ch'ü-ch'ao, aimed to develop a truly national school of history. These writers broke down the sacred barrier surrounding the most ancient texts as well as the elaborate chronological framework of the older historiography and the traditional concept of an ancient golden age in which a vast unified empire was ruled by benevolent monarchs. The movement today is concerned with the detection and elimination of forgeries, the recovery of lost and neglected works, the clarification of existing texts and wide comparative study, not merely on the basis of literary documents but in the light of a mass of new data derived from the study of archaeology, anthropology, folklore and existing social practices.

The two oldest historical writings in Japan

are the *Kojiki* (Record of ancient matters, tr. by B. H. Chamberlain, Asiatic Society of Japan, *Transactions*, vol. x supplement, 1882) completed in 712, and the *Nihongi* (Chronicles of Japan, tr. by W. G. Aston, Japan Society, *Transactions and Proceedings*, supplement i, vols. i-ii, London 1896) completed in 720. The latter is in the Chinese language, the former in Japanese, transcribed phonetically by means of Chinese characters. Both record ancient poems and legends dealing with national origins and are valuable chiefly for the light they throw on the language, manners and world view of a period before Japanese written history began. The *Nihongi* is in the form of an annal of the Chinese type, but is rather disappointing when judged from the strictly historical point of view. Traditional Japanese chronology is usually said to begin about 600 B.C., but the earliest tombs which can be dated and the first literary references to Japan that are found in Chinese histories do not yield dates earlier than the first century A.D. Accurate chronology, moreover, cannot be said to begin until the seventh century. Other early historical works are the *Sandai-jitsuroku*, imperial annals covering the period from 859 to 887, and the *Idzumo-fudoki*, a historico-topographical account of the province of Idzumo published in 733. Many works of the latter type appeared in succeeding centuries, often under religious auspices. Between the tenth and sixteenth centuries the preoccupation of the learned classes with Buddhism and internal warfare, and the lack of a national consciousness incident to feudalism made the writing of extensive histories difficult if not actually impossible. But there appeared from time to time annals of noble families, many war and court novels of a semihistorical nature, collections of poetry such as the *Manyōshū* (tr. by D. F. Waugh as *Crumpled Leaves from Old Japan*, Amherst 1922) and *Monogatari* (partly tr. by Arthur Waley as *The Tale of Genji*, vols. i-iv, London 1925-28), which are valuable for reconstructing the social history of that time.

At the close of the seventeenth century a strong movement for the cultural emancipation of Japan from Chinese influences set in. With this came also a revived interest in the study of Japanese history and literature. The works of Arai Hakuseki (1657-1725), Kada Atsumamaro (1668-1736), Kamo Mabuchi (1697-1769), Motoōri Norinaga (1730-1801) and Hirata Atsutane (1746-1843) all contributed to the development of a strong national feeling. The first compre-

hensive history of Japan written from this nationalistic point of view was the *Dainihonshi* compiled by numerous scholars under the direction of Mitsukuni, prince of Mito. It appeared in 1715 in 243 volumes but was not actually printed until 1851. Aimed to discredit the shoguns and glorify the power of the mikado, this work has been called "the real author of the movement which culminated in the revolution of 1868."

Since the restoration of 1868 every effort has been made under both government and private auspices to sift all available records and rewrite the history of Japan in a genuinely scientific spirit. Historical societies have been organized, such as the Meiji Shigakukai with its historical review, *Shigaku zasshi*, and great undertakings inaugurated, like the *Kojiruien*, a veritable encyclopaedia of the customs and institutions of Japan up to the Meiji, begun in 1897, and the *Dainihon shiryo*, a vast compilation of nearly all extant historical sources since 885, begun in 1901.

ARTHUR W. HUMMEL

*United States.* Historical writing occupies a disproportionately large space in American letters, for it has been assiduously practised during periods when little imaginative literature of high merit has been produced; but it has made fewer contributions to American thought than might be expected. American historians have neither expressed so fully the national mind nor disseminated so many influential ideas as have the British or German historians. Most of the best history was written with an artistic rather than instructional aim, and much of the rest never rose to a level which would allow it to receive an ideological tinge. Nevertheless, it does reflect with some accuracy changes in national temper, cultural equipment and interest. While pure literature was passing through the theological, federalist, romantic and realistic periods of the eighteenth and nineteenth centuries, history showed alterations rising from increased democracy, improved education, bursts of nationalism, lessened interest in European affairs, the growth of scientific method and other factors. Although rigid partitions are misleading, four general phases may be distinguished: first, the primitive historical work of the colonial period, done with an autobiographical or a strictly utilitarian motive; second, the patriotic and filiopietistic writing which followed the revolution; third, the highly "literary" history of the New England

renaissance; and, fourth, the scientific production of the period after 1875, marked also by a notable broadening of the scope of history.

It is easy to understand why little history of permanent importance was written before the revolution and indeed before 1820. The colonies were poor in the social elements—leisure, culture, learned accumulations—which are essential to history. The earlier historical works are either original narratives based in part upon personal observation or local or provincial histories limited generally to political events and useful chiefly as works of reference. Among the former are several books which merit the warmest praise as human documents rather than as pure history. William Bradford's *History of the Plimoth Plantation* (written between 1630 and 1651) and John Winthrop's *History of New England from 1630 to 1640* (published in part in 1790 and complete in 1825–26) are the work of men of education, insight and intellectual grasp. The former especially is a noble corner stone for American historical literature, an earnest, conscientious and vivid record of one of the most memorable adventures in human colonization. Loosely annalistic in structure, it derives unity from its frank expression of the writer's personality.

Winthrop's book is more disjointed, contains more superstition and gossip and lacks the personal charm of Bradford's narrative but has much the same authenticity and freshness. John Smith's *A True Relation . . .* (1608) and his *General Historie of Virginia, New-England, and the Summer Isles* (1624) are likewise half history, half autobiography, of unflagging interest but confused and containing passages of disputable veracity. Of the books of provincial annals the most important are William Hubbard's *A Narrative of the Troubles with the Indians in New England . . . to 1677* (1677); Thomas Prince's *A Chronological History of New England* (1736), the most scholarly work of the colonial era; William Stith's *History of the First Discovery and Settlement of Virginia* (1747); Robert Beverley's *History and Present State of Virginia* (1705); and Cadwallader Colden's *History of the Five Indian Nations* (1727). None of these meets the stricter demands of historical scholarship but all are useful and testify to a real and widespread interest in the past.

The revolution, accompanied by much controversial writing, was naturally followed by a wave of justificatory and panegyric history. David Ramsay's *History of the American Revolu-*

tion (1789), the work of a member of the Continental Congress, is partisan and incomplete; Timothy Pitkin's *Political and Civil History of the United States of America* (1828) is a dryer work with more statistical and documentary material but equally one-sided. Into such books as Jedediah Morse's *Annals of the American Revolution* (1824) there crept absurd traditions and anecdotes, which were even more prominent in many of the filiopietistic biographies of the time. Mason L. Weems' *Life of George Washington* (1800) long exercised a deplorable influence upon popular history. John Marshall brought to his *Life of George Washington* (1804-07), which contains broad historical elements, an eminently judicial temper; but while his revolutionary narrative is fair, his later chapters are indefensibly Federalist in tone. On the royalist side the outstanding work of the period, better as a history than any work already named, was the third volume of Thomas Hutchinson's *History of the Province of Massachusetts Bay, 1749-74* (1828), marked by notable detachment, candor and breadth of view. Meanwhile the stream of local annals was increasing and in such works as Jeremy Belknap's *History of New-Hampshire* (1784-92), Benjamin Trumbull's *Complete History of Connecticut* (1818), John D. Burk's *History of Virginia* (1804-05) and David Ramsay's *History of South-Carolina* (1809) was improving conspicuously in quality.

The classic age of American historiography was ushered in with the second generation after the revolution. By this time the necessary social factors had all appeared: a cultivated public of considerable size, a class of leisured scholars directly acquainted with European thought, accumulations of books and manuscripts and the opportunity of further acquisition, a wide diffusion of literary taste and a desire to celebrate certain broad historical facts. There emerged in New England between 1820 and 1860 one of the best schools of literary historians in the world. Prescott, Motley and Parkman, all educated Bostonians, all Harvard graduates, all men of means, dealt with world forces and events; close beside them stood two other Massachusetts men, Jared Sparks and George Bancroft, who wrote of the American past.

Holding a common preference for panoramic history, Prescott, Motley and Parkman were all indebted to the literary impulse flowing from the British historians Robertson, Roscoe and Gibbon; they all conceived of history as essentially dramatic in form; and they all showed a dis-

tinctly Protestant, not to say Puritanic, tendency. Broadly speaking, the differences in their work are less important than these resemblances. Prescott's most ambitious books, his *History of the Reign of Ferdinand and Isabella the Catholic* (1838) and his *History of the Reign of Philip the Second* (1855-58), were planned to cover two periods in which the splendor and amplitude of the scene would lend his pen the greatest possible aid—one the period in which Spain was unified, the Moors were conquered, America was colonized and the Inquisition was established; the other the period of the Reformation, the rebellion in the Netherlands, the war with France and the Armada. Motley dealt with a lofty table land of European history, from which streams flowed to almost every corner of the continent. His *Rise of the Dutch Republic* (1856) and his *History of the United Netherlands* (1860-68) constituted primarily a history of the great central struggle of Protestantism and Catholicism in Holland, England and Germany and culminated logically in his plan for a history of the 'Thirty Years' War. Parkman dealt with the clash of two civilizations in the New World and the defeat of Latins and Catholics by Anglo-Saxons and Protestants. In these three writers court and camp, crowded cities and bloody battlefields, exploring expeditions and encounters with Moor and Indian, crowd less thrilling materials from the page. It is true that Prescott gave careful attention to intellectual history, Motley to the minutiae of diplomacy and Parkman to the institutional side of the old regime in Canada; but all three neglected much of the duller but indispensable work of modern history. None of the three showed much interest in ideas; Motley was the most philosophical, but his unrestrained Protestant bias carried him too far and he now appears intolerant and naïve.

While the "literary" history written by these men gained a more enthusiastic following than has since been attained by American historical work and gave the world a dozen volumes still ranked as classics, its weaknesses did not pass unperceived. They were even more clearly manifest in the cultivated, genial but superficial pages of Washington Irving's *Life and Voyages of Christopher Columbus* (1828) and *A Chronicle of the Conquest of Granada* (1829), in which the gifted author declined exhaustive research and sometimes smoothed over problems instead of solving them. Meanwhile from Germany were coming historical ideas very different from those of the British school—principles of a more coldly

scientific and comprehensive inquiry, indifferent if not hostile to the finer literary effects. George Bancroft studied at Göttingen and Berlin from 1818 to 1821, and upon his return to America began publishing translations from Heeren and other German historians. He became acquainted with the historical methods of the whole new generation of German scholars, notably Niebuhr and Ranke. How much he gained from these masters is doubtful. In his original works his style tended to the rhetorical, his preference was for political history and he neglected the economic factors emphasized by Heeren. Yet when he published the first volume of his *History of the United States* (1834) his preface laid emphasis on skepticism, authenticity, reliance upon sources alone and indefatigability of research. Bancroft's principal defects were his lack of detachment, his enthusiastic identification with democracy—"every volume voted for Jackson"—his Corinthian style and his lack of judgment, which gave his pages constant touches of mortality. His own generation thought him the greatest of historians; the next generation left him unread. Yet when he issued his "last revision" in six volumes (1883-85) he had done much not only to open up the whole field of American history but to make it impossible for future scholars to write without a critical and scientific temper. The German principles which he had introduced in part were by that time being reinforced by the work of a dozen seminars organized by scholars who had studied abroad (that started by Herbert Baxter Adams at Johns Hopkins in 1876 is usually considered to have been the first) and were being illustrated by an almost dismayingly numerous corps of monograph writers.

In the decades after the Civil War this growing vigor of the scientific impulse furnished one of the two dominant tendencies of the time; the other tendency came again from England in a demand for histories of "the life of the people." This latter demand, exhibited in the works of Macaulay and John Richard Green, provoked wide enthusiasm and considerable imitation in America. Edward Eggleston about 1880 began studies for a history of life in the United States, finally producing *The Beginners of a Nation* (1896). Henry Cabot Lodge followed in Green's footsteps with his *Short History of the English Colonies in America* (1881), of which the distinctive portion was a thorough study of the life, manners, economy and politics of the colonists of the north and south in 1765. Far more im-

portant was John Bach McMaster's *History of the People of the United States . . . to the Civil War*, of which the first volume appeared in 1883 and the last, bringing the story to 1865, in 1927. Large sections of McMaster's later volumes were formless and undigested; but his work as a whole contains an immense mass of detail, concrete and accurate, upon the past experiences of the plainest Americans—plowmen, shopkeepers, merchants, sailors, pioneers—and in depth of research as well as fullness he often went beyond Green's example. Since 1880 the humble masses have never ceased to play the largest role in histories of America.

Two minor but significant new elements in the texture of historiography during the last part of the nineteenth century may also be mentioned. One lay in the attempt by John Fiske, popularizer of the ideas of Darwin, Huxley and Spencer, to rewrite much American history in evolutionary terms. His numerous works embodied little original research, and his scientific ideas often warped his historical conclusions; but his dashing style and the popular character of his philosophy won many readers. Andrew D. White's *History of the Warfare of Science with Theology in Christendom* (1896) represented to some degree the same impulse. A more fruitful idea for American historians was Frederick Jackson Turner's doctrine of the significance of the frontier in national history, first expounded in 1893. Involving a drastic reinterpretation of the whole course of American cultural and political development, it has been carried into a large number of historical works. A striking general fact in historiography after 1875 was the tendency to turn entirely away from European themes. The one eminent writer to push forward on the path blazed by Prescott and Motley was Henry C. Lea, whose researches on church history bore fruit in a long series of volumes published between 1865 and 1907; among these *Superstition and Force* (1866), *History of the Inquisition of Spain* (1906-07) and *History of Auricular Confession and Indulgences in the Latin Church* (1896) were the most important. Lea's erudite books, written from a Protestant point of view but without controversial character, possessed high literary qualities as well as scientific temper. That America did not produce more writers in such fields was due not only to the lengthening of its own past but also to its expansion westward; the country in far greater degree than in Prescott's day looked inland rather than across the Atlantic.

The close of the nineteenth century and the opening of the twentieth saw an unprecedented number of historical students busy in America, with constantly growing aids in the form of libraries, university seminars, historical organizations and foundations to subsidize research. The American Historical Association was founded in 1884 and the *American Historical Review* in 1895. Scientific principles of study continued to receive emphasis; the tendency to produce monographs and to avoid works of wide scope increased; "literary" qualities were treated coldly; as specialization grew, cooperative histories became numerous; and history reached out to embrace fields previously neglected. In America as in other countries it levied tribute upon archaeology, sociology, economics and psychology. Here and there a striking figure rose above the ranks of smaller men. The principal of these was unquestionably Henry Adams, whose nine-volume *History of the United States of America* (1889-91) is one of the true historical classics of the century. It shows painstaking research, penetrating analysis of both character and political forces and great polish and artistry of narration. In his mastery of the diplomatic background, based on study in foreign archives, Adams set a new mark in American historiography; but his work was deficient on the economic side. Of all American historians he possessed perhaps the greatest powers of intellectual analysis. Because of this intellectual quality his work never gained wide currency. Far more attention was paid to the spirited *History of the United States from the Compromise of 1850* (1893-1906) by James Ford Rhodes, which subordinated military events to political and diplomatic history and was especially notable in its delineation of public opinion. Although he lacked the finer literary qualities Rhodes possessed an instinct for great historic forces, a glowing sympathy for the personages of his story and a breadth of view which made his work absorbing. He wrote for a large public, while other comprehensive historians seemed to write for students. In dealing with the period after the Civil War he failed, however, to bring out the significance of the great capitalistic and agrarian expansion. Among other writers were James Schouler, H. L. Osgood and above all Edward Channing, whose six-volume *History of the United States* (1905-25) resolved the subject into a long and not always well connected series of problems attacked in the fashion of the seminars.

As specialization increased and the field of

history broadened, cooperative histories of a highly scholarly character became important. The first great venture in this field was Justin Winsor's *Narrative and Critical History of America* (8 vols., 1884-89), which was for scholars rather than the general reader or even the average student. It was almost entirely devoted to the period before 1789, and its critical essays on the printed and manuscript sources were its most important feature. Far better proportioned, and adapted to a wider public, was the *American Nation Series*, edited by Albert Bushnell Hart, the first and best cooperative history of the United States on a large scale (28 vols., 1904-18). Its content was primarily political and constitutional, and most volumes were records of fact without much interpretation. More color and narrative interest appeared in the *Chronicles of America* series edited by Allen Johnson (50 vols., 1918-20), which paid greater attention to economic, cultural and military affairs. This was an uneven series, some volumes being excessively popular. A scholarly *History of American Life*, devoted to social and economic factors alone, is in progress under the editorship of Arthur M. Schlesinger and Dixon Ryan Fox (vols. i-iii, vi, viii, xi-xii, 1927-31). Virtually cooperative also were the thirty-nine volumes of Hubert Howe Bancroft's *Works* (1882-90) devoted to the history and anthropology of western America, Mexico and Central America. State history also began to be written cooperatively by scholars, and the *Centennial History of Illinois* (1918-20), a work of five volumes, set a new standard of excellence.

Meanwhile, the influence of seminars grew steadily. Before 1900 that of Herbert Baxter Adams at Johns Hopkins, emphasizing institutional and local history, was especially important; between 1900 and the World War those of William A. Dunning at Columbia on southern reconstruction, of George L. Burr at Cornell on mediaeval history, of C. M. Andrews at Yale on colonial institutions, of Frederick J. Turner at Wisconsin on the frontier and of Morse Stephens at Cornell and California on modern European history proved conspicuously fruitful. More recently special fields have been opened up by the seminars of W. R. Shepherd of Columbia on the expansion of Europe, of Carlton J. H. Hayes of Columbia on nationalism and of C. H. Haskins and Lynn Thorndike, of Harvard and Columbia, on mediaeval science and culture. Another important tendency appeared in the development of regional history. Among the

earliest workers in this field were Clarence W. Alvord and his followers in the middle west, and one result was the establishment of the *Mississippi Valley Historical Review* in 1914. In the southwest important research, extending into the Mexican field, was accomplished at the University of Texas under E. C. Barker and at the University of California under Herbert E. Bolton and Herbert I. Priestley. Southern history remained uncultivated, however, except by individual writers; and it was only in 1928 that a Harvard group established the *New England Quarterly*.

Just before and after the World War, new currents of interest appeared and gave promise of rescuing historical work from excessive specialization. Brisk activity in the field of biography contributed to the invigoration of historical writing. The influence of economic forces upon American history was traced with great verve and with some debt to Marxian ideas in a series of books by Charles A. Beard, of which *An Economic Interpretation of the Constitution* (1913) attracted the most attention. Intellectual history also was treated with a broad sweep by James Harvey Robinson, whose *The Mind in the Making* (1921) reviewed the deposits which various epochs of history had left on the modern mind. Social history for the first time began to be adequately written, while the history of American ideas received adequate presentation in Vernon L. Parrington's *Main Currents in American Thought* (3 vols., 1927-30), a work treating the economic forces, political ideas and cultural trends which had affected American letters from beginning to end. About the same time Sidney B. Fay and Bernadotte Schmitt outstripped European scholars by furnishing the only analyses of the origins of the World War possessing completeness and authority. Books by two non-academic historians, Claude G. Bowers and James Truslow Adams, obtained a vogue recalling the popularity of historical writing in the days of Motley and Prescott. This reemergence of a large public for certain types of history and biography promises to have two healthy results: the direction of attention to important topics rather than petty monographic subjects, and the reintroduction into history of the literary quality which had been so largely driven out by German methods.

ALLAN NEVINS

See: SOCIAL PROCESS; CHANGE, SOCIAL; CONTINUITY, SOCIAL; PROGRESS; DECADENCE; PREHISTORY; ARCHAEOLOGY; ECONOMIC HISTORY; SOCIOLOGY; GEO-

GRAPHY; GEISTESWISSENSCHAFTEN; HIGHER CRITICISM; EVOLUTION, SOCIAL; MATERIALISM; DETERMINISM; HUMANISM; ENLIGHTENMENT; ROMANTICISM; HERO WORSHIP; MEDIAEVALISM; TRADITION; NATIONALISM; INTELLECTUALS; POSITIVISM; WRITING; RECORDS, HISTORICAL; SACRED BOOKS; ARCHIVES; RESEARCH; LEARNED SOCIETIES. See also biographies of individual historians.

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FOR HISTORIOGRAPHY IN CHINA AND JAPAN: Wilhelm, Richard, *Geschichte der chinesischen Kultur* (Munich 1928), tr. by Joan Joshua as *A Short History of Chinese Civilization* (London 1929) p. 21-33; Grube, Wilhelm, *Geschichte der chinesischen Literatur*, Die Literaturen des Ostens in Einzeldarstellungen, vol. viii (Leipzig 1902); Franke, O., "Der Ursprung der chinesischen Geschichtsschreibung" in K. Akademie der Wissenschaften, Berlin, Philosophisch-historische Klasse, *Sitzungsberichte* (1925) 276-309; Rosthorn, A., "Die Anfänge der chinesischen Geschichtsschreibung" in K. Akademie der Wissenschaften, Vienna, Philosophisch-historische Klasse, *Sitzungsberichte*, vol. xcxi (1920) no. 3; Hummel, A. W., "What Chinese Historians Are Doing in Their Own History" in *American Historical Review*, vol. xxxiv (1929) 715-24; Chang Hsin-hai, "Some Types of Chinese Historical Thought" in Royal Asiatic Society, North China Branch, *Journal*, vol. ix (1929) 1-19; Florenza, Karl, *Geschichte der japanischen Literatur*, Die Literaturen des Ostens in Einzeldarstellungen, vol. x (Leipzig 1906); Bryan, J. T. I., *The Literature of Japan* (London 1929); Maitre, C. E., "La littérature historique du Japon" in *École Française d'Extrême Orient, Bulletin*, vol. iii (1903) 564-96, and vol. iv (1904) 580 616; Eliseev, Serge, "Japan" in *Histoire et historiens depuis cinquante ans*, 2 vols. (Paris 1927-28) vol. ii, p. 560-69.

FOR HISTORIOGRAPHY IN THE UNITED STATES: Jameson, J. F., *The History of Historical Writing in America* (Boston 1891); Bassett, J. S., *The Middle Group of American Historians* (New York 1917); Dunning, W. A., "A Generation of American Historiography" in American Historical Association, *Annual Report, 1917* (Washington 1920) p. 345-54; Griffin, Grace Gardner, *Writings on American History* (1906- ), published annually in New York, New Haven and Washington (1908-30); Schlesinger, A. M., *New Viewpoints in American History* (New York 1922); Barnes, Harry Elmer, *The New History* (New York 1925), and "Recent Developments in History" in Ellwood, C. A. and others, *Recent Developments in the Social Sciences* (Philadelphia 1927) ch. vii.

HITZE, FRANZ (1851-1921), German social reformer. Hitze acquired prominence while a student by publishing a collection of addresses on social questions. After his ordination he studied at Rome from 1878 to 1880 and wrote his chief work, *Kapital und Arbeit*, which was

colored by sympathy with the ideas of guild romanticism. In 1880 he became general secretary of the Arbeiterwohl, a Catholic welfare association founded by Franz Brandts, a Gladbach textile manufacturer. Brandts' influence and Hitzte's experience in social work in Brandts' factory led him to accept the forms of modern economic life, which he thereafter aimed to modify by social reform. As a member of the Prussian Landtag from 1882 to 1893 and from 1898 to 1912 and of the Reichstag from 1884 to 1921 he was especially interested in progressive labor legislation, on which he had great influence. After the *Februarierlasse* of 1890 Hitzte became a leader in the social reform movement, and through the Volksverein für das Katholische Deutschland which he helped found he had great influence in the formation of the German social Catholic movement. From 1893 until 1920 he was professor of Christian social doctrine in the University of Münster. He was also director of the Gesellschaft für Soziale Reform.

By making the Center party a leader in social reform Hitzte first succeeded in drawing German Catholics actively into the life of the state, thus upsetting the charge of political and economic inferiority made against them. Whereas Catholics in consequence of the hostility of the modern state to the church and their moral objections to capitalistic principles had formerly shown no confidence in the state and looked to pastoral and charitable work to ameliorate conditions created by capitalism, Hitzte at times went so far as to suggest state socialism. His foremost aim was to develop in the workers a feeling of belonging to an adequate estate. Shortly before his death he restated his early corporative ideas, having become convinced that social insurance and protective labor legislation would not alone effect a reasonable reorganization of social and economic life.

FRANZ MÜLLER

*Important works:* *Die soziale Frage und die Bestrebungen zu ihrer Lösung* (Paderborn 1877); *Kapital und Arbeit* (Paderborn 1881); *Die Arbeiterfrage und die Bestrebungen zu ihrer Lösung* (Berlin 1899, 4th ed. Munich-Gladbach 1905); *Zur Würdigung der deutschen Arbeiter-Sozialpolitik* (Munich-Gladbach 1913); *Geburtsentwicklung und Sozialreform* (Munich-Gladbach 1917).

*Consult:* Kraneburg, Hans, *Hitztes sozialpolitische Forderungen und ihre Verwirklichung in der Gesetzgebung* (Munich-Gladbach 1922); Müller, Franz, *Franz Hitzte und sein Werk* (Lümburg 1928); Bachem, K., *Vorgeschichte, Geschichte und Politik der deutschen Zentrumspartei*, vols. i-vii (Cologne 1927-30), especially vols. iv-vii.

HJÄRNE, HARALD (1848-1922), Swedish historian. Hjärne was professor of history at the University of Uppsala from 1885 until his resignation in 1913. He was an exceptionally learned historian as well as an eminent teacher and almost all the later Swedish historians acknowledged him as their master. As an author Hjärne never concentrated his attention on one great problem and his works were sometimes left uncompleted, yet his scientific productions are most valuable through their multitude of interesting suggestions, ingenious views and splendid characterization of political ideas and personages. Of particular importance were his investigations into the history of eastern Europe, above all into the relations between Sweden and Russia. In the years between 1880 and 1883 he traveled in Russia, Poland, Austria and other countries and afterward published the oldest Swedish-Russian legation documents from the originals in Stockholm and Moscow and wrote several books and papers on the relations between Sweden and eastern Europe. Hjärne devoted his attention also to the older constitutional history of Sweden and to problems of church and state. In his general views on historical matters he agreed with those who regarded the health and strength of the state as the chief factor in the development of nations. An energetic maintenance of inherited institutions in conjunction with moderate reforms calculated to make large circles of the nation responsible in political life was the core of Hjärne's political program. Although Hjärne took an active part in politics and was for many years a member of the Swedish Diet he exercised his greatest influence on current affairs by means of his extensive political and historical writing.

LUDVIG STAVENOW

*Important works:* *Sigismunds svenska resor* (King Sigismund's Swedish travels) (Uppsala 1884); *Svensk-ryska förhandlingar 1564-72* (Swedish-Russian transactions 1564-72; incomplete) (Uppsala 1897); *Karl XI och omständigheterna i Östeuropa 1697-1703* (Charles XI and the overthrow of eastern Europe 1697-1703) (Stockholm 1900-02); *Om den fornsvenska nämnden enligt götalagarne* (On the old Swedish jury according to the Gothic laws) (Uppsala 1872); *Gustav Adolf, protestantismens förkämpe* (Gustavus Adolphus, the champion of Protestantism) (Stockholm 1901); *Stat och kyrka* (State and church) (Stockholm 1912); *Revolutionen och Napoleon* (Stockholm 1911).

*Consult:* Herlitz, Nils, "Harald Hjärne och Sveriges historia" in *Nordisk tidskrift* (1922) 91-105; Willebrand, R. F. von, "Harald Hjärne" in *Finsk tidskrift för vitterhet*, vol. lxxvii (1922) 151-66; Jacobson, Gustaf, *Harald Hjärne* (Stockholm 1922); Stavenow, L., in *Historisk tidskrift*, vol. xlii (1922) 69-75.

HOADLY, BENJAMIN (1676-1761), English theologian. Hoadly, a political cleric, was associated with the leading Whig ministers under Queen Anne, and after the Whig triumph in 1714 was rewarded with three sees.

The revolution settlement of 1688 had involved the decisive rejection of the doctrine of indefeasible hereditary right of the monarchy and the substitution of a monarchy of parliamentary election and control. The naming of new bishops to replace those who refused to take the oath of allegiance to William and Mary provoked a controversy which in the political sphere concerned chiefly the right of the nation to expel the monarch *divino jure* and in the ecclesiastical the authority of the state to deprive of their sees bishops lawfully consecrated. Hoadly was one of the leading clergy who defended both the right of the people to expel a popish ruler and that of the new sovereign to deprive ecclesiastics who refused him allegiance. In a series of popular but ephemeral sermons and in *A Preservative against the Principles and Practices of the Non-jurors both in Church and State* (5th ed. London 1716), his chief political work, he combated the notion of divine hereditary right and rebutted the arguments of the opponents of the revolution. In a sermon on *The Nature of the Kingdom or Church of Christ* (London 1717) he carried his theories further, virtually denying the authority of any visible church to interpret the words of Christ. This reduction of religion to pure individualism provoked the voluminous Bangorian controversy, and Hoadly's latitudinarianism earned him the dislike and opposition of the majority of the clergy. Hoadly was a leading and typical member of the rising school of Whig divines of the early eighteenth century and contributed much to the development of the political and theological doctrines current at that period.

NORMAN SYKES

*Works: Works*, ed. by J. Hoadly, 3 vols. (London 1773). *Consult: Law, William, Three Letters to the Bishop of Bangor* (10th ed. Dublin 1757); Sykes, Norman, "Benjamin Hoadly" in *The Social and Political Ideas of Some English Thinkers of the Augustan Age, A.D. 1650-1750*, ed. by F. J. C. Hearnshaw (London 1928) ch. vi; Laski, H. J., *Political Thought in England from Locke to Bentham* (London 1920); Stephen, Leslie, *History of English Thought in the Eighteenth Century*, 2 vols. (3rd ed. London 1902) vol. ii, p. 152-67.

HOARDING is the storing of wealth by the individual for possible future use or for indefinite possession. It is a primitive form of accumula-

tion and differs from saving in the modern sense of the term in that the latter usually finds its way into the investment field and constitutes in reality a transfer of the use of wealth, while hoarding involves a definite withdrawal of the hoarded object from circulation. Unlike the investor, the hoarder receives no yield from his wealth unless the hoarded commodity appreciates in value. He is also exposed to the risk of theft or fire or must carry the cost of insurance of his hoardings. But he is free from the risks of monetary depreciation, financial panic and business losses which might beset the investor. In general it may be asserted that in times of peace and prosperity the advantage lies with the investor and in times of war or financial panic with the hoarder.

Hoarding is usually confined to durable goods which contain considerable value in small bulk. These may be classed in two categories: the precious metals which serve as a standard of value and are the basis of the medium of exchange; and treasures, such as precious stones, rare paintings, books and similar objects.

The practise of hoarding is probably as old as the institution of property. Its volume and prevalence are in inverse proportion to the degree of economic development, financial organization and business stability. In primitive communities hoarding was prompted by the desire of display and by the enhancement of the social prestige which the possession of wealth confers. Examples of such motives are found in the accumulation of coppers and blankets by the northwest coast Indians of North America and of armlets by the Trobriand islanders off New Guinea and in the treasure keeping of the California Indians. With the introduction of money economy hoarding came to be confined chiefly to coins and precious metals which serve as material for the making of coins. Such hoarding was extensively practised in antiquity, as is evidenced by the safe deposit facilities provided in ancient temples. It was general throughout the Middle Ages and continued well into the modern era. As late as the nineteenth century business men have been known to retire with their fortunes hoarded in the shape of coins and literally to live off their savings. It is said that the bulk of the indemnity paid by France to Germany following the war of 1870-71 was raised from the gold hoards of the French peasants. The widening of investment opportunities, however, the development of sound financial institutions designed to serve the interests of the small saver and the growing sense

of security and confidence in financial and monetary stability have considerably reduced the volume of hoarding in modern times.

Among the great modern nations hoarding is most prevalent in India. Of the world's gold stock India has approximately one fifth, nearly all hoarded. It is estimated that 50 percent of gold coins which find their way into India are melted down and that 75 percent of the gold and 90 percent of the silver bullion are converted into small treasure bars and ornaments and then hoarded. A tremendous amount of precious stones and jewels is hoarded by Indian rulers. It is noteworthy that the Chinese, whose level of economic development approximates that of India, never developed the habit of hoarding. This may be explained partly by the greater stability of the Chinese civilization and partly also by the fact that in the Chinese scale of values scholarship conferred greater prestige than wealth.

In advanced countries the practise of hoarding is resorted to in times of financial panic, monetary disorganization, war and social upheaval. During the World War suspension of specie payments and depreciation of paper currencies in the belligerent countries induced a widespread hoarding of the metal currencies and bullion. Where the value of the paper currency remains unshaken and public distrust is directed against banks and other financial institutions which serve as the depositories of the people's funds, paper currency rather than metal becomes the object of hoarding. This form of hoarding occurs when the depression is accompanied by large bank failures. Effects of such hoarding were felt in the major depressions in modern times and were particularly acute in the United States during the depression which set in in 1929. For the United States it was estimated that the volume of hoarded currency in January, 1932, as measured by the increase in the outstanding volume of currency in circulation, amounted to \$1,300,000,000, or approximately 25 percent of the total money in circulation. How much of this amount constituted genuine hoarding, that is, complete withdrawal from circulation, and how much of this increase was due to other factors, such as reversion to cash payments in communities deprived of banking facilities in the recent wave of bank failures and the holding by banks of larger amounts of cash to insure greater liquidity in times of stress, is difficult to ascertain. Yet the situation seemed serious enough to warrant special antihoarding meas-

ures, such as the issue of Treasury bonds of small denominations and a nation wide educational campaign to point out the effect of hoarding in prolonging the deflationary movement and thus retarding economic recovery. In normal times hoarding is of relatively little significance. It is confined to habitual misers, to inhabitants of undeveloped districts where no adequate banking facilities exist and to immigrant groups who come from economically backward countries and are still animated by the traditional distrust of financial institutions.

The hoarding of money and precious metals which serve as the basis of the medium of exchange and the standard of value restricts the supply of money and credit and at least in theory may bring about or accentuate a falling price level. In practise it is doubtful whether the volume of hoarding is sufficient to bring about measurable disturbances of the price level.

The hoarding of non-currency valuables is of cultural significance; for example, the hoarding of scarce and valuable books, manuscripts, paintings and the like has resulted in the preservation of documents contributing to the knowledge of the development of mankind.

W. C. MACLEOD

See: ACCUMULATION; SAVING; SAVINGS BANKS; INVESTMENT; INFLATION AND DEFLATION.

Consult: AXE, E. W., "Hoarded Currency Estimated at \$820,000,000; Effect on the Credit Situation" in *Annalist*, vol. xxxviii (1931) 379-80; United States, Bureau of Foreign and Domestic Commerce, "The Bombay Bullion Market" by D. C. Bliss, *Trade Information Bulletin*, no. 457 (1927) 39-45; Great Britain, Royal Commission on Indian Currency and Finance, *Report*, 6 vols. (London 1926); McCoy, J. S., "How Much Money Is Hoarded?" in *American Bankers' Association, Journal*, vol. xvi (1924) 777-78. For hoarding in primitive communities see standard works on anthropology.

HOBBS, THOMAS (1588-1679), English philosopher. In early life Hobbes acted as an amanuensis to Sir Francis Bacon and was temporary mathematical instructor to Charles II before the Restoration, but he spent most of his life as tutor to the Cavendish earls of Devonshire. In this capacity he traveled through France and Italy and had an opportunity to examine contemporary political institutions. The wars of the *Fronde* in France and the civil war in England constitute the all important historical background to Hobbes' thought. His method of exposition and his materialistic philosophy were largely influenced by the rapid contemporary advances of the mathematical and physical sciences. While

the order in which his principal works appeared was dictated by personal and political exigency, they were intended to have a unity of thought which built up from physics and physiology (*De corpore*) through psychology (*De homine*) to a study of the community (*De cive* and *Leviathan*).

As a materialist and a mechanist Hobbes holds that human conduct is determined by the effect of environmental stimuli operating upon a nature characterized by certain simple qualities, especially the impulse to self-preservation. Self-preservation manifests itself in the two governing masters of human conduct, the fear of pain and the desire for power. Men as such, i.e. in the state of nature, are not governed by considerations of justice or morality, but are deterred from antisocial actions only by fear of punishment. They are, however, naturally guided by reason, which shows them how they may serve their own interest by the acquisition of power and the avoidance of pain. Upon this reason natural law is based. The complete reign of reason, which is a reign of peace and of the absence of immediate fear, is possible only when men have come to recognize the necessity of setting a curb upon immediate egotism and list right in the interest of more durable gain. Otherwise the life of man must remain "solitary, poor, nasty, brutish and short." A power able to check each in the interest of all must be established. The establishment of this power, dictated by fear of anarchy, is effected among rational men by mutual agreement or contract. The newly born who continue as they grow up to reside in the society thus formed enter into the traditional agreement or original contract. Otherwise they are without social rights. The power established to maintain order and peace is sovereign, omnipotent to impose its will and not subject to private opinions concerning whether its specific actions be reasonable or otherwise, since its establishment with competence to decide disputes is the prime dictate of reason. It may be an individual (i.e. monarchy, which has the advantage of unity of will and avoids the destruction of sovereignty by inner division) or an assembly of men. The sovereign promulgates the law, which determines what is antisocial and what is social and just. Those who are not subject to the sovereign are in a state of nature to it and to those whom it incorporates and whose *persona* it bears. In such a position are all foreign states.

A sovereign which in fact has lost power so far as to be unable to maintain order no longer has a claim to obedience, since it is not actually an

authority. Conversely, de facto authority is also such de jure. No sovereign body may alienate such power as is necessary for government. Doctrines of the division of sovereignty, the subjection of the sovereign to the laws or its restriction in action by the opinion and conscience of individuals are false. Very wealthy men or guilds and corporations with claims to a measure of autonomy, common lawyers who place custom above the living sovereign power, and churches which claim a spiritual allegiance rivaling that of the sovereign are threats to the sovereign, to civic peace and to reason. A sovereign may rightly claim that men should put the rational public conscience before their private conscience. It is, however, irrational for it to demand that a man go to his death or give evidence to incriminate himself, since the very rational basis of the social contract is self-protection. It is moreover irrational for the sovereign to multiply unnecessarily laws and restrictions, since the maximum of freedom consistent with order is desirable; but such laws as it decides to make are just.

This body of theory embraced a system of ethics, psychology, anthropology, education, economics and jurisprudence; but its central position for social science was the monistic theory of sovereignty. Direct and unsparing, Hobbes' thought had during his lifetime more obloquy than influence. After his death the dominance of Locke intensified the unpopularity of Hobbes' theories. But they were revived by the philosophical radicals. James Mill discovered in them a principle for his associationist psychology; Bentham built his utilitarianism on them and Austin his analytical jurisprudence. Hobbes' economic views were in several important respects a distinct departure from the prevailing mercantilism. His emphasis on individualism, on the dormant drive of egoism and self-interest, and his premise of the insatiability of acquisitive wants influenced the later classical school chiefly through their influence on Bentham. His theory of the state as a convenience led him to regard taxation as the price paid for peace and order, and consequently to the benefit theory of taxation and the advocacy of basing taxes on consumption. The most patent charge against Hobbes is the charge of inconsistency, made in his lifetime by Clarendon. Whereas Hobbes is generally although not always concerned to bolster up the Stuarts, his theory justifies the Protectorate when in power and never justifies loyalism beyond the limits of an enlightened self-interest. Hobbes' severer

moreover is endowed with qualities of absolute power, which may be the logical consequences of his premises but which are not observable in the practise of governments, even in that of a Louis XIV. It is this in him which has drawn the fire of the pluralists. As Locke points out, social organization and governmental organization are distinguishable and men are not to be deterred from putting restraints upon governments by fear of complete anarchy in society. Here the crudity of Hobbes' psychology is the undoing of his philosophy. The error arises partly from Hobbes' intellectualism, which leads him completely to ignore that herd or family sentiment, later stressed by Filmer, which prevents social disintegration. "Men," says Hobbes, "have no pleasure . . . but a great deal of griefe in keeping company." The error is, however, intelligible in an author of the period of the Long Parliament, writing at the height of the triumph of Protestant individualism, and is one congenial to Hobbes' sardonic mind.

Contemporary criticism was centered on Hobbes' egoistic morals and his political defense of absolutism. The retarding influence that his thought exerted upon international law, which traces from his contemporary and rival Grotius, is not patent until later. It results from a defect in Hobbes' logic. If the essential function of the state is to maintain order, then the ancient argument of Dante, reshaped by Kant and expressed in our own day by Hans Kelsen, is cogent that the reign of law must be world wide. By Hobbes' own logic reason dictates an international state: the objections are of a sentimental kind for which Hobbes elsewhere shows no respect. The modern tendency is to sweep away as empty fiction Hobbes' central doctrine of sovereignty. But it seems questionable whether his thesis that in every political community there must be a final arbitral authority ("If two men ride upon a horse one must ride in front") is not still valid and may not lead to conclusions which Hobbes for private and temporary reasons declined to draw.

GEORGE E. G. CATLIN

*Works: Opera philosophica quae latine scripsit omnia*, collected by W. Molesworth, 5 vols. (London 1839-45); English edition by W. Molesworth, 11 vols. (London 1839-45). *Leviathan* is published in an Everyman's Library edition, with an introduction by A. D. Lindsay (London 1914).

*Consult: Tönnies, F., Thomas Hobbes, Leben und Lehre* (3rd ed. Stuttgart 1925); Stephen, Leslie, *Hobbes* (New York 1904); Robertson, G. C., *Hobbes* (Edinburgh 1886); Brandt, F., *Den mekaniske natur opfat-*

*telse hos Thomas Hobbes* (Copenhagen 1921), tr. by V. Maxwell and A. I. Fauscholl (Copenhagen 1928); Woodbridge, F. J. E., *The Philosophy of Hobbes* (Minneapolis 1903); Königswald, R., *Hobbes und die Staatsphilosophie* (Munich 1924); Vaughan, C. E., *Studies in the History of Political Philosophy before and after Rousseau*, 2 vols. (Manchester 1925) vol. i, ch. ii; Mondolfo, R., *Il concetto del bene e la psicologia dei sentimenti in Hobbes* (Bologna 1903); Bonar, James, *Philosophy and Political Economy in Some of Their Historical Relations* (London 1909) p. 78-87; Catlin, G. E. G., *Thomas Hobbes as Philosopher, Publicist and Man of Letters* (Oxford 1922).

HOBHOUSE, LEONARD TRELAWNY (1864-1929), English philosopher and sociologist. Hobhouse was educated at Oxford and taught in Merton and Corpus Christi colleges until 1897. From that year until 1902 he was a member of the editorial staff of the Manchester *Guardian*. After acting as secretary of the Free Trade Union for two years he joined the staff of the *Tribune* in London. In 1907 he became professor of sociology in the University of London and remained in that position until his death.

The formative influences upon his work were the synthetic view of philosophy and the evolutionary bias of Spencer, the positivism and humanitarianism of Comte and the social philosophy of Mill and Green. His earliest inquiries were in the domain of logic and epistemology and resulted in an organic view of rationality which was to be the basis of all his future work, and which, although it has affinities with the idealism of Bosanquet, is essentially realistic. He next undertook an elaborate investigation of the growth of mind in the various forms of animal life and of its further evolution in the collective achievements of mankind. His method was to examine and classify the forms of mental activity, social groupings and institutions and to disentangle the principles governing their evolution. These studies led him to formulate a theory of development as consisting in the extension of harmony through a series of syntheses, effected by the liberation of elements originally in conflict and the building up of structures of varying degrees of plasticity, scale and coherence. In his metaphysical work Hobhouse attempted to justify on philosophical grounds a wide application of this theory. He contended that mind is not coextensive with reality but is the principle of orderly growth within it. It is limited by the material it works upon and its purposes themselves undergo development (*Development and Purpose*, London 1913, rev. ed. 1927).

In his sociological works Hobbouse sought by a comparative method to establish a broad correlation between the growth of mind in range and articulateness and the advancing movement of civilization and to provide both a social morphology and criteria for the ethical valuation of the varying phases of social evolution. He inquired into the conditions of social development, arrest and decay, and while careful not to confuse questions of value with questions of fact he sought to bring together the results of his various studies in a final synthesis culminating in a theory of the nature and possibilities of social progress.

The range of Hobbouse's work was encyclopaedic. He was one of the pioneers of comparative psychology; he developed a technique for the handling of the vast and chaotic data of anthropology; he laid the foundations of a scientific sociology; in ethics and social philosophy he gave a penetrating and fruitful restatement of rationalism; and he attempted a synthesis of his scientific and philosophical studies on a scale which must win for him a high place among the systematic thinkers of the world. As a teacher and social leader he inspired love and reverence by the nobility of his thought and utterance, his passion for truth and justice, his wise and tender humanity.

MORRIS GINSBERG

*Important works:* *The Theory of Knowledge* (London 1896, 3rd ed. 1921); *Mind in Evolution* (London 1901, 3rd ed. 1926); *Morals in Evolution*, 2 vols. (London 1906, 3rd ed. 1915); *Social Evolution and Political Theory* (New York 1911); *Liberalism* (London 1911); *The Metaphysical Theory of the State*, London School of Economics and Political Science, Studies in Economics and Political Science, no. II (London 1918); *The Elements of Social Justice* (London 1922); *The Rational Good* (London 1921); *Social Development* (London 1924).

*Consult:* Hobson, J. A., and Ginsberg, Morris, *L. T. Hobbouse: His Life and Work* (London 1931); Carter, Hugh, *The Social Theories of L. T. Hobbouse* (Chapel Hill, N. C. 1927); Nicholson, J. A., *Some Aspects of the Philosophy of L. T. Hobbouse*, University of Illinois, Studies in the Social Sciences, vol. xiv, no. iv (Urbana 1928); Barker, Ernest, "Leonard Trelawny Hobbouse" in British Academy, *Proceedings*, vol. xv (1929-30).

HOCK, BARON KARL FERDINAND (1808-69), Austrian public official and economist. Hock studied law and philosophy at the University of Vienna, entered the civil service in 1830 and was for almost forty years closely associated with the financial administration of the country. A free trader, he influenced the economic poli-

cies of Austria not only through his practical work but also through his literary activity. He wrote on a variety of economic topics and was successful in his controversy with Friedrich List over the merits of protection. Hock's contributions to public finance are of lasting value. His study *Die Finanzverwaltung Frankreichs* (Stuttgart 1857) has been adjudged the standard work in its field. Attracted by the problems arising out of the American Civil War and their similarity to those of his own country, such as the conflict between the federal and state powers, he turned to the study of the finances of the United States and published *Die Finanzen und Finanzgeschichte der Vereinigten Staaten von Amerika* (Stuttgart (1867), a work still held in esteem. Hock summed up his vast experience in public finance in the systematic treatise *Die öffentlichen Abgaben und Schulden* (Stuttgart 1863), which contains a skilful elaboration of the modern theory of incidence of taxation and a valuable discussion of the administrative aspects of taxation and the tariff system.

WILHELM GERLOFF

*Consult:* Hoffinger, in *Allgemeine deutsche Biographie*, vol. xii (Leipzig 1880) p. 530-32.

HODGSKIN, THOMAS (1787-1869), English journalist and social theorist. Hodgskin's contact with Francis Place began shortly after he had been punished for his pamphlet *An Essay on Naval Discipline* (London 1813). Between that time and the appearance of his *Labour Defended against the Claims of Capital* (London 1825) Hodgskin studied economic conditions on the continent, wrote *Travels in the North of Germany* (2 vols., Edinburgh 1820), read widely in economics and philosophy, contributed frequently to well known journals and was an ardent advocate of labor unions. His editorship with J. Robertson of the *Mechanics' Magazine* and his part in the founding of the London Mechanics' Institute in 1823, where he delivered the lectures later published as *Popular Political Economy* (London 1827), made him a pioneer in the movement for adult education.

Although usually classed as a socialist, Hodgskin's political position was more nearly that of an anarchist. He shared the belief of his friend Herbert Spencer that government should maintain peace and order and otherwise scarcely touch the life of the citizen. He was an individualist to the point of resenting even that infrequent form of government interference, the census inquiry. He believed in self-interest and in



competition and in the natural law that would bring ultimate harmony.

Hodgskin's economic position perhaps warrants his reputation as a socialist. He declared that labor alone produces wealth and is therefore entitled to the whole produce of industry. The inheritance of wealth should not be permitted. He went so far as to assert that knowledge, skill and industry are all that are necessary to produce capital. It follows that he was not much impressed by the growth of rent; in fact, he sharply disagreed with Ricardo's opinion that the landlord's share would eventually absorb most of the national surplus. He declared that it is the capitalist who holds the strategic place in industry; who determines rent, a sum sufficient to equalize profits, and wages, a sum sufficient for the subsistence of the laborer. The capitalist is in justice entitled only to the wage which he earns as an "active contriver," i.e. captain of industry. If the assertion that labor is the only source of wealth and the only just recipient of the produce of industry constitutes a labor theory of value, Hodgskin may be counted as a predecessor of Karl Marx. But it must be noted that he made no serious attempt to measure wealth in terms of labor or to offer proof of his statements. His belief seems to have arisen from the fact that labor is active, the machine and the land passive.

Hodgskin's belief in natural law and harmony made him an optimist; in contrast to Ricardo and Malthus he looked forward both to increasing population and to increasing wealth. The increase of population would, he felt, act as the spur to invention, the chief cause of continued progress.

ESTHER LOWENTHAL

Consult: Halévy, Élie, *Thomas Hodgskin* (Paris 1903); Menger, Anton, *The Right to the Whole Produce of Labour* (London 1899) p. lv-lxv; Lowenthal, Esther, *The Ricardian Socialists* (New York 1911) ch. iv; Beer, Max, *History of British Socialism*, 2 vols. (London 1919-20) vol. i, p. 259-70; Koepp, Carl, *Das Verhältnis der Mehrwerttheorien von Karl Marx und Thomas Hodgskin* (Vienna 1911).

HOERNES, MORITZ (1852-1917), Austrian historian. Hoernes, professor of prehistoric archaeology at the University of Vienna, was originally a classical archaeologist and philologist but in 1885 turned to research in prehistoric archaeology. His important book *Die Urgeschichte des Menschen nach dem heutigen Stande der Wissenschaft* (Vienna 1892) was a pioneer survey of the results of prehistoric excavations and their

relation to the oldest written accounts. In *Natur und Urgeschichte des Menschen* (2 vols., Vienna 1909) he presented a systematic classification of both the archaeological and ethnographical data on primitive cultures under the subject headings of material, social and intellectual culture, ignoring the concept of *Kulturkreise*. Hoernes considered his most significant work to be the second edition of the *Urgeschichte der bildenden Kunst in Europa* (Vienna 1898; 3rd ed. by O. Menghin, 1925), which in addition to incorporating an extensive collection of source material attempted to generalize on the existence, function and stylistic trends of art. He concluded that plastic art had originally a religious and graphic art a profane character and that three periods of prehistoric art closely correlated with three periods of economic development could be distinguished: primary naturalism with developed hunting; primary geometric art with agriculture; and advanced naturalism characterized by a strongly marked propensity to sumptuous display, as exemplified especially by the arabesque and the animal and plant motif in ornament, with military domination. Hoernes also wrote many scientific works on Bosnia and Herzegovina and edited the *Wissenschaftliche Mitteilungen aus Bosnien und der Herzegovina* (13 vols., Vienna 1893-1916).

OSWALD MENGHIN

Consult: Menghin, Oswald, "Moritz Hoernes 1852-1917" in *Wiener prähistorische Zeitschrift*, vol. iv (1917) 1-23, with bibliography; Szombathy, Josef, in *Anthropologische Gesellschaft in Wien, Mitteilungen*, vol. xlvii (1917) 130, 144-51, and in *Prähistorische Zeitschrift*, vol. ix (1917) 140-43; Dessoir, Max, "Zur Erinnerung an Moritz Hoernes" in *Zeitschrift für Ästhetik und allgemeine Kunstwissenschaft*, vol. xii (1917) 359-60.

HOFFMANN, JOHANN GOTTFRIED (1765-1847), Prussian statistician and administrator. In 1806, while employed in the provincial administration of Königsberg, Hoffmann submitted a comprehensive critique of the statistical reform proposed by Krug, the leading figure in the Prussian statistical bureau which had been established in 1805. At that time official statistics were based on annual returns by local governments and were compiled into a single table which attempted to cover all aspects of social life and ran into hundreds of columns; this table was supplemented by a "population list" based on the civil register kept by the clergy. Hoffmann criticized the unwieldiness and illogical arrangement of the table, the inclusion of

information based on returns from private persons, which he therefore regarded as untrustworthy, and the plan of a name register for the entire population. This critique became a turning point in the history of Prussian statistics; in 1809 in connection with the reform in local administration Hoffmann drew up a plan for a new table, for the reorganization of the central bureau and for a change in the procedure of local agencies gathering the material. The plan was accepted in its main outlines; Hoffmann was appointed chief of the bureau when it was reestablished in 1810 and retained this position until 1844. During this period he strove continually for greater reliability, precision and simplicity in statistical results; since the bureau had no organ for the publication of the results of its work, he brought them to general knowledge in the form of magazine and newspaper articles giving an interpretation of the data in the spirit of political arithmetic. He improved mortality and financial statistics and organized the monthly collection of prices of foodstuffs and other necessities.

Hoffmann was not only the creator of Prussian official statistics; he performed valuable services in many other fields. He was a trusted technical adviser of Hardenberg in the foreign negotiations of 1813 to 1815 and from 1817 to 1821 was a counselor of high rank in the Ministry of Foreign Affairs. An outstanding administrator, he participated in the drafting of important economic enactments. He was responsible for the customs and tax law of 1818 based on free trade ideas; for the class tax of 1820, which may be regarded as an early form of progressive income tax and which remained for decades one of the principal direct taxes in Prussia; and for the industrial law of 1845, which allowed a considerable measure of economic freedom while attempting to preserve a sense of social responsibility by retaining some administrative supervision and guilds on a voluntary basis. From 1821 to 1834 Hoffmann was also active as a professor of practical philosophy and cameralistics at the University of Berlin, a chair to which he was appointed in 1810. With his gradual retirement from active service after 1834 he devoted more time to writing. His books, resembling expanded official memoranda, reveal a great fund of common sense and practical experience rather than theoretical acumen.

SOLOMON KUZNETS

*Important works:* *Das Interesse des Menschen und Bürgers bei den bestehenden Zunftverfassungen* (Königs-

berg 1803); *Die Lehre vom Gelde* (Berlin 1838); *Die Bevölkerung des preussischen Staats* (Berlin 1830); *Die Lehre von den Steuern* (Berlin 1840); *Die Befugnis zum Gewerbbetriebe* (Berlin 1841).

*Consult:* Inama-Sternegg, K. T. von, in *Allgemeine deutsche Biographie*, vol. xii (Leipzig 1880) p. 508-604; Böckh, Richard, *Die geschichtliche Entwicklung der amtlichen Statistik des preussischen Staates* (Berlin 1863) p. 28-63; Roscher, W., *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) p. 732-43.

HOFMEYR, JAN HENDRIK (1845-1909), South African journalist. In 1862 at the age of seventeen Hofmeyr was appointed editor of the *Volkvriend*; he soon became the most influential Dutch journalist in Cape Colony and an important force in the colony's politics. He entered the house of assembly in 1879, but it was chiefly through the press that he made his influence felt. He was governed by two main ideas: to foster a sense of South African nationalism based upon a fusion of the British and Dutch elements, involving recognition by each race of the rights and aspirations of the other; and to unite the various colonies in South Africa in some form of confederation. Hofmeyr became the champion of bilingualism as necessary in fusion based on equal rights and it is largely due to him that South Africa has now two official languages, English and Afrikaans. Other nationalists among the Dutch sought to reach their goal by repudiating the British connection, and to further this object the Afrikaner Bond was instituted in 1879. Hofmeyr, convinced that the realization of South African nationalism was impossible without British cooperation, turned the Bond from its anti-British bias and collaborated with Cecil Rhodes from 1890 to 1896 in the pursuit of South African confederation. The Jameson raid ruptured the alliance with Rhodes and led to the second South African War, lasting from 1899 to 1902. Hofmeyr remained loyal to his ideas and after the signing of peace encouraged the negotiations that resulted in the Union of South Africa. Although he personally favored confederation, the establishment of the union is the chief vindication of his life's work.

J. EWING

*Consult:* Hofmeyr, J. H., *The Life of Jan Hendrik Hofmeyr* (Cape Town 1913).

HOHENLOHE-SCHILLINGSFÜRST, CHLODWIG KARL VIKTOR, PRINCE OF (1819-1901), German diplomat and statesman. As premier of Bavaria from 1866 to 1870, he carried out nationalist and liberal policies. He

opposed the Catholic church and particularism and from his position in Munich endeavored to aid Bismarck's plans for the unification of Germany under Prussian leadership. After the foundation of the German Empire in 1871 Hohenlohe entered the service of the Reich. Bismarck sent him to Paris as the German ambassador and later appointed him governor of Alsace-Lorraine. For a time Hohenlohe was also a member of the German Reichstag, in which as a deputy he continued his support of Prince Bismarck's policies. In 1894 Hohenlohe, so advanced in years that he was no longer capable of energetic initiative, was appointed successor to Caprivi, whose chancellorship from 1890 to 1894 marked a violent departure from the policies of Bismarck. In foreign policy Caprivi had broken away from Russia, while in the realm of domestic politics his commercial treaties had brought him into sharp conflict with the landowning aristocracy of old Prussia. Hohenlohe's appointment was apparently to represent a return to Bismarck's methods. But in reality Chancellor Hohenlohe did not follow the Bismarck tradition in basic questions any more than his own tradition as Bavarian premier. During his chancellorship the government succeeded in forming an effectual Reichstag majority, consisting of the aristocratic Conservatives, the Catholic Center and the industrialist National Liberals. Henceforth until the end of the German Empire the party which held the balance of power in the Reichstag was with but few interruptions the Center. Hohenlohe left the actual conduct of foreign affairs to the secretary of state for foreign affairs, a post first held by von Marschall and later by Bernhard von Bülow. It was during these years that Germany rejected the British offer of alliance, while the great increase in the strength of the German fleet under von Tirpitz also contributed to the strain in Anglo-German relations. On the other hand, efforts for reconciliation with France and Russia failed. When Hohenlohe resigned in 1900 he left the German Empire in a grave diplomatic position.

ARTHUR ROSENBERG

*Consult:* Hohenlohe, Prince, *Denkwürdigkeiten*, ed. by F. Curtius, 2 vols. (Stuttgart 1906), tr. by G. W. Chrystal (London 1906); Zickursch, J., *Politische Geschichte des neuen deutschen Kaiserreiches*, 3 vols. (Frankfort 1925-30) vol. iii.

HOHFELD, WESLEY NEWCOMB (1879-1918), American legal theorist. Hohfeld was professor of law at Stanford and at Yale. He is known

chiefly for his analysis of jural relations. As with Holmes, the starting point of his theoretical advance was his dissatisfaction with the current conception of "rights." He saw that the terms used in legal reasoning—contract, trust, property, easement—were persistently ambiguous and too broad for accurate use. His aim was, through an analysis of the concept of rights, to break these terms down into common elements that were manageable and capable of rigid definition. The result was a set of eight subconcepts which, to simplify their understanding and use, he arranged in a table of "opposites" and "correlatives." He narrowed "right" to a single meaning, a legally recognized demand of A against B; viewed from B's angle, this right is a "duty" to A. Such a right in A is sharply marked off from A's legal liberty to do something (e.g. use his own goods) without legally recognized objection by B; this Hohfeld called "privilege" in A; from the angle of the possible objector, B, it is a "no-right." Viewed dynamically, moreover, legal relations are subject to change. When A can by his action change B's legal relations he has a legal "power" to do so; B is then under a "liability." Absence of such power is "disability" in A, and "immunity" in B as against A.

While other writers had previously observed that rights might be analyzed into constituent varieties and Terry (*Some Leading Principles of Anglo-American Law*, Philadelphia 1884, p. 84-138) had even isolated and paired six of Hohfeld's subconcepts, it remained for Hohfeld to turn into an everyday working tool what had been a plaything of jurisprudence. He showed at times a tendency to accept these relations almost as entities in themselves. Thus he distinguished primary rights (as obtaining before a wrong was committed) from secondary rights (the legal consequences of the breach of primary duty). Insisting that rights and the other relations could obtain only between people, he accordingly reanalyzed "rights in rem" as clusters of rights in, say, an owner against every other person. He distinguished from legally irrelevant facts those "operative facts" which created or changed a legal relation and those "evidential facts" from which the existence of an operative fact could be inferred; here at times the operative facts also became to him rather entities than categories. Finally, carrying out the notion that the legal system "must be" a unit, he used his analysis to demonstrate a conflict between law and equity and to argue the supremacy of the latter. But in the riper thinking of his last years

and especially in dealing with conflict of laws Hohfeld had begun to see his "relations" not as entities but as convenient summations of strong probabilities as to what courts would do if properly approached. Corbin and Cook, in developing Hohfeld's ideas, moved flatly into this position.

With some variation in terms Hohfeld's analysis has found acceptance. His own aversion to writing kept much of his systematization of positive doctrine, as in wills and evidence, from leaving permanent record. But the application and influence of his analysis are to be found in such writers as Corbin, Cook (especially in articles on the conflict of laws), Commons and Clark; and his analysis has been taken over in the pending restatement of the law by the American Law Institute. Such relevant criticism as Radin's that the correlative is misused or as Kocourek's that the privilege concept is not legal but extralegal leaves the pragmatic value of the analysis untouched. While it can obviously solve no cases it makes for clarification and cuts very close to the atomic structure of the law on its conceptual side. It was a happy accident that the same thinkers who from 1914 to 1925 were influenced by Hohfeld were being influenced also by Holmes' realism and by the pragmatic synthesizing approach of modern science. Hohfeld's new and powerful advance in analysis was thus kept from the sterility and the concept-contented inertia which has so often been the heritage left by a great analyst whose thinking along other lines was underdeveloped.

K. N. LLEWELLYN

Consult: Hohfeld, Wesley N., *Fundamental Legal Conceptions and Other Legal Essays* (New Haven 1923); Corbin, A. L., "Legal Analysis and Terminology," and "Jural Relations and Their Classification" in *Yale Law Journal*, vol. xxix (1919-20) 163-73, and vol. xxx (1920-21) 226-38; Llewellyn, K. N., *The Bramble Bush* (New York 1930) ch. v; Kocourek, Albert, *Jural Relations* (2nd ed. Indianapolis 1928), *Introduction to the Science of Law* (Boston 1930), and "The Hohfeld System of Fundamental Legal Concepts" in *Illinois Law Review*, vol. xv (1920-21) 24-39.

HOLBACH, BARON VON, PAUL HEINRICH DIERICH (1723-89), French social and political philosopher. Holbach although of German descent spent his entire life in Paris. He was one of the most active of the group of *encyclopédistes*, and his salon became their principal place of meeting. The articles which he contributed to the *Encyclopédie* dealt with physics, chemistry, natural history, mineralogy and metallurgy, subjects which he had helped to popularize in

France by translations of scientific works from the German. It was only after 1756 that he began to publish anonymously or under various pseudonyms the works on natural, moral and political philosophy which taken together constitute the most typical expression in eighteenth century France of sensualist materialism and of social utilitarianism. Holbach's dynamic theory of matter and of life, as derived from Leibniz and more directly from Diderot and as presented in *Le système de la nature*, marks a departure from the time honored doctrines of Cartesianism. Uncompromising in his antipathy to religion in any form, whether traditional Christianity or the natural religion of Voltaire, he sought to eliminate the necessity of recourse to supernatural explanations or final causes by formulating the doctrine that, while matter is eternal, all bodies and all beings possess a capacity for independent movement according to their particular genius. Universal necessity, an adequate explanation of the natural order, governs equally the moral order and the relations between human beings, who are motivated by nothing more than the selfish quest of pleasure and the avoidance of pain, even when they are forced as a result of their inequalities and mutual dependence to seek incidentally the welfare of their neighbors. Where the individual is not sufficiently enlightened to realize the dependence of his personal welfare on the common welfare, it is the duty of society to emphasize these broader relationships by a system of sanctions freed from religious perversion. Antipathy to religion was the starting point of most of Holbach's ideology. Like the Epicureans he inveighs against the fears and fantastic hopes raised by religion, which lead men to excesses of intolerance and persecution. The invention of calculating obscurantists, religion distorts philosophy, confounds morality and by fostering an unnatural otherworldliness is the enemy of society. With the elimination of religious superstition the way would be open to intelligent political legislation directed solely toward a system of secular education which should concentrate on promoting sentiments of good will and universal philanthropy, such as the Freemasons of the time were championing. In general Holbach's political ideas are much less precise and incisive than his strictures on religion. He advances a system of natural politics based upon the needs common to all men but at the same time attempts to combine with this the theory, borrowed from the French jurists, of basic laws

of the kingdom resting upon a past contract between sovereign and people.

RENÉ HUBERT

*Works:* *Le système de la nature*, 2 vols. (London 1770, ed. by D. Diderot, Paris 1821), tr. by H. D. Robinson (new ed. New York 1835); *La politique naturelle*, 2 vols. (London 1773); *Système social*, 3 vols. (London 1773); *Éthocratie* (Amsterdam 1776); *La morale universelle*, 3 vols. (Amsterdam 1776).

*Consult:* Hubert, René, *D'Holbach et ses amis* (Paris 1928), with extensive bibliography; Avezac-Lavigne, C., *Diderot et la société du baron d'Holbach* (Paris 1875); Lalonde, André, "De quelques idées du baron d'Holbach" in *Revue philosophique*, vol. xxxiii (1892) 601-21; Damiou, J. P., *Mémoires pour servir à l'histoire de la philosophie au XVIII<sup>e</sup> siècle*, 3 vols. (Paris 1858-64); Morley, John, *Diderot and the Encyclopaedists*, 2 vols. (new ed. London 1886) vol. ii, ch. vi; Cushing, M. P., *Baron d'Holbach* (New York 1914), with bibliography p. 85-108; Lange, F. A., *Geschichte des Materialismus*, 2 vols. (new ed. by H. Schmidt, Leipzig 1926), tr. by E. C. Thomas, 3 vols. (3rd ed. London 1925) vol. ii; Mornet, Daniel, *La pensée française au XVIII<sup>e</sup> siècle* (Paris 1927) p. 35-64; Cresson, A., *Les courants de la pensée philosophique française*, 2 vols. (Paris 1927) vol. i, p. 156-68, 185-86, and vol. ii, p. 12-21.

HOLBERG, BARON LUDVIG, (1684-1754), Norwegian-Danish satirist, historian and moral philosopher. Holberg was born in Bergen, studied at the University of Copenhagen, traveled widely throughout Europe and was professor of metaphysics and later of history at the University of Copenhagen. He was the most important representative of the Enlightenment in Scandinavia and at the same time the creator of the national literature of both Norway and Denmark. His sojourn in England from 1706 to 1708 had greatly influenced the forming of his mind but he acknowledged Bayle and Molière as his chief teachers. He thus represents the combination of English thinking and French *esprit*.

The works of Holberg cover a wide variety of subjects. There is hardly any problem of his time, moral or religious, economic or political, literary or historical, that is not discussed in his works. In his comedies, which he wrote chiefly between the years 1718 and 1725, in his utopian novel *Nicolaï Klimii iter subterraneum* (Copenhagen 1741, ed. by C. G. Elberling, 1866; tr. by John Gierlow, Boston 1845), in his ecclesiastical history, his volume of moral thoughts and his five volumes of epistles he sought to show in concrete examples the varieties of human nature, to fight against all sorts of obscurantism and prejudice and to teach his readers to discern real and apparent virtue and vice. He hated theorizing as well as fanaticism and liked to con-

sider every question from two sides, testing how far it was possible to go in both directions and then at last returning from the extremes to the *medium magnum*.

As a historian Holberg is most famous for his *Dannemarks og Norges beskrivelse* (Copenhagen 1729) and *Dannemarks riges historie* (3 vols., Copenhagen 1732-35), which laid the foundations for the writing of Danish and Norwegian national history. The first of these gives an excellent description of the national characters of the Danes and the Norwegians and of the economy, institutions and later history of the two united kingdoms. The second is an attempt at a complete history of Denmark; it is not written in the old annalistic style but well composed, vivid and based on selected source material. His earlier historical works were introductions to modern European history and to the law of nature and international law. He followed Pufendorf more or less closely in these but his defense of royal absolutism was written as a patriotic apology for the Danish-Norwegian monarchy and against the argument of Molesworth, the English Whig of 1689 who in his bitter *Account of Denmark* (London 1694) had tried to show the fatal results of absolutism.

Quotations from Holberg's works have often been used to support many different theories and tendencies in Norwegian and Danish life. Any attempt to rubricate his principles, however, is bound to fall short, for his thinking was too many-sided to be consistent.

FRANCIS BULL

*Works:* Of the first complete edition, *Samlede skrifter*, ed. by C. S. Petersen and calculated to contain 20 volumes, only vols. i-x, and parts i-iii of vol. xix (Copenhagen 1913-30) have appeared so far.

*Consult:* Holberg, Ludvig, *Opuscula quaedam latina* (Leipzig 1737), tr. in part as *Memoirs of Lewis Holberg* (London 1827); *Holberg Aarbog*, ed. by F. Bull and C. S. Petersen, 6 vols. (Copenhagen 1920-25); Holm, E., *Holbergs statsretlige og politiske synsmåde* (Copenhagen 1879); Høst, S., *Om Holbergs historiske skrifter* (Bergen 1913); Bull, F., *Ludvig Holberg som historiker* (Christiania 1913); Prutz, R. E., *Ludvig Holberg* (Stuttgart 1857); Brandes, G. M. C., *Ludvig Holberg* (2nd ed. Copenhagen 1898), German translation (Berlin 1885); Campbell, O. J., *The Comedies of Holberg*, Harvard Studies in Comparative Literature, vol. iii (Cambridge, Mass. 1914).

HOLBROOK, JOSIAH (1788-1854), American educator. Holbrook, a Yale graduate, was a gifted teacher, especially of the natural sciences, and was probably the first in the United States to combine manual labor with book education.

His geometry textbook and his standard collection of articles for school use in illustrating geometry and astronomy and in performing simple experiments were very popular. His chief work was in popularizing science, improving schools and forwarding adult education by mutual instruction. All these were embraced in the program of the lyceums, the first of which he organized in Millbury, Massachusetts, in 1826. The idea was received with enthusiasm, and by 1834 there were in the United States nearly 3000 town lyceums as well as scores of county lyceums and at least eight state lyceums, the latter two forms being unions of town lyceums. These were in some ways like the present day parent-teachers' associations and served to quicken popular interest in school problems. Holbrook was one of the first to suggest normal schools for teachers and took the lead in the Lyceum Convention which in 1830 organized the American Institute of Instruction, forerunner of the National Education Association. The lyceums gave a great impulse to general cultural activities, and, although few remain as they were in Holbrook's day, the institutions of the next generation—debating societies, young men's institutes and library associations with their lectures and classes—as well as the lecture foundations and the scientific lectures of today developed directly from Holbrook's work.

ANNA L. CURTIS

*Consult:* Barnard, Henry, in *American Journal of Education*, vol. viii (1860) 229-47; Noffsinger, John S., *Correspondence Schools, Lyceums, Chautauques* (New York 1926) pt. ii, ch. i.

HOLDHEIM, SAMUEL (1806-60), Jewish reform leader. Holdheim was one of the most prominent pioneers of the Jewish reform movement in Germany. Holdheim's reform ideas were definitely conditioned by the struggle for Jewish political emancipation, which met with opposition because of the fact that the Jews had in several states retained some features of political autonomy. Holdheim emphasized the divine and moral teachings of Judaism and its character as a universal religion and accepted the distinction drawn by Napoleon between the eternally true and generally valid religious elements of Judaism and the temporary and only conditionally valid national elements. He also preached the necessity of returning from rabbinic Judaism to Mosaic; he declared, however, that the political elements in the Mosaic religion were long since obsolete and that the extension of their influence

after the fall of the theocratic state had been due only to the Talmudic-rabbinical interpretation of the Bible. He retained, however, the religious idea of the sanctity of the state as a divine institution and of the law of the land as divinely sanctioned.

Holdheim's theology although it received considerable attention in his own time exercised no deep influence on posterity. His theories were based too much on current affairs and too little on the more fundamental principles of religion. Moreover they were proved by means of an extremely acute dialectic, retained from his Talmudic studies, which could not withstand scientific criticism. His arbitrary distinction between the religious and the national cannot be reconciled with his profession of a "pure Biblical, positive belief in revealed religion"; and his rejection of the particularist doctrines of Judaism was accompanied by a recognition of the particularism of the political states. Finally, in his overestimation of the state, probably inspired by Hegel, he does not consider the possibility of the adoption by the state of policies to which obedience can in no way be urged as religious law; as, for example, in the case of definite antireligious legislation.

In regard to religious practise Holdheim adhered to the radical wing of the reformers and became the first rabbi of the Jewish Reformed Congregation in Berlin. Many of the traditional practises of Judaism, such as the Sabbath, circumcision and the dietary and marriage laws, were discarded. Although completely isolated in Europe this congregation exercised considerable influence on the institutions and practises of American Reform Judaism.

I. ELROGEN

*Important works:* *Über die Autonomie der Rabbinen und das Princip der jüdischen Ehe* (Schwerin 1843, 2nd ed. 1847).

*Consult:* Philipson, D., *Centenary Papers* (Cincinnati 1919) p. 63-97, and *The Reform Movement in Judaism* (New York 1931) p. 64-66; Ritter, I. H., *Geschichte der jüdischen Reformation, Samuel Holdheim* (Berlin 1865).

## HOLDING COMPANIES

UNITED STATES. A holding company may be defined in the broadest sense as any company having share capital which owns securities of one or more other companies. In a more restricted but more usual sense the definition is made to turn not on ownership in but on control over another company. A holding company may thus be defined in terms of its distinguishing charac-

teristic as any company with share capital which is in a position to control or materially to influence the management of one or more other companies by virtue, in part at least, of its ownership of securities of the latter. A holding company may be classed as a pure holding company if its assets are composed almost entirely of the securities of other companies, and as a parent holding company (or parent company) if in addition to the ownership of such securities it conducts an operating enterprise as a directly owned property. In the United States the holding company is usually a corporation, occasionally a Massachusetts trust.

The holding company is recognized as a characteristically American form of combination. It began its career as an important institution of business enterprise in the last decade of the nineteenth century, although it was not unknown before that time. Before 1888 few corporations had the legal power to own stocks of other companies. Such power was regarded as dangerous and unsuitable for a corporation, much as today a partnership between corporations or the incorporation of law firms is regarded as improper. The courts of most states (Maryland and California *contra*) accepted the principle that at common law a corporation has no power to own stock in another corporation and that such power can be derived only from specific legislative enactment. The general corporation statutes of certain states, notably New York (1811), Illinois (1849), Maryland (1860) and Pennsylvania (1874), expressly excluded the power to hold stock from the powers that might be granted corporations under the law. Before 1888 no state expressly granted in its general laws the power of intercorporate stockholding. Such holding companies as existed usually derived their power to hold stock from special legislative acts. Thus in 1832 the Baltimore and Ohio Railroad Company was empowered by the Maryland legislature to acquire the stock of certain connecting railroads. In 1853 the Pennsylvania Railroad Company was granted power by the Pennsylvania legislature to own stocks of other railroads up to 15 percent of its capital. The Western Union Telegraph Company acquired power to own stocks of other telegraph companies before 1864. Sixteen years later the American Bell Telephone Company was created by special act of the Massachusetts legislature and empowered to own stocks of other telephone companies.

In contrast to companies whose right to own stock was limited to the stock of certain other

companies or to companies in a particular industry, a few early corporations were created by special acts which granted them extremely broad powers including the power to hold the stocks of any other companies. Most notable of these were a group of over forty corporations created through charters granted by special acts of the Pennsylvania legislature between 1868 and 1872. One of these, the Pennsylvania Company, is still employed as a major element in the Pennsylvania Railroad system and is perhaps the first example of a pure holding company. Another of these broad charters, that of the ill fated South Improvement Company, was the vehicle through which the Standard Oil interests created their notorious system of rebates. The broad charters now held by the Reading Company (Reading railroad), the Philadelphia Company (electric power) and the United Gas Improvement Company were products of this burst of legislative generosity. Because of the furor created by these charters the Pennsylvania legislature passed an act in 1874 forbidding the creation of additional corporations with such broad powers.

In 1888 the state of New Jersey first made possible the extensive use of the holding company by amending its general stock corporation law so as to enable all companies formed under it to include in their charter the specific power to hold stocks in other corporations. This provision was clarified and extended in the following year and still further broadened in 1893. Other states were forced by competition for charter business to adopt similar provisions. Between 1892 and 1899 the lead of New Jersey was followed by New York, Connecticut, Pennsylvania and Delaware. By 1929 thirty-nine states had expressly authorized intercorporate stockholding. Thus in a period of forty years the holding company, which had been regarded as undesirable and contrary to public policy except under unusual conditions, was made by most states an unacceptable and legal practise.

Once the holding company became available as an instrument for the conduct of enterprise, its uses began to multiply. Most important of all is its use as the most effective device yet invented for combining under a single control and management the properties of two or more hitherto independent corporations. The combination of two independent companies by complete fusion requires a majority (usually two thirds) or unanimous agreement of the stockholders and may involve difficulties with the contractual rights of bondholders as well as the risk of lawsuits by

dissenting stockholders. The acquisition of stock control of one corporation by another is relatively simpler and less costly than direct fusion; it can be accomplished gradually and without publicity, requires no action by the stockholders of the company being acquired and in no way affects the position of existing bondholders. Furthermore the ownership of any remaining stock of a controlled company can be acquired gradually, over a period of years, as occasion makes desirable. By thus facilitating combination the holding company has made possible the development of giant systems of business enterprise at a pace far more rapid than would have been feasible by any other method. Only by the use of the holding company or some similar legal device would it have been possible to create the multibillion dollar enterprises typified by the American Telephone and Telegraph Company, the Insull system of electric light and power properties, the United States Steel Corporation and the Pennsylvania Railroad system. Without the power to purchase controlling stock interests in other companies the concentration of capital into larger units would certainly have been of slower growth than is shown by the figures of the last decades.

Of scarcely less significance is the use of the holding company by business men as a means of avoiding social control. The term social control is used here to mean all forms of regulation and publicity designed to protect the interests of the investing, working and consuming public against exploitation by the persons who dominate a business enterprise. It includes not only governmental regulation but also the informal although often more effective control imposed by rules of the stock exchanges and by pressure of investment bankers, banks and private investors. Partly because the holding company is a comparatively new device, partly because it is protected from interference by traditional American interpretation of constitutional law and partly because it often extends beyond the jurisdiction of any one state it has so far been to a considerable extent, although not completely, exempt from the restrictions to which other business corporations have been subject. Employed to evade the restrictions of the Sherman Act at the close of the last century, the holding company has been made as subject to dissolution as any other form of restraint of trade. In the public utility field it has been much more successful in avoiding regulation through its ability to escape control of service charges, financial practises and

accounting publicity to which the operating utilities have been subjected. Moreover, in spite of the publicity of accounts in a measure imposed by the investment world on large companies with a widely distributed stock ownership, the holding company has often been most successful in concealing its operations.

Bound up with the avoidance of social control has been the use of the holding company to facilitate capital inflation, a use generally associated with other purposes. Bonds and preferred stock as well as common stock of the top company can be issued against junior securities of subsidiaries held in its treasury, so that the total securities issued and in the hands of the public can often be made very much greater than could be issued directly against the underlying property.

The use of the holding company involves another serious drawback in that it may create or further weaken the position of a minority interest. At best the position of minority stockholders is weak. If the majority stock is owned by a holding company, the stockholders' position is further weakened by concentration of control in a single block which acts as a unit and by the opportunity which the holding company has of trading with the controlled corporation (directly or through subsidiaries) to the disadvantage of minority interests. Transactions between a holding company and its subsidiary or between two subsidiaries of a single holding company do not involve independent parties. The holding company is in the position of dealing with itself, and there is grave danger that the interests of the minority will not be protected. Only as the holding company acquires all the outstanding securities of its subsidiaries does the problem of minorities disappear.

An important use of the holding company is to maintain legal control of an underlying corporation with a minimum of investment. This is accomplished by a pyramidal series of holding companies. Control of the base operating company is held by a holding company through the ownership of a bare majority of the voting stock. This holding company in turn is controlled by another in a similar manner, with the result that the third company is in a position to control the first with only a quarter interest in the stock of the latter. The pyramiding may go even further, each additional company reducing the investment necessary for the control of the underlying company. Where each company in the series has bonds and non-voting preferred stock outstand-



ing, the reduction in the investment necessary for control diminishes even more rapidly, so that a pyramid involving three holding companies will allow, say, a one-million dollar investment in a top holding company to control a billion-dollar operating company. The investment necessary for control may be made even smaller by issuing non-voting common stock or stock with limited voting power.

Another important use of the holding company is as a permanent aid in decentralizing the administration of great modern combinations. By maintaining separate branches of an enterprise as separate corporations with separate and semi-independent boards of directors the management of a concern can conduct it more as a group of federated enterprises than as a single armylike organization. Some of the advantages of combination can thus be obtained without the surrender of all the advantages of smaller organizations. In larger matters the activity of the separate units can be brought into harmony at the same time that in more local and immediate matters each unit can be operated as an independent enterprise. Although decentralization could undoubtedly be accomplished by other means, the holding company is perhaps the most effective instrument for bringing it about.

The degree of decentralization varies with different holding companies. At one extreme, the operations of the constituent companies may be unified, perhaps even to the extent of obliterating corporate lines. On the other hand, financial control alone may be centralized, with the credit of the holding company or even the credit of the underlying companies as the basis of new financing, while the operations of subsidiaries are conducted as if they were independent. Between these extremes the great flexibility of the holding company allows any degree of decentralization desired. The extent to which the holding company is being used as an aid to decentralization of administration is difficult to ascertain; but that it is so used extensively is suggested by the persistence of the holding company long after complete fusion has become easily possible.

Other uses of the holding company deserve mention, such as the separate incorporation of properties in different localities in order to simplify the adjustment of corporate activities to the laws of particular countries and states. Property in a particular state is often separately incorporated to simplify the problems of accounting and taxation, to avoid taxation or to take advantage of special laws of that state. The hold-

ing company thus intensifies the problems growing out of the taxation of an enterprise which owns property in two or more states and the allocation of its property to particular states. It is also customary for American industrial corporations to conduct their operations in foreign countries through subsidiaries incorporated in the respective foreign countries. The Standard Oil Company, the United States Steel Corporation, General Motors and other large corporations control a series of such subsidiaries. In addition holding companies are sometimes formed to secure control of enterprises in foreign countries, as in the electrical manufacturing and communications industries. International holding companies are also formed by competing interests to apportion markets and reconcile conflicting interests.

Sometimes separate branches of a business involving different risk factors are separately incorporated, in a measure to insulate the less risky part of a business from the effects of loss by the more speculative branch.

Frequently personal holding companies are formed to hold the securities of an individual or family. By this means the making of tax returns can be simplified, taxes can often be reduced and family holdings can be maintained and voted as a unit, even though through inheritance the ownership interest becomes subdivided in successive generations.

It has frequently been stated that the holding company was largely developed after 1890 as a substitute for the trust form of combination, which had been outlawed by the courts as a device for maintaining monopolistic combination. This was a slow process, however, and quite as often the use of the holding company can be explained on the ground of its convenience relative to fusion rather than that of its possible freedom from dissolution. During the 1890's the holding company was a comparatively untried device and few lawyers were sufficiently bold to recommend it to their clients. Outright fusion was regarded as safer. Before 1898 out of the ten major monopoly seeking combinations formed after the passage of the New Jersey law which made possible the extensive use of the holding company only one, the American Cotton Oil Company, took this form. The remainder involved outright fusion of properties. Even in the hectic merger years of 1898 and 1899, when so many horizontal combinations were formed, the holding company was used less frequently than fusion. Of forty-one important combinations ac-

complished during those two years only six made use of the holding company. The most important of these was the reorganized Standard Oil Company. In 1899 the Standard Oil interests, whose informal combination was being threatened by antitrust proceedings, amended the charter of the Standard Oil Company of New Jersey and obtained for that company the power to hold stocks. Thereupon it acquired the stocks of the other Standard units and became primarily a great parent company.

This use of the holding company by the powerful Standard Oil interests gave impetus to its further employment. In the four years from 1900 to 1903 the holding company vied with fusion as the most important form of combination. Among the more important holding companies formed during this period were the United States Steel Corporation, the American Locomotive Company and the Eastman Kodak Company in 1901, the International Nickel Company in 1902 and the Du Pont de Nemours Powder Company in 1903. Whether the holding company was used during this period simply because of the ease with which combination could be effected or whether its use was due to a belief that it might be in less danger from antitrust proceedings than the fusion, it is difficult to say. No federal antitrust suits had been instituted against fusions after the unsuccessful Knight case in 1894 and prior to the latter part of 1902. There was therefore little to indicate that outright fusion was not quite as safe as the untried holding company for bringing about a monopoly seeking combination. Presumably its great flexibility determined the use of the holding company in spite of the risk involved in its uncertain legal status.

Any belief that the separate corporate entity of the holding company might make it immune from attack under the Sherman Act was dispelled by the decision of the Supreme Court in the Northern Securities case in 1904 which put an end to the use of the holding company as a legal means for maintaining monopoly. In the following ten years few industrial holding companies were formed, the General Motors Company (1908) being the largest. In 1911 the Standard Oil Company was dismembered as a result of antitrust proceedings, and a still further disability was placed on the holding company as a tool of monopoly by the passage of the Clayton Act in 1914, which made it illegal for a corporation to acquire stock in another corporation engaged in interstate commerce where the effect

might result in a substantial lessening of competition between these two companies. Although the courts have interpreted competition in a somewhat limited sense, this clause combined with the antitrust decisions of the courts has forced combinations involving competing units which operate across state lines to take the form of fusion. There can be little doubt that its effect has been to retard although not to prevent industrial combination.

In recent years the holding company appears to have been used almost invariably in combining large companies, except where the danger of proceedings under the Clayton Act has been considered serious. Of the ninety-seven largest industrial companies in the United States at the beginning of 1929 (measured by assets) twenty-one were pure holding companies, thirteen were parent companies with a third or more of their controlled assets in subsidiary companies, and sixty-three were operating companies although most of them had one or more small subsidiaries. It is noteworthy that of the large companies formed before 1920 sixty-two were operating and only eight were pure holding companies. Of those formed since 1920 only one was operating and thirteen were pure holding companies.

Since the passage of the Clayton Act in 1914 the most important single use of the industrial holding company has been in the consolidation of enterprises which were largely non-competing; that is, in the creation of circular or of vertical combinations. The typical consolidation by means of the holding company has involved either the acquisition of stock control of a smaller concern by a large established company or the creation of a new holding company which acquired stock control of two formerly independent and complementary companies. In either case the initial stock control may have involved less than a majority of the voting stock, although usually it has represented at least a majority. In most cases additions have been made to the initial stock interest, until after a period of a few years the ownership of all or nearly all the outstanding stock of the subsidiary has been obtained. Only infrequently has a pyramided capital structure been built up in order permanently to maintain control with a minimum of ownership. The tendency is for subsidiaries to be wholly owned.

While the holding company has been a very important factor in industrial integration it has played its most conspicuous role in the public utility field. The Bell Telephone Company.

which was chartered in 1880, has already been referred to as probably the first pure holding company in this field. The present United Gas Improvement Company, organized in 1888 as a holding company, is regarded as the first of the gas and electric holding companies. Early in the development of the electric light industry the two great equipment companies, the Westinghouse Company and the General Electric Company (or its predecessors), initiated the practice of aiding the purchasers of their equipment by accepting their securities in payment. Westinghouse thus became a parent company, while the General Electric deposited the securities received with a series of holding companies which ultimately developed into the present Electric Bond and Share Company system. Within the last two decades the extension of the holding company device has been extremely rapid, until today ten great groups of holding companies control three quarters of the electric light and power business and 40 percent of the gas business of the country.

In the utility field the holding company has been employed primarily as an aid in the upbuilding of great systems, as a method of maintaining control of these systems with a small investment and as a means of avoiding control by state regulatory commissions.

By the acquisition of stock control of one company after another utility properties distributed in different parts of the country have been brought within a single system, often with little regard to the possibilities of unified operation. Frequently the desire to control a large number of properties has arisen from the desire to sell services to controlled companies. This was the case in the creation of the Bell Telephone Company and the United Gas Improvement Company, the one to further the development of its telephone patents, the other to develop its patented water-gas process. More frequently the services rendered to controlled companies have been engineering, managerial and financial. Whatever the service supplied, the larger the aggregate of properties controlled, the larger the profits to be made. Under such conditions the main advantage to the promoters lay in increasing the properties controlled as rapidly as possible and with the minimum investment. The holding company served both purposes, and today the typical utility system is composed of a series of holding companies and a multitude of operating companies. In recent years a process of simplification has been going on: contiguous

operating companies have been fused, intermediate holding companies eradicated and financial structures simplified. There remains, however, the increasing use of the holding company pyramided structure, whereby control is maintained with a small investment. The investment necessary for control is frequently made even smaller by the issuance to the public of non-voting stock or of stock with limited voting power, while the promoters retain control through ownership of the comparatively small amount of voting stock.

The use of the holding company to avoid public utility regulation involves a problem which has become more acute in recent years, particularly as an increasing amount of electric power or gas is transported across state lines. The holding company has avoided state regulation on the ground that it is not a public utility. Though the local operating companies are subject to commission regulation, the transaction between the operating company and the holding company or one of its affiliates is not subject to full control, since a commission cannot examine the books of the latter to determine the fairness of such transactions. As these are clearly between interested parties, the presumption of fairness which is applicable to dealings between independent parties does not exist. The difficulty is further aggravated by the character of the transactions, which are as a rule difficult to evaluate, particularly the charges for engineering, management and financial services. An additional difficulty arises with respect to the issuance of securities by the holding companies. In many states the security issues of operating companies are closely supervised. Those of holding companies, with which the credit of the operating company is linked, are unsupervised, a fact which has frequently led to inflation with its repercussions on rates and on quality of service.

In addition the utility holding company is extensively used to decentralize administration. The outstanding example is the American Telephone and Telegraph Company; most of its subsidiaries are managed by independent boards of directors, mainly local business men and executives in the district in which the subsidiary operates. The general policy of the system can be maintained at the same time that a large degree of autonomy is given to the local units. This type of decentralization exists also in some of the other large utility systems. Particularly is this true of the United Corporation, formed in 1929, which has working control of or substantial influence over a number of gas and electric

holding companies whose combined assets approach those of the American Telephone and Telegraph Company.

In the railroad field the holding company has played an important role from the very beginning of the industry. For the most part it has taken the form of the parent company. In the gradual upbuilding of the existing great systems a large operating company would acquire stock control of connecting lines, gradually absorbing their property into its own system or operating them as separate units. Since the operating companies in the position of parent are subject to Interstate Commerce Commission jurisdiction, the acquisitions are largely regulated.

There are, however, certain notorious examples of the use of the pure holding company. Among them were the now defunct Rock Island Company, involving an extremely inflated pyramid of companies, and the Northern Securities Company. In recent years two new and important pure holding companies have been formed in the railroad field. With the passage of the Transportation Act in 1920 the approval of the Interstate Commerce Commission was made necessary in carrying out any consolidation. To avoid the necessity and difficulty of obtaining such approval in the creation of a great fourth eastern railroad system the Van Sweringen brothers made use of a series of holding companies culminating in the Allegheny Corporation formed in 1929. By this corporate pyramid they were able to bring a number of operating railroads under common control without the approval and contrary to the published plans of the commission and thereby to create the largest system of railroads in the country. In 1929 the Pennroad Corporation was also formed as a pure holding company by the Pennsylvania Railroad management; it was employed as a vehicle for obtaining stock control of or stock interests in other roads, also without approval of the commission. Although the Pennsylvania Railroad Company has no stock interest in the Pennroad Corporation in effect it controls the latter through a voting trust and through interlocking directors, so that the Pennroad Corporation may be regarded as a tool of the railroad company. These holding companies have not been subject to control of the Interstate Commerce Commission. However, the ownership of all railroad stocks by other railroads and by holding companies has been the subject of a recent congressional investigation which may lead to a measure of regulation.

Where the pure holding company has been employed in the railroad field it has frequently been used to avoid regulation in one form or another. In part it has been used to maintain control with a small investment. Only to a small extent has it been used to accomplish legitimate combination. In contrast to this, the parent company has consistently been employed in the long process of consolidation.

Recently the holding company has been extensively employed to avoid the social control of banking. Here it has been used to defeat the purpose of state and federal banking laws restricting branch banking. Contrary to the practise and policy of most foreign countries the banking system of the United States has been developed on the basis of the independent local unit bank. Federal law with respect to the national banks and state laws with respect to the state banks (in the bulk of the states) prohibit branch banking. By the use of the holding company it has been possible to bring a large number of banks under the control of a single organization much as if they were all branches of a single bank. In 1926 only a few insignificant banks were controlled by holding companies. By the end of 1929 thirty-eight holding companies controlled over five hundred banks with combined resources of over \$8,000,000,000. With one exception these banks were in states not allowing branch banking. Under the circumstances it is doubtful if the holding company would have been employed so extensively to combine independent banks had branch banking not been prohibited.

The holding company is a relatively new instrument of industrial organization subject to abuses but also to many desirable uses. It can be employed as a device for avoiding social control. On the other hand, if concentration of industry is a desirable end, the holding company can be an invaluable aid in bringing it about. Once combination has been accomplished, the holding company is useful for maintaining decentralized operation and authority while ultimate control is centralized. The holding company may be well or ill used. The advantages which it offers deserve recognition, while the abuses to which it is subject must be progressively curbed.

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EUROPE. Holding companies organized for the special purpose of acquiring control of other companies must be distinguished from holding companies of the investment and financing type;

the latter are more important in Europe than the holding company used for combination purposes. While this article is primarily concerned with the pure holding company of the monopolistic type, it must not be overlooked that there are also frequent cases of operating companies which have become holding companies by incorporating their plants into separate companies and retaining the possession of their share capital. Typical examples of this are the two parent companies of the Siemens-Schuckert concern — the Siemens und Halske A.-G. and the Elektrizitäts A.-G., formerly Schuckert & Company, the latter now a pure holding company. Another form of development into the holding company appears in the parent companies of the Vereinigte Stahlwerke A.-G. — the Gelsenkirchener Bergwerksgesellschaft, the Deutsch-Luxemburgische Bergwerksgesellschaft, the Phönix A.-G. für Bergbau und Hüttenbetrieb and the Charlottenhütte A.-G. — which transferred all or nearly all of their plants to the Vereinigte Stahlwerke and turned into holding companies owning the majority of capital stock of what is now the largest coal, iron and steel enterprise in Europe.

While isolated instances of holding companies in Europe date back to the sixties, their real development did not occur until the eighties of the last century. In 1886 the Nobel Dynamite Trust Company, Ltd., the first European trust, was formed in London. It comprised at first two (later three) English companies, four (later six) German companies and one company each in Switzerland, Mexico and Brazil. The Nobel Trust entered into agreements with the Société Centrale de la Dynamite in Paris, which was itself a holding company organized in 1887, and later with the German cartel of gunpowder factories, thus attaining a monopolistic position which spread beyond the borders of Europe.

During the following decades numerous holding companies were formed in all industrial European countries. But the holding company never assumed the same significance in Europe as it did in the United States. Reasons for this are the more limited use of the stock company as a form of business enterprise and the greater degree of legal regulation and government supervision over the formation of corporations, the issue of securities and all other phases of corporate activity. Also the railroads and public utilities, a favorite field for the operation of holding companies in the United States, were and still are government owned in most European coun-

tries; and even where privately owned, as in England and France, they were and still are removed from financial manipulation and stock market speculation to a greater extent than in the United States. Furthermore the object of monopolistic control, which was the moving spirit behind many a holding company in the United States, could at least in most European countries be reached through the organization of cartels. Seldom therefore was the holding company used for purposes of obtaining monopoly; the Nobel Trust Company, Ltd., and the Reis- und Handels-A.-G., a trust of German rice millers, remained isolated phenomena up to the World War. In England, where legislation interfered with the formation of monopolistic combines, most of the large combinations were effected through mergers. After the World War, however, several holding companies of monopolistic nature were formed in England; the most important of these is the Imperial Chemical Industries, Ltd., with authorized capital of £95,000,000, of which £76,200,000 is outstanding; it owns the stock of fifty subsidiary companies.

Where monopoly was the main object of combination the holding company found its widest application in the case of industries of wide international scope with plants and branches located in different countries. The separate incorporation of the foreign plants facilitated the adjustment of corporate activity to the varying legal requirements of the respective countries, while a special holding company retained the stock of all corporate units for purposes of control. Among such holding companies are the Continentale Linoleum Union in Zurich, a strongly monopolistic combination of German, Swiss, Swedish, Dutch and French linoleum producers; Lever Brothers, Anton Jurgens Vereenigde Fabrieken, Van den Bergh's Fabrieken, an almost monopolistic combination of Dutch-English soap and margarine producers, known since 1930 as Unilever, Ltd. There are also numerous holding companies in the Dutch-German artificial silk combine, the Algemeene Kunstzijde Unie N. V., in the great English-Dutch petroleum combine, the Royal Dutch Company, and in many other international concerns.

The use of holding companies in domestic industries is rather limited. In Germany particularly but also in England and in other European countries the rationalization movement seemed to favor merger as the more compact form of business combination. Only the extreme multi-

plication of political boundaries which cut across economic regions prompted the organization of holding companies in enterprises which although predominantly national in scope nevertheless extend their operations beyond the narrow national frontiers. The most significant of such non-monopolistic holding companies are above all in the electrical industry—the Société Financière de Transports et d'Entreprises Industrielles (Sofina), the Bank für Elektrische Unternehmungen, the Gesellschaft für Elektrische Unternehmungen, Motor-Columbus A.-G. für Elektrische Unternehmungen (Brown-Boveri), the Schweizerische Gesellschaft für Elektrische Industrie (Siemens-Halske), Société Internationale d'Énergie Hydro-Électrique (Sidro) and others.

The holding company is of some significance in the utilization of patents. In order to exploit patents on an international scale special companies must be formed in various countries, the stock of which is for the most part transferred to the patent utilization companies which in this way become holding companies. Such companies favor having their domicile in countries of pronounced neutral character like Switzerland and Holland.

Many holding companies, particularly the international, are at the same time finance companies; that is, they supply a large part of the capital requirements of subsidiary enterprises. The disproportionate international distribution of wealth which was brought about during and after the World War furthered the use of holding companies, particularly in the international field, as a convenient form of control of foreign enterprises. The holding company thus quickened the pace of capitalistic interpenetration. The development of holding companies into finance companies is especially clear in the Swedish match combine (Kreuger and Toll A. B., International Match Corporation and others) which went into liquidation in 1932 following the suicide of its guiding spirit, Ivar Kreuger. Despite the ownership of about 250 match factories in forty-three countries it had more of a financial than an industrial character. It received in numerous countries a monopoly of the manufacture or sale of matches in return for loans to the government, which are in the final count responsible for its collapse.

The pure holding company is perfectly free in the choice of domicile and prefers the country in which legislation and taxation are most favorable. Some of the Swiss cantons and recently the

grand duchy of Luxemburg and the principality of Liechtenstein have the same significance for European holding companies that New Jersey and Delaware have in the United States. Switzerland was a particularly popular choice of domicile in the post-war era, partly because it provided neutral ground for resuming the threads of international combination which were torn during the World War, and partly because of its political and monetary stability, which was particularly attractive to investors from countries with a depreciating currency. Liechtenstein and Luxemburg especially facilitated the forming of holding companies by liberal legislation in 1928-29. In Liechtenstein the Standard Oil has formed the International Company of Vaduz, which combines all its European shipping interests. Liechtenstein is also the home of the International Hydrogenation Patents Company, the joint patent utilization company of the I. G. Farbenindustrie, the Standard Oil Company of New Jersey, the Royal Dutch Company and Imperial Chemical Industries, Ltd. The principality and some Swiss cantons permit such companies to make special agreements with the tax authorities with a view to eliminating multiple taxation. The generosity of these states toward holding companies makes it more difficult for the other states to regulate some of the abuses of which holding companies may be guilty and encourages the use of the holding company as a convenient vehicle for the flight of capital from burdensome regulation and taxation. This may have both a favorable and an unfavorable influence on the international distribution of wealth.

The dangers of the holding company are manifold; it may be used by financiers for speculative purposes or to unload securities which they no longer care to own, or it may be formed for the sole purpose of bringing business to the parent companies. Of more general significance is the fact that holding companies may increase the capital demands in the national economy and thereby increase the disproportion between capital accumulation and consumption—one of the chief causes of crises.

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*See:* COMBINATIONS, INDUSTRIAL; CORPORATION; CARTEL; TRUSTS; CORPORATION FINANCE; INVESTMENT BANKING; CORPORATION TAXES; GOVERNMENT REGULATION OF INDUSTRY; PUBLIC UTILITIES; INTERSTATE COMMERCE COMMISSION; ELECTRIC POWER; ELECTRICAL MANUFACTURING INDUSTRIES; MONOPOLY; FOREIGN CORPORATIONS; INVESTMENT TRUSTS.

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HOLIDAYS. In every civilization the round of daily work has been interrupted by periods of communal relaxation and repose. The holiday, a closet philosopher might assume, is very simply accounted for by considerations of practical utility: it is due to man's need of at least occasional relief from toil and the harsh conditions of existence. But its origins are not so simple. 'The holiday in most cases does not seem to have begun as a secular institution; its first and original form was the holy day, a time set apart for religious observances of a public and ceremonial character. "The gods," said Plato, "in pity for the toils which our race is born to undergo have appointed holy festivals, by which men alternate rest and labor" (*Laves*, II: 653).

'The festal remission of labor on a holy day is the consequence and not the cause of its observance. The suspension of ordinary activities forms a measure of spiritual protection and propitiation quite as much as the sacrifices, prayers and other religious exercises on such an occasion. To primitive man the holiness which attaches to certain persons, objects and places is sufficiently material to be transmissible and to be capable of affecting with its qualities whatever is done at a particular epoch. In short, a period of time may be sacred, as well as a divine chief or king, an idol, an altar or a mountain. This notion of the transmissibility of holiness might seem of itself to provide a sufficient reason for not working on a holy day: the power that blesses can also blast. In practise, however, it mingles quite inextricably with the opposite although related conception that what is holy can be contaminated by contact with the secular and the profane. Furthermore, when holy days are consecrated to divinities or to semidivine

beings, who are then believed to be present among their worshipers, the notion easily arises that a god is pleased and flattered by the enforced idleness of his devotees. Abstinence from work takes its place among other rites as a recognized means of expressing reverence for the god; while, conversely, to labor on his holy day implies a disrespectful attitude toward him. "Sacred holidays, and holidays generally," writes Thorstein Veblen, "are of the nature of a tribute levied on the body of the people. The tribute is paid in vicarious leisure, and the honorific effect which emerges is imputed to the person or the fact for whose good repute the holiday has been instituted . . . *Un saint qu'on ne chôme pas* is indeed a saint fallen on evil days" (*The Theory of the Leisure Class*, new ed. New York 1918, p. 310).

Some holy days are feasts, such as those which in the lower cultures mark clan and tribal rites, the beginning or end of the hunting and fishing seasons, the inauguration or close of agricultural operations and certain times of calendrical importance, including new moon and full moon, the solstices and equinoxes and the rising or setting of various constellations, notably the Pleiades. Well defined anniversaries marking important events in the communal life give rise in a further development to festive holy days. There is a general tendency to convert the earlier seasonal observances into those of an anniversary character, as the Hebrews associated Passover, Tabernacles and Pentecost—all originally agricultural feasts—with episodes of their tribal history. Such feasts often form a part of the sacrificial rite: they are religious barbecues. The god is supposed to be satisfied with only a small part of the offering or with merely its material essence; the worshipers are free to gorge themselves on its material substance. As civilization advances, feasts or festivals (which are synonymous terms) generally increase in number, become elaborated ritually and more precisely fixed in the time and order of their celebration. It becomes the business of the priesthood to establish and maintain a calendar of sacred seasons in accordance with the natural divisions of the year. The observance of such holy days moreover contributes directly to the well being and prestige of the sacerdotal order.

Other holy days are fasts, marked not only by the cessation of ordinary activities but also by abstinence from food and drink and from sexual intercourse. At such times public gatherings may be discontinued, settlements closed or quarantined against outsiders, fires and lights

extinguished and songs, dances and loud noises forbidden. Fast days thus become times of almost complete quiescence, in striking contrast to feast days with their dances and processions, their sports, games and merrymakings and their generally Saturnalian aspect. The negative regulations for fast days are really tabus to be assimilated to the other restrictions and prohibitions which form so characteristic a feature of primitive society.

Feast days and fast days are found among the rudest known peoples, even migratory hunting, fishing and herding folk. They are especially characteristic of the agricultural economy, which implies a settled life, a more or less developed form of social organization and government, a definite priesthood and something approaching a calendar system. Many agricultural peoples also have market days, coming at frequent intervals and usually observed by a cessation of labor except that involved in buying and selling. A market day is necessarily more or less of a holiday, affording opportunities for social intercourse, sports and amusements of all sorts. Sometimes it is regarded as unsuitable for farm labor and the ordinary occupations and is hedged about with various restrictions. The development in the direction of Sabbatarianism seems to be largely confined to the African Negroes.

The occasions calling for the imposition of communal tabus are almost innumerable. In general, any time of storm and stress will necessitate the imposition of a season of abstinence and quiescence. Tabu periods are declared therefore because of such unusual and consequently critical events as a conflagration, an epidemic sickness or an earthquake; after a death; at the changes of the moon; at the end of the old year and the beginning of the new year; during a time devoted to the banishing of ghosts and demons; and in connection with such important undertakings as the commencement of a war, seed planting and harvest and the celebration of a solemn religious or magical ceremony. One observer, describing this custom among certain tribes of Assam, remarks that there is no end to the reasons for which a *kennie*, or general holiday, might be declared; and as no work is then done, the Assamese Sabbath seems to be a rather popular institution. On the other hand, the Sabbatarian regulations in old Hawaii had little of a holiday character. At such times a general gloom and silence pervaded the whole district or island. Every fire and light was extinguished; canoes were not launched; no person



bathed; and no one was to be seen out of doors except those whose presence was required at the temple. Even the lower creation felt the rigor of the law: the mouths of dogs and pigs were tied up and fowls were put under a calabash or had a piece of cloth fastened over their eyes in order that no unseemly sound might disturb the silence of the holy day. It is quite significant that the strict Sunday laws which the first missionaries introduced into the Hawaiian Islands met no opposition on the part of the natives. Sunday seemed very familiar to them; they even called it *la tabu*, the tabued day. All the regulations for the observance of tabu periods, however vexatious and burdensome, are cheerfully and gladly borne. They represent a kind of folk technique which has been adopted for the avoidance of possible pollution and for the propitiation of spiritual "power" or "powers." The consciousness that all precautions have been taken is itself invigorating; the community goes forward henceforth with renewed strength and confidence to the tasks which lie before it.

No clear line of demarcation can be drawn between these *tabu* periods and the unlucky periods so commonly found among peoples of archaic culture and still surviving, although often in attenuated form, in modern civilized lands. Both involve ideas of contagion, the danger or pollution which attaches to the former being regarded as scarcely less transmissible than the vaguer "unluckiness" which belongs to certain times and seasons and affects everything done during their continuance. The same precautions and prohibitions characterize them: not to work; not to travel; not to buy and sell; not to use fire and lights; not to make loud noises; not to indulge in food or in sexual intercourse -- all the familiar tabus. Unlucky periods are often institutionalized; that is, are taken up into the social framework, dedicated to the gods and made of general religious obligation. It is along these lines that one must seek the origin of many Sabbatarian observances. The ancient Babylonians kept every seventh day of the lunar month as an "evil day," in addition to the nineteenth day, which was regarded as seven times the seventh day (i.e. the forty-ninth day from the first of the preceding month). These were occasions for fasting, cessation of business and other forms of abstinence. The Hebrews seem to have held their Sabbaths at new moon and full moon long before the introduction of the weekly Sabbath on the seventh day. The Pentateuchal codes contain abundant evidence that in both its ear-

lier and its later form the Sabbath was invested with prohibitions which can only be interpreted as tabus. The time came when the exaggerations of Pharisaic Judaism led to the enumeration of no less than thirty-nine classes of prohibited actions on the holy day. Primitive Christians for a time continued to observe the Sabbath; this practise met the unqualified condemnation of St. Paul and of the early church fathers and ultimately disappeared. Sunday, or to use its ecclesiastical designation, the Lord's Day, was not at first a time of restrictions and prohibitions; but from the fourth century onward the view that the Christian Lord's Day was but the Jewish Sabbath transferred from the seventh to the first day of the week found occasional expression in both the law and the theology of the Middle Ages, culminating in the Sabbatarian excesses of English and Scottish Puritanism. The Buddhist *Uposatha*, which usually falls on the days of the new moon and the full moon and on the two days which are the eighth from the new moon and from the full moon, is marked by fasting and continence and in many cases by the suspension of both public and private business. The *Uposatha* was one of the earliest institutions of Buddhism; in its origin it owed nothing to Jewish or Christian influence; and its diffusion throughout southeastern Asia seems to have been unaffected by the influence of Islam. The Arabs themselves, who adopted the seven-day week from Jews and Christians, presumably at the time of their conversion to Islam, observe *al Jum'a*, "the meeting" (for worship), on Friday. According to Mohammed's injunction the faithful are to attend the mosques on this day. Labor is suspended during the service; but at its close secular vocations, including marketing, are resumed. The Moslem Day of Assembly is therefore not a holiday, nor is it characterized by restrictions and prohibitions. In the new Turkey of Mustafa Kemal, however, the day is now kept very much as the so-called continental Sunday in Europe, and possibly this reform will be introduced into other eastern lands.

The religious element in feasts and fasts becomes with the passage of time less and less pronounced: what began as a holy day ends as a holiday. This applies particularly to seasonal festivals, but even those of an anniversary character will lose their religious significance as the events commemorated by them recede into the distant past. Sometimes the holy day disappears altogether. The Protestant Reformation, where

it succeeded, abolished the majority of Roman Catholic saints' days, and the Russian Revolution has done the same with those observed by the Orthodox church. An industrialized world must, however, make some compulsory provision for social relaxation, so that Sunday legislation and the regulation of work periods and hours of labor seem likely to appear more and more on the agenda of the paternalistic state.

HUTTON WEBSTER

See: RELIGION; CULTS; FESTIVALS; FASTING; CALENDAR; RITUAL; CEREMONY; HOLY PLACES; BLUE LAWS; TABU; AMUSEMENTS, PUBLIC; HOURS OF LABOR.

Consult: McCurdy, R. M., *A Bibliography of Articles Relating to Holidays*, ed. by E. M. Coulter (2nd ed. Boston 1907); Webster, Hutton, *Rest Days: a Study in Early Law and Morality* (New York 1916); Sumner, W. G., and Keller, A. G., *The Science of Society*, 4 vols. (New Haven 1927-28) vol. ii, p. 875-78, 1112-13; Meinhold, H., *Sabbat und Sonntag* (Leipzig 1909).

HOLLAND, HENRY SCOTT (1847-1918), English reformer. Holland was an influential force in converting the leaders of the Church of England to the belief that a social question existed and that Christianity has a message for corporate life as well as for the individual soul. He was a leading member of the group of English clergy who in *Lux mundi* (ed. by Charles Gore, London 1889) carried the Christian apologetic to a new stage: they ceased to stand on the defensive against modern thought and found there a vehicle for Christian and specifically for Anglo-Catholic doctrine. He was canon of St. Paul's from 1884 to 1910 and regius professor of divinity at Oxford from 1910 until his death. Holland carried on his social reform work through the Christian Social Union, of which he was one of the founders, and the *Commonwealth*, a monthly magazine which he established and edited. He was active in interpreting the church and the labor movement to one another. Liberal rather than collectivist in his convictions, Holland never identified himself with socialism; for this very reason he was the better able to induce conservative church opinion to consider social idealism and social reform. He contributed much to the development of the friendly relations which prevail between church and labor in England in contrast to the enmity on the continent.

RUTH KENYON

Consult: *Memoir and Letters*, ed. by Stephen Paget (2nd ed. London 1921); *Henry Scott Holland, Some Appreciations*, ed. by Christopher Cheshire (London 1919).

HOLLAND, SIR THOMAS ERSKINE (1835-1926), English jurist. Holland held the chair of international law at the University of Oxford from 1874 to 1910. His most important work is his *Elements of Jurisprudence* (Oxford 1880, 13th ed. 1924), perhaps the best exposition of the doctrines of the English school of analytical jurisprudence founded by Austin, to whose work, however, it is superior in clarity and consistency. It attempts to construct a formal science of positive law based, as Holland said, on "those comparatively few and simple ideas which underlie the infinite variety of legal rules." Its weakness lies not in the execution of the design but in the conception, for the political and legal phenomena which the book analyzes are probably less simple than Holland supposed. The book has been influential in sustaining the Austinian tradition. In international law Holland did valuable work in editing three classics of historical importance, the *De jure belli* of Gentili, the *Jus et judicium feciale* of Zouche and the *Tractatus de bello, de reprisaliis, et de duello* of Legnano. He was also a publicist in international law, and his exposition of a complicated question or his criticism of an official policy was often influential in guiding public opinion; but, as in his juristic theorizing, he had a tendency to give his conclusions too great an air of finality.

J. L. BRIERLY

Consult: Holland, T. E., *A Valedictory Retrospect* (Oxford 1910); Holdsworth, W. S., in *Proceedings of the British Academy*, vol. xii (1926) 317-26; Higgins, A. P., and Brierly, J. L., in *Law Quarterly Review*, vol. xlii (1926) 471-77.

HOLST, HERMANN EDUARD VON (1841-1904), German-American historian. Von Holst was born in Russia of German parentage but soon after taking his degree at Heidelberg came to America and began a study of American institutions. Returning to Germany in 1872 he entered upon his academic career, which took him first to Strasbourg, soon afterward to Freiburg and finally in 1892 to the University of Chicago. His monumental series, usually referred to as *The Constitutional and Political History of the United States*, was written originally in German and with the appearance of the successive volumes was translated into English. Although state sovereignty and the movements threatening disintegration of the union receive critical attention, Holst made no attempt to present a systematic study of either constitutional development or democracy. His sympa-

thies were engaged in the struggle for national integrity and extirpation of slavery. He entered the lists as a combatant for the right as he conceived the right to be; with learning, ability and toil he championed a moral cause. His pages are heavily documented; although no slave of inhibiting objectivity he does not indulge in mere diatribe. For an understanding of his work it is necessary to remember his inborn hatred of Russian autocracy and his associations with Germany and German historians during the twenty years of his active productive scholarship. As a liberal, deeply interested in the integration of the German nation, he found in America a theme worthy of devoted attention. Von Holst's next most important work was his *John C. Calhoun* (Boston 1882), an able and not unfair presentation of the life of a man whose doctrines the author particularly condemned. He also wrote *The French Revolution Tested by Mirabeau's Career* (2 vols., Chicago 1894), *John Brown* (Boston 1888) and *Das Staatsrecht der Vereinigten Staaten von Amerika* (Freiburg i.Br. 1885, tr. by A. B. Mason, Chicago 1887).

A. C. McLAUGHLIN

Consult: University of Chicago, *University Record*, vol. viii (1903-04) 153-70.

**HOLSTEIN, FRIEDRICH VON** (1837-1909), German statesman. After a diplomatic apprenticeship of eighteen years, during which he served as a trusted lieutenant in forwarding Bismarck's foreign policy, Holstein in 1878 was appointed ministerial counselor. Although his titular rank was repeatedly raised, he continued to act in this capacity until his retirement from public office in 1906. Virtually unknown to the public, Holstein dominated German foreign policy for a decade and a half. Endowed with an extraordinary capacity for work and an uncontrollable hunger for power but shrinking from responsibility in public, he came to display in the secretive conduct of his office an almost pathological suspiciousness and obstinacy. But he was able by reason of his shrewd and expert knowledge to play his eccentric role, until during the first Moroccan crisis in 1905 Maximilian Harden's exposure of his dangerous intrigues resulted in his dismissal during Bülow's illness. Although he obtained his position as an adherent of Prince Bismarck and was a friend of the latter's son Herbert, Holstein played a large part in the chancellor's fall. In addition to personal reasons for so doing the question of the renewal or lapse of the so-called reinsurance treaty with

Russia was of considerable significance. It is primarily due to Holstein that at that time (1890) Germany abandoned its friendly alignment with Russia, which then finally turned toward France. He was an active exponent of the "new course" and of the "policy of the free hand," and although he had some measure of success in this endeavor to obtain overseas possessions he manoeuvred Germany into a position of perilous isolation. While recent research has proved that Holstein was not the chief cause for the failure of the Anglo-German alliance negotiations at the turn of the century, the unfavorable consequences for Germany of the Moroccan crisis in 1905-06 were due to the contradiction between Holstein's policy of readiness for bellicose conflict and the pacific disposition of the emperor William.

PAUL HERRÉ

Consult: Dietz, H., in *Biographisches Jahrbuch und deutscher Nekrolog*, vol. xiv (Berlin 1912) p. 304-13; Harden, Maximilian, *Köpfe*, 4 vols. (Berlin 1910-24) vol. i, p. 89-145; Trotha, F. von, *Fritz von Holstein als Mensch und Politiker* (Berlin 1931); Rosen, F., *Aus einem diplomatischen Wanderleben* (Berlin 1931); Gooch, G. P., "Baron von Holstein" in his *Studies in Modern History* (London 1931) p. 1-116; Fay, Sidney, *The Origins of the World War*, 2 vols. (2nd ed. New York 1930).

**HOLT, SIR JOHN** (1642-1710), lord chief justice of the King's Bench. His childhood witnessed the passing of legislative power to Parliament and his careless youth coincided with a period of radical legislative change, including the abolition of military tenure. In the year of the Restoration he entered Gray's Inn. When called to the bar three years later he found the political intrigues of the day reflected in a disgraceful series of state trials and he became a conspicuous counselor of defendants. Appointed to the recordership of London in 1686 he lost it for resisting the royal view of military law. In the Convention Parliament he advocated the use of the word abdication instead of the milder desertion with reference to the king's conduct. Shortly thereafter he was elevated to the chief justiceship, and he held the office almost until his death.

As chief justice Holt did a great deal to infuse a new spirit into criminal procedures. He distinguished himself by impartiality in state cases, kindness to prisoners (in contrast with his notorious predecessors), bravery in facing both the populace and the military authorities in scenes of disorder, enlightenment in ending the witch-

craft prosecutions and most of all quiet dignity in defying both houses of Parliament when they sought to interfere with the judicial prerogative in election and peerage cases.

Holt's influence was even more profound upon English commercial law. In his day commerce had passed into the hands of ordinary Englishmen and special courts for mercantile law had declined. He met the situation by taking judicial notice of the law merchant as part of the *jus gentium*. To one who claimed exemption from it as a gentleman he replied that whoever draws a bill becomes a trader. Yet he resisted the dictation of Lombard Street: a statute was required to place promissory notes on the basis of bills of exchange. His remarkable dictum in *Coggs v. Bernard* (2 Ld. Raym. 909), a veritable treatise on bailments, takes its nomenclature from Roman law but its substance comes from the fruitful English doctrine of implied contract. In other cases he laid the foundation for the master's liability for servants' acts.

NATHAN ISAACS

*Consult:* Welsby, W. N., *Lives of Eminent English Judges of the Seventeenth and Eighteenth Centuries* (London 1846) p. 90-134; Campbell, John, *The Lives of the Chief Justices of England*, 4 vols. (3rd ed. London 1874) vol. ii, chs. xxiii-xxiv, vol. iii, ch. xxv; Birkenhead, F. E. S., *Fourteen English Judges* (London 1926) p. 90-120; Holdsworth, W. S., *A History of English Law*, 9 vols. (3rd ed. London 1922-26) vol. vi, p. 264-72, 516-22; Cranch, William, "Promissory Notes before and after Lord Holt" in *Association of American Law Schools, Select Essays in Anglo-American Legal History*, 3 vols. (Boston 1907-09) vol. iii, p. 72-97.

HOLTZENDORFF, FRANZ VON (1829-89), German jurist and publicist. Holtzendorff was professor at Berlin and later at Munich, but he was no dry pedant; on the other hand, throughout his extraordinarily varied and active participation in public affairs he always remained the man of science. A middle class liberal of the old idealistic type, he nevertheless exhibited strong social tendencies. As a liberal Protestant he resisted the orthodox tendencies of Wichern and worked in the Protestantverein. Although an adherent of Bismarck he opposed the latter in his controversy with Count Arnim in 1874. Holtzendorff as a jurist contributed to penal law, penology, international law and political science. In these fields he organized what was then a new form of juristic literature, a series of handbooks of great value issued under his direction. Holtzendorff always stood for progress. As a penologist he was against the death penalty; as early as 1859 he demanded the intro-

duction of the progressive Irish penal system now adopted almost everywhere; he also fought against the subordination of the public prosecutor to the Ministry of Justice. As an internationalist he worked for a world community and the cooperation of the peoples; he thus won many friends, among them Lieber, Cobden, Rivier, Jacquemys, Carrara and Mancini. He brought many foreign developments to the knowledge of German readers and translated many foreign works. He had great success as a social reformer in his campaigns for popular education, the care of the poor and the improvement of the position of women. To further popular education he published with Virchow the *Sammlung gemeinverständlicher wissenschaftlicher Vorträge* (1866-1901), with Oncken the *Deutsche Zeit- und Streitfragen* (1872-93). In political science he was interested particularly in the problem of public opinion. Holtzendorff was a brilliant orator and he proved a great stimulating force. A man of high moral and intellectual qualities, he worked for his aims with untiring energy and laid many of the foundations for future progress.

WOLFGANG MITTERMAIER

*Important works:* *Die Deportation als Strafmittel in alter und neuer Zeit* (Leipzig 1859); *Das irische Gefängnisystem* (Leipzig 1859); *Französische Rechtszustände* (Leipzig 1859); *Die Reform der Staatsanwaltschaft in Deutschland* (Berlin 1864); *Die Principien der Politik* (Berlin 1869, 2nd ed. 1879); *Wesen und Wert der öffentlichen Meinung* (Munich 1879, 2nd ed. 1880); *Das Verbrechen des Mordes und die Todesstrafe* (Berlin 1875); "Die Auslieferung der Verbrecher und das Asylrecht," and "Die Idee des ewigen Völkerfriedens" in *Sammlung gemeinverständlicher wissenschaftlicher Vorträge*, ser. xvi (Berlin 1881) p. 177-247, and ser. xvii (Berlin 1882) p. 669-740. The encyclopedia and handbooks edited by Holtzendorff are as follows: *Encyclopädie der Rechtswissenschaft*, 2 vols. (Leipzig 1870-71; 7th ed., 5 vols., Munich 1913-15); *Handbuch des deutschen Strafrechts*, 4 vols. (Berlin 1871-77); *Handbuch des deutschen Strafprozessrechts*, 2 vols. (Berlin 1877-79); *Handbuch des Völkerrechts*, 4 vols. (Berlin 1885-89); *Handbuch des Gefängniswesens*, 2 vols. (Hamburg 1888).

*Consult:* Teichmann, A., in the *Allgemeine deutsche Biographie*, vol. lv (Leipzig 1910) p. 785-801, and literature there cited.

HOLY ALLIANCE. The Holy Alliance was a name popularly applied to the attempt to organize a new system of international relations at the close of the Napoleonic wars. It was really applicable only to one part of the whole and that not the most important, but the adoption of the phrase by historians who never investigated the facts has perpetuated the misunderstanding.

The system of the alliances set up by treaties and other documents in 1814-15 can in fact be divided into six different conceptions.

The Quadruple Alliance was made between the four great powers who led the coalition against France—Britain, Russia, Austria and Prussia. First signed at Chaumont on March 1, 1814, it was revived at Vienna on March 25, 1815, after the return of Napoleon and finally reconstituted at Paris on November 20, 1815. Initiated by the British foreign minister, Castlereagh (*q.v.*), it bound the four powers together in mutual support, with specific numbers of troops, against French aggression if France should violate the new frontier just set up at Paris. Moreover, it would come into force if Napoleon or any of his family should ascend the throne of France, since French aggression was considered certain to be the result of such an event. A third possibility was that of using the alliance should a revolution break out in France. This treaty was reaffirmed at the Conference of Aix-la-Chapelle in 1818 after the army of occupation had been removed from France and as late as 1840 was not without influence on international events.

In 1804-05 in negotiations between Britain and Russia proposals were made to guarantee all the frontiers of Europe by the armed force of all the European states. This scheme was also proposed by Castlereagh at the Congress of Vienna in February, 1815. Accepted in principle by Alexander I of Russia, it failed to come into force not only because of a proposal to include the Ottoman dominions but also because of the return of Napoleon from Elba. Subsequently Britain opposed it at the second peace of Paris, but the idea was revived in a modified form by Prussia at the Conference of Aix-la-Chapelle in 1818 and again rejected by British influence. On other occasions in the nineteenth century the proposal recurred but was never accepted.

A third category was that connected with proposals for alliance as a protection against revolution. In the treaty of November 20, 1815, it was laid down that if a revolution should break out in France the four powers would meet together to consider whether action was necessary.

The czar wished to guarantee Louis XVIII and his family on the throne of France, but Britain could not sign such a treaty: even in 1792-93 it had refused to fight the French Revolution as such. But the continental autocrats later wished to develop this aspect of the alliance. At

Aix-la-Chapelle the czar proposed a treaty guaranteeing all the thrones and frontiers of Europe. Castlereagh easily prevented the acceptance of this project and also the interference of the alliance when the Spanish revolution broke out in January, 1820. But after the Neapolitan revolution of July, 1820, Metternich, the Austrian chancellor, went over to Alexander's point of view, and at the conferences of Troppau and Laibach in 1820 and 1821 the three eastern powers affirmed that the alliance had the right to put down revolutions. Castlereagh protested both privately and publicly on January 19, 1821, against this unwarrantable extension of the treaty. But the revolutions of Naples and Piedmont were repressed by Austrian forces acting as an agent of the alliance. Subsequently, after the conference at Vienna in 1822, the Spanish revolution was put down by France acting in a similar way. It was these actions which caused liberals to use the term Holy Alliance as one of reproach for the whole system of the alliance, caused Britain under Canning to withdraw from its continental associations and led to the position which the United States took up by the declaration of the Monroe Doctrine after Britain had shown it would not allow the same process to be applied to the South American revolutions.

The most novel part of the whole system was the idea of diplomacy by conference introduced by Castlereagh into the treaty of November, 1815. This was simply an agreement by the four powers that the principal sovereigns and statesmen should meet together at intervals to discuss international problems. Castlereagh obtained the idea as a result of the experience of 1814-15, when the sovereigns and statesmen constituted a supreme council to manage the war against Napoleon; Castlereagh represented Britain on this council from January, 1814. The most notable application of the idea was at the Conference of Aix-la-Chapelle, which terminated the occupation of France and finally settled the question of reparations. By a

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This protocol was referred to later in  
tenth century in connection with later

sadorial conferences but was often disregarded. As has been seen, the system of diplomacy by conference had been used by the eastern powers to repress the revolutions in southern Europe and was thus discredited; Castlereagh hoped to restore it by his presence at the Conference of Verona in 1822, the last of the conferences, but his suicide resulted in the prevalence of reactionary doctrines there and Britain's withdrawal meant the end of the system. Without Britain's mediating influence the continental powers soon became estranged and the meetings ceased, except for an abortive conference at St. Petersburg to discuss the Greek revolution in 1825, at which Britain refused to be represented. The importance of Castlereagh's scheme was thus obscured by the use to which it was put, and he failed to win public opinion for its support. The smaller powers were suspicious of it as they had no place in it, and it was difficult to carry out systematically with the means of communication and transport then available. It was, however, the first attempt to organize a system which, it has since been recognized, is indispensable to the conduct of international relations.

There were also set up in 1815 ambassadorial conferences of the great powers at Paris, London and Frankfurt. Of these that at Paris, which dealt with the post-war problems of France, such as the army of occupation and reparations, was the most important, being a kind of subordinate executive of the Quadruple Alliance. Other problems were also referred to it for settlement. But after 1818 Britain insisted it should be dissolved and later attempts by the continental powers to revive it between 1823 and 1825 failed. The London Conference designed to organize the abolition of the slave trade and that at Frankfurt for German problems were even more temporary. These conferences may, however, be considered as the models of the many special ambassadorial conferences of the nineteenth century, which were later often considered as an expression of the Concert of Europe.

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conference that

the Holy Alliance was entirely during this year dation to such d. He had for on with dev-

faithful to the Greek Orthodox church; one of the votaries of the former sect, Madame de Krüdener, gained access to him after the return of Napoleon and for a short period had a considerable influence over him. Although he claimed that it was inspired by Castlereagh's proposal at Vienna for a general territorial guaranty, the treaty was no more than a promise by the sovereigns who signed it to act toward one another and toward their subjects in accordance with the Christian faith. As such it was entirely harmless, since there was no definition of such conduct and no penalties or sanctions were laid down. All the sovereigns of Europe except three therefore eventually signed it. The prince regent, later George IV, could not do so for constitutional reasons, although he sent a letter intimating his agreement; the pope could not sign for religious reasons, nor could the sultan because he was not a Christian. When it was published in 1816 this last fact made some insist that it was part of a Russian design against the Turk, but there is no foundation for the suspicion. The importance of the treaty lies in the fact that its unusual and dramatic character caused the Holy Alliance, as has been pointed out, to be used as a term for the other more practical proposals. Alexander himself always attached the greatest importance to it, and even made some effort to associate the republics of Switzerland and the United States with it. But its influence died with him, although the term Holy Alliance was in the 1830's applied to the association of the three eastern autocrats in opposition to the more democratic western powers of Europe.

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See: INTERNATIONAL RELATIONS; INTERNATIONAL ORGANIZATION; DIPLOMACY; ALLIANCE; CONCERT OF POWERS.

Consult: Nicolas Mikhaïlovitch, Grand Duke, *L'empereur Alexandre 1<sup>er</sup>*, 2 vols. (St. Petersburg 1912); Phillips, W. Alison, *The Confederation of Europe, a Study of the European Alliance 1813-1823* (2nd ed. London 1920); Webster, C. K., *The European Alliance 1815-1825* (Calcutta 1929), and *The Foreign Policy of Castlereagh 1812-1815* (London 1931), and *The Foreign Policy of Castlereagh 1815-1822* (London 1925); Temperley, H. W. V., *The Foreign Policy of Canning 1822-1827* (London 1925); Näf, Werner, *Zur Geschichte der Heiligen Allianz* (Berne 1928).

HOLY PLACES. The Romans drew a distinction between *loci sacra*, or places made over to religious use by an act of dedication, and *loci religiosi*, or sites affected by tabus in conse-

many instances the two coincide. The events of religious tradition are usually commemorated by shrines, temples or churches on the spots where they are supposed to have taken place. Catholic churches were until recent times not regarded as adequately consecrated unless they could point to the possession of the body of a saint or a holy relic or to some tradition, miraculous vision or theophany hallowing the place on which they were erected. Similarly, sacred or tabued sites where magico-religious rites were held abounded in primitive cultures. The selection of the locality was often accounted for by some aetiological myth.

Certain spots may be regarded with special awe as being the haunts of supernatural beings—the ghosts of the departed or the spirits of the unborn. Burial places and sepulchers are thus commonly hallowed, and many holy places derive their sanctity from the circumstance that they are held to be tombs of powerful personages: heroes, saints or gods. Among the Bushmen, for instance, mounds of stones erected throughout the country were given out to be the tombs of *Heitsi-sibih*, a supernatural being who was believed to suffer a monthly death and to rise again after the third day of the interlunar period. Similarly, ancient Egypt possessed several tombs of Osiris. Greece and western Asia abounded in similar holy sepulchers. In the Delphic shrine was the tomb of Dionysus, regarded as the omphalos, or center, of the world; in Crete the sepulcher of Zeus, at Tyre the sepulcher of Dagon.

The locality of sacred places is often determined by natural features. Caves and grottoes have been almost universally regarded as sacred. The painted caves of the Magdalenian period in northern Spain and southern France, the caves of Zeus in Crete, the countless oracular caves of Greece and southern Italy, the holy cave of Delos—the mythical site of the nativity of Apollo—the grotto of Pan on the Athenian Acropolis, the grottoes of Adonis or Tammuz in Cyprus and Syria, illustrate the widespread prevalence of sacred caves. Sacred springs, lakes and rivers are no less abundant, as are likewise consecrated groves. Mountain tops have commonly been regarded, notably in western Asia and Europe, as the dwelling places of the gods and have been the natural sites of sanctuaries. On the alluvial plains of Mesopotamia the earliest temples constructed on a monumental scale, the Sumerian and Babylonian *zikkurats*, were probably designed to represent the hilltops, or

"high places," on which the ancestors of immigrants from Elam and Iran had been wont to celebrate their rites.

The sacred enclosure, or *hima*, corresponding with the Greek *temenos*, was among the early Semites marked off by erect stones or pillars. Access to the sacred ground is usually restricted by certain qualifications. Sometimes, as in the case of the Polynesian *marai*, the precinct is forbidden to women, while at other times, as in many African and ancient Greek agricultural cults and the Roman rites of *Bona Dea*, it is forbidden to men. Entrance to the sacred precinct requires that certain conditions necessary to the state of ritual purity shall have been complied with, so that the visitor may not incur the wrath of the god.

The Babylonian high places, protected by a fortified enclosure where people and cattle might seek safety in the event of raids and attacks, constituted cities of refuge and formed the nuclei of cities. Temples and sacred places have in like manner frequently determined the sites of towns, which have grown around the sanctuaries. While the god is held to afford protection against the attacks of enemies, he is also deemed to assume responsibility for the fugitive or criminal who seeks refuge in the sanctuary. The resulting right of asylum, although it doubtless prevented hasty retribution, at all times led to abuses which caused it to be disregarded. It was abolished in Rome by an edict of the emperor *Tiberius* except in the temples of Juno and of *Aesculapius*. Under Constantine and *Theodosius* the right of sanctuary was bestowed upon all Christian churches and their dependent buildings. The right was greatly abused throughout the Middle Ages and was abolished in England in the sixteenth century.

The sacred character of holy places commonly outlasts the cults and religions under whose auspices they have been dedicated. Thus the cave of Adonis at Bethlehem became transferred to Christian use as the grotto of the Nativity. The Vatican, or hill of divination, at Rome, where in early times omens were interpreted by the college of pontiffs, was in late imperial days consecrated to the cult of *Mithras* and became at length the see of the supreme pontiff of the Catholic church. The Celtic shrine of *Lugh* became during the Roman occupation of Britain a temple of *Diana* and later *St. Paul's Cathedral*. The ancient Arabian sanctuary of the *Caaba* at Mecca was retained by Islam as the most holy place of the new religion. Greek, Roman and

Celtic temples have been transformed into Christian churches; in Spain mosques have become Catholic cathedrals and conversely Christian churches, such as St. Sophia in Constantinople, have been transformed into mosques.

The lucrative value of holy places has led from earliest times to competition between rival sanctuaries. The interests of the priests of the old Jebusite sanctuary of Jerusalem and their jealousy of the numerous shrines which diverted sacrifices, tithes and first fruits doubtless motivated the destruction of rival places of worship throughout Israel and Judea, especially under the leadership of King Josiah. The dispensing of special graces and indulgences to the worshiper at prescribed shrines led, with the territorial expansion of institutionalized religions, to the development of pilgrimages which became the source of enormous traffic and local wealth. The Arabian hadj, or holy pilgrimage, is a primitive Semitic institution much older than Islam. In India numerous holy places are the objectives of pilgrims, who gather from distant parts of the country. The chief of these is the holy city of Benares, to which both Hindu and Buddhist resort in order to bathe from the numerous ghats, or holy stairs, in the waters of the Ganges. Buddhists congregate in addition in the holy places of Kapilavastu, Gaya and Kusinara, associated by tradition respectively with the birth, vocation and death of Gotama Sakyamuni. During the Middle Ages in Europe pilgrimages to reputed shrines assumed enormous proportions. In England the most popular resorts were Glastonbury, an important Celtic holy site converted to Christian use, and the see of Canterbury, sanctified by the martyrdom of Thomas à Becket. The holy well of St. Winifred in Flintshire and Lough Derg, or St. Patrick's Purgatory, in Donegal, were also ancient pagan holy places which, some complained, were shamefully exploited by the local religious houses. So likewise was the holy grotto of Chartres in France, where an ancient Celtic wooden statue of a goddess bearing the holy infant in her arms had become a miraculous Madonna. The shrine of Santiago of Compostela in Spain, where according to a priest's vision, the body of the apostle James was buried, drew from the twelfth to the eighteenth century enormous crowds of pilgrims from every part of Europe. In Italy the holy house of Loreto, the reputed home of the Virgin miraculously transported from Palestine, and the shrine of St. Anthony at Padua were the most popular. The Holy Roman See spared no effort to draw the

devotion of the faithful, divided among so many shrines, to Rome as the capital of Christendom. The popularity of the pilgrimage to Rome reached its height with the jubilee of Pope Boniface VIII in the year 1300.

Since the time of Constantine pilgrims have flocked to Palestine to worship at the traditional spots where the events of sacred history were reputed to have taken place. The house of Dives and the spot where the beggar Lazarus had stood, the home to which the prodigal son returned, the well where Christ had spoken to the Samaritan woman, the scene of the assumption of the Virgin and her tomb were all designated. Place names mentioned in the Gospel narrative, such as Golgotha, Gethsemane, Nazareth, which baffle the researches of the historical geographer, were assigned to gratify the pious curiosity of devout visitors. After the conquest of Palestine by Islam the Greek priests and monks remained for the most part undisturbed, and Christian pilgrims continued to flock in ever increasing numbers to the Holy Land, unmolested by the Arab authorities. The Catholic church used the popular eagerness to visit the holy sites of Christian tradition as a means of combating the power of Islam, which had threatened to overwhelm Christendom during the Dark Ages. The crusades were moved with the overt object of liberating the holy places of the Christian religion from Arab domination. The long and disastrous struggle led for a period to the establishment of the Latin kingdom of Jerusalem. The French, who had borne the chief part in the conflict and had provided the new rulers, retained, after the fall of the kingdom, a recognized right of jurisdiction over European pilgrims, which continued to be exercised and acknowledged when Palestine passed under Turkish rule. That traditionally established right constituted the basis of the Capitulations, which were first officially established under that name by the accord concluded in 1535 between King Francis I and Sultan Suleyman II. Similar agreements bestowing upon European governments the right of jurisdiction over their nationals and over the religious foundations established by them in Palestine were obtained by England in 1583, by Spain in 1782 and by Russia in 1783. The favored position of France as chief protector of the religious houses in the Near East was confirmed in 1740 by the treaty of Belgrade.

Under Turkish rule the difficult task of maintaining order among the various denominations claiming a share of the holy places in Palestine



was carried out with impartial tolerance. The various European governments, however, lost no opportunity of using the professed religious interests to further their political ends. The disputes and friction between the Orthodox Greek church, the Armenian church and the various Protestant bodies were bitter and prolonged and the Turkish authorities were frequently called upon to intervene to restrain the mobs of pilgrims of various denominations from bloody conflict. The Greek Orthodox priesthood enjoyed in most instances the right of first possession and had in its keeping the key to the Holy Sepulcher. Difficulties arising out of Catholic claims to right of way were resolved at the Church of the Holy Nativity by the construction of subterranean passages and chapels under the Greek construction. The ancient claims of France to supreme jurisdiction over the Christian foundations in the East, reasserted by Emperor Louis Napoleon as against Czar Nicholas' claim to independent protectorate over the Greek church, served as a pretext for the Crimean War. Russia continued until the last days of czarism to send pilgrims by the thousand to the holy places and repeatedly strove to enlarge its sphere of influence and to make its protectorate over the Orthodox bodies paramount. The huge Russian church, surrounded by countless buildings and dominating Jerusalem, formed a veritable fortress so threatening in character that it was at once dismantled by the Turks on the outbreak of war in 1914. The British mandate and the Balfour Declaration of 1917 giving sanction to the claims of the Zionists added a new source of religious and political conflict. The struggle over the right of the Jews to worship at the Wailing Wall at Jerusalem has been made an issue by Moslem religious leaders. They led the Arab population to believe that the Jews aimed at gaining possession of the Mosque of Omar, the site of the ancient temple. The dispute has led to clashes between Arabs and Jews and continues to be a source of acrimonious controversy.

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See: RELIGION; RELIGIOUS INSTITUTIONS; PILGRIM-  
--- HOLIDAYS; SANCTUARY; CAPTIVATIONS.

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HOLY ROMAN EMPIRE. The Holy Roman Empire was the western empire existing either as an effective power or as a formal entity from 800 to 1806. Its prototype was the Christian Roman Empire which had come into existence with the adoption of Christianity as a state religion following the conversion of Constantine. At that time church and empire had become united under the leadership of the emperor to administer the Augustinian kingdom of God. Both institutions prior to their coalescence as well as after were hedged about by a sacred aura of inevitability. The Roman Empire, embracing in fact the entire cultural world, was in theory universal; the pagans believed it to be eternal, an *imperium sine fine* according to the prophecy of Vergil; and after the establishment of the Christian empire St. Augustine identified it as the last of the four world monarchies described in Daniel's dream and the one which was to endure until the coming of Antichrist. The Christian church had more logical, less factitious support for its claims to universality and imperishability.

The barbarian invaders who poured into the Western Roman Empire in the fourth and fifth centuries at first remained under the spell of the Roman tradition. Even after the Western Empire had completely disappeared and its pretensions to universal authority had passed to Constantinople, which lacked the power to enforce them, a king of the Franks accepted the title of consul from the Eastern Empire. By the seventh and eighth centuries, however, the idea of the unity of the world under a Roman Christian em-

peror retained its vitality only within the church. Having preserved in its organization the deep impression of Roman laws and institutions the church was itself to a large extent Roman. The fact that the Eastern Empire was subject to the religious authority of the patriarch of Constantinople and that except in brief interludes it was inimical to the Western church gave impetus to the papal desire for emancipation from the east. In the eighth century there emerged in a process begun by Pepin and consummated by Charlemagne (742-814) a Carolingian kingdom of the Franks, which by virtue of its actual authority over almost all of Europe as well as by its assumption of the guardianship of the Holy See possessed the prerequisites for a revived empire of the west. Neither Pepin nor Charlemagne had any intention of linking himself to the past. But Pope Leo III took advantage of Charlemagne's position to thrust the sacred Roman tradition upon him at the Christmas celebration held at Rome in 800. By this act he liberated the papacy from the specter of the Eastern Empire, proclaiming the end of Byzantine domination in central Italy, and created a new empire of the Romans (not yet in title although it was in fact the Holy Roman Empire) as the palladium of the Western church.

There was now in existence a concrete organization which gave a semblance of reality to the political conceptions evolved by the church in the period when the old Western Empire was vanishing and preserved by it during the intervening centuries of chaos. At the basis of the doctrine was the assumption of one universal faith and of one coextensive political authority; in the same way that one God ruled the world one monarch, so it was inferred, must reign over the world, guaranteeing peace and justice. According to the refinement effected by Pope Gelasius I (d. 496) the relations of church and state were dualistic but interdependent. The universal pontiff held spiritual authority, the universal emperor temporal; but each derived directly from God and supported the other in the exercise of his functions. The papacy constituted the soul and the imperial power the body of the universal organism. This theory sometimes intact, sometimes in a modified form, for long centuries almost forgotten, clung to the Holy Roman Empire throughout its whole extent. No subsequent age, however, translated it into practise to the same degree as Charlemagne. Although he himself ruled the church as an absolute monarch he nevertheless established a harmonious reciproc-

ity between it and his vast empire and was guided by the vision of a "divine state." His system disappeared with the rapid decay of the Carolingian power and the segmentation of the realm after his death, but the tradition he created was a powerful influence in determining the continued existence of the empire.

It was not until 962 that the title of Holy Roman emperor became again vested in an effective monarch, the German king Otto I (912-73). This event signified less a prolongation of Charlemagne's empire than its reestablishment on a modified basis. Otto's claim to the Roman crown arose from his control of the strongest military and political power of his time; his empire held a position of hegemony in Europe because of the superiority of Germany to other powers. But he lacked the actual jurisdiction over Christian Europe which had given reality to Charlemagne's title. The sphere of substantial authority possessed by Otto and his successors included Germany in the vast extent of that time (but at first no farther east than the Elbe-Saale line and Lower Austria), northern and central Italy and after 1032 Burgundy as far south as Arles. They exercised also limited sovereignty over the still uncivilized states on the empire's borders—Denmark, Poland, Bohemia, Moravia and for a time Hungary. Theoretically the emperor remained a world monarch reigning over all kingdoms, the temporal representative of God guaranteeing world peace. In reality the emperor was first of all a German king endowed with the incidental dignity of *romano-imperator augustus*, which he acquired by journeying to Rome for coronation by the pope. With the exception of Otto III (980-1002), who in his almost mystical obsession with the cult of *Roma aeterna* made a utopian attempt to transfer the seat of government from German soil to the nominal capital, Rome, the emperors governed through the German administrative machinery; Burgundy and Italy they left to their feudal vassals—bishops or laymen—resorting to personal interference only on transient occasions. They controlled papal elections and were themselves received into the spiritual hierarchy through ordination as deacon. Not merely in theory but to a certain extent in practise it remained their supreme function to defend the church against heresy and disobedience within and to convert the heathen without. Nevertheless, the intimate union of church and empire had ceased to be a fact. In its place appeared a duality of interest, at first merely implicit because the emperor domi-

inated the pope, but already presaging later rivalry.

The empire endured on the lines marked out by Otto I until the death of Henry III (1017-56). The reign of his successor, Henry IV (1050-1106), marks the beginning of the period of struggles with the papacy. In the first phase of the conflict, known as the investiture conflict (*q.v.*) and lasting from 1075 until the Concordat of Worms in 1122, the reforming papacy under Gregory VII and later popes so far succeeded in reversing its previous position of subservience that it was able to undermine the control of the emperors over the bishops, to assert as a working principle the supremacy of the spiritual power over the temporal and in the first crusade of 1096 to assume the actual leadership of Christianity. The first phase ended, however, with a compromise as to the specific question which had evoked it and with the broader question as to the relation of the two powers still unsettled.

Precisely thirty years after the concordat Frederick Barbarossa (*c.* 1125-90) inaugurated the reign of the Hohenstaufen line, during which the empire rose to its last great height of solid power and self-assertiveness. The revival of Roman law at the time, resurrecting in all its sacredness the traditions of the late Roman Empire and sanctifying the secular state, conferred upon the Hohenstaufens a magnificent dignity which aided them vastly in their struggles against the papacy as well as in their assumption of new prerogatives in affairs of state. "The emperor is a living law upon earth," declares a typical document of 1230; the word *sacrum* became for the first time subjoined to *imperium romanum*. A strong tendency toward increased centralized administration of the imperial territory, not unrelated to the new conception of government currently evolved from the Norman example, manifested itself. The emperor stepped outside his role as German king and with the aid of his officials achieved the complete subjugation of the Italian cities. The evolution of a more rigid feudal law made it possible for the empire not only to reabsorb the German episcopate into its service but to establish a suzerainty over states outside its boundaries—under Henry VI even over Richard the Lion Heart and his Anglo-Norman realm, over oriental kingdoms such as Cyprus and Armenia. As compensation for the loosening of its grip on all the neighboring territories to the north and southeast except Bohemia and Moravia it expanded with the German colonization across the Elbe-Saale line, which pro-

gressively developed after the middle of the twelfth century, as far as East Prussia and Livonia; in 1194 it acquired the rich and culturally advanced kingdom of Sicily and in 1229 the crown of Jerusalem. These concrete gains enabled the Hohenstaufens to revivify the conception of a world monarch and to confront the papacy with the doctrine of the equality of the two God given swords.

Almost as soon as it reached its height the empire began to decline. The initial cause was disunity in Germany growing out of the rise of the Guelph faction and eventuating during the regency following the early death of Henry VI (1165-97) in a Guelph-Hohenstaufen civil war. Frederick II (1194-1250) although he ranks with the great Barbarossa as a powerful personality was compelled to surrender the dominant influence in Germany, which was the mainstay of imperial authority, to the ecclesiastical and lay princes while he struggled with the pope and the Guelph cities in Italy. In the meantime the rising nations outside the empire had seized the opportunity to evince their complete independence of it. Under Innocent III the papacy had profited from the existence of two rival aspirants for the throne to grasp the right of examining their claims, of rendering the final decision and even of deposition. Innocent's successors pursued the decisive struggle to final victory. The long period of time (1250-1312) that elapsed between the death of Frederick II and a new imperial coronation at bottom signified that the Holy Roman Empire had lost its old hegemony of Europe.

That it continued to exist for more than five hundred years after this period was due partly to the strength of the tradition in which it was rooted, partly to its close connection with the German kingship. From the end of the thirteenth century until the time of Louis XIV and Napoleon France as well as other nations tried repeatedly to wrest the imperial dignity from its German incumbents, but without success. Even the efforts of the papacy under Boniface VIII to usurp the authority of the imperial office when it was vacant or to reduce it to abject servility when occupied culminated in a reaction in favor of the empire. With the cultural efflorescence in Italy in the fourteenth century a late glory was cast about the declining empire by the philosophical argument of Dante and the impassioned partisanship of Petrarch. But this transitory gleam disappeared when the men of the later Renaissance turned their attention to other ideals at the same time that the fall of the Eastern Em-

pire in 1453 and the discovery of America were destroying belief in the inevitability of the old outworn world order. Since the time of Henry VII (1269?-1313) the emperors had ceased to appoint imperial governors to Italy, and both Italy and Burgundy had become progressively detached from the empire. When Emperor Sigismund convoked the Council of Constance in 1414 to reform a debased and schismatic papacy he exercised for the last time the imperial prerogative in international affairs. By this date, despite the contrary interpretations of conservative jurists, the sovereignty of the empire was already limited to the territory north of the Alps. From 1442 on the phrase *nationis teutonicae* was appended to *sacrum imperium romanum*. A concomitant development was the dissolution of the ties with papacy. No emperor after Frederick III (1415-93) went to Rome for coronation, although in 1530 Charles V (1500-58) allowed the pope to crown him at Bologna. Beginning with Maximilian I (1459-1519) the German kings unceremoniously took the title of elected emperor, soon abbreviated to emperor.

Within Germany the power of the emperor as German king had for centuries been undergoing a process of attenuation. The lavishing of dignities upon him had signified a corresponding augmentation of the pretensions and rights of the princes. After 1257 the previously established but often empty principle that the Germanic throne was elective became definitely operative, the electoral power being henceforth vested in seven dignitaries—the archbishops of Mainz, Treves and Cologne, the princes of the Palatinate, Saxony and Brandenburg, and the king of Bohemia—rather than in the vague aristocratic body. In 1356 in order to prevent the evils of conflict between rival aspirants Emperor Charles IV issued the Golden Bull regulating the mode of election; this document, which became the fundamental law of the land, consecrated the federal character of the German state. Even before this the electors had been accustomed through the *Wahlkapitulation*, as it was called, to make the king's election contingent upon his agreement to their selfish demands. When he wished to take action against a foreign adversary, even in a national cause such as the suppression of the Turkish menace, he was without means of levying the necessary resources from the military and financial strength of his nominal dominions.

The year 1437 begins the period, virtually unbroken until the final dissolution of the empire, of the possession of the crown by the Austrian

house of Hapsburg. Preoccupied with developing their dynastic power, quick to sacrifice national interests, if for instance an opportunity was offered them to obtain the thrones of Hungary and Bohemia, the Hapsburgs progressively widened the breach between the imperial power and the nation. All projects to build up a strong state foundered on this mutual antipathy. When toward the end of the fifteenth century the princes faced the problem of reforming the chaotic government they were interested only in increasing the power of the Imperial Diet, an assembly representing the constituent estates of the empire—electors, principalities, lords and cities—at the expense of the emperor. They created councils to insure justice, peace and a reliable system of taxation, but having no means of executing their decisions they necessarily failed. The threat only inspired the Hapsburgs to retaliate by increasing the competency of their Austrian institutions, particularly of the Imperial High Court of Justice. The Reformation crushed all hope of reconstruction of the empire on the old basis or of reform through union of the estates, which were henceforth permanently divided by religious barriers. By its principle of individual liberty of conscience, its attacks upon Romanism, its foundation of independent national churches, it shattered the preexisting theory of a world order founded on two universal institutions; German states previously controlled by churchmen became secularized; and the Catholic Hapsburgs found themselves reduced within the empire to the position of factional leaders. What territorial expansion and external strength resulted from the union with Spain under Charles V benefited them as a dynasty but had no effect on the empire. Twice, in 1546 and during the 'Thirty Years' War, they sought to force Catholicism and acquiescence in an absolutistic imperial policy upon the nation; they were frustrated by the princes, Catholic as well as Protestant, who had no hesitation in forming alliances with foreign states to defend their "liberty." In consequence of the chaotic condition of public affairs such important states as Prussia, Switzerland and the Netherlands had already seceded from an empire whose heads on the one hand appeared to them as aliens and on the other had no power to compel cohesion. After the religious Peace of Augsburg in 1555, which set the final seal on schism and imperial chaos, the once vast authority officially vested in the emperor was, apart from his power of life and death and his right of initiative and veto in the

Imperial Diet, limited to the administration of the new postal service, which however existed only in south Germany, and the insignificant *reservata*, such as the granting of titles of nobility and the legitimization of children.

By the seventeenth century the imperial office had become a mummy; the constitution a monstrosity, to use the term of Pufendorf, who expressed an almost universal sentiment; Germany the battle ground of neighboring states. The Peace of Westphalia, at which the empire as such was not even represented, signified the international recognition of this condition. Not only did it provide for considerable cessions of German territory to France and Sweden but by legalizing the free right of the princes to confederate even with foreign powers it left the empire in everything but name a league of the loosest type, composed of three hundred small principalities and sovereign territorial units. The Imperial Diet, although it survived and indeed after 1663 sat in permanence at Ratisbon, ceased to be attended by the princes and degenerated into a conference of diplomats engaged in endless disputes over questions of precedence and other trivialities.

Seventeenth and eighteenth century German literature with its ubiquitous satires of the empire reflects the final internal effect of the protracted lingering of an obsolete institution. Except in certain small or medium sized principalities of the south and west there no longer existed the consciousness of a German nation politically united. The larger states, like Brandenburg-Prussia, Hanover and Saxony, imitated the example which the Hapsburgs had set them in Austria, pursuing a particularistic, often overtly antinational, policy. In the eighteenth century Prussia under Frederick the Great won recognition as a great power both within the circle of the Germanies and in the larger European family of nations. But the only immediate result of this development was the creation of an equilibrium between two jealous German states, the new Prussia and the old Austria. Mere particularism evolved into a struggle for hegemony without being destroyed by it. The league which Frederick formed among the principal north German states in 1785 was no more than a military alliance to defeat the expansionist ambitions of the Hapsburg Joseph II.

The impact of the armies of the French Revolution and the Napoleonic era finally uprooted the empire. Napoleon claimed to be the true successor to Charlemagne. By taking the title of emperor, receiving consecration by the pope, as-

suming the role of protector of the church, designating his successor as the king of Rome and by many other devices he linked himself to the tradition of the first Holy Roman Empire. At the same time the last prop of the German imperial authority was removed by the extinction of nearly all the imperial cities and of the political power of the upper clergy as well as by the strengthening of the sovereign south German states. In 1805 the Hapsburg Francis II began to style himself "hereditary emperor of Austria." The following year, when the sixteen states, chiefly south German, of the new Confederation of the Rhine formally announced their withdrawal from the empire, he at last surrendered the burdensome crown of his ancestors.

When the overthrow of the Corsican in 1814-15 raised the problem of translating into a concrete plan of unification the intense national feeling which had developed in Germany since 1806 as a reaction against Germany's political degradation, many voices, among them those of Stein and Görres, were lifted in behalf of the re-establishment of the Holy Roman Empire. The ancient legend of the emperor sitting enchanted in his mountain but some day to return was resurrected and helped to promote the desiderated unity by furnishing a symbol which was enshrined in tradition and harmonious with the mediaevalistic temper of the time. What was actually created, however, was the Germanic Confederation (1815-66), in which unity was compromised with particularism and supremacy was divided between Austria and Prussia. Only after the rivalry of these two states had been decided by arms in 1866 was it possible to erect a German Empire on a new basis.

KARL HAMPE

See: EMPIRE; PAPACY; INVESTITURE CONFLICT; GOVERNMENT, sections on SUCCESSION STATES and GERMANY.

Consult: Ficker, J., *Das deutsche Kaiserreich in seinen universalen und nationalen Beziehungen* (Innsbruck 1861), and *Deutsches Königthum und Kaiserthum* (Innsbruck 1862); Sybel, H. von, *Die deutsche Nation und das Kaiserreich* (Düsseldorf 1862); Bryce, James, *The Holy Roman Empire* (new ed. London 1904); Dempf, A., *Sacrum imperium* (Munich 1920); Carlyle, R. W. and A. J., *A History of Mediaeval Political Theory in the West*, vol. i-v (Edinburgh 1903-28); Heldmann, K., *Das Kaiserthum Karls des Grossen*, Quellen und Studien zur Verfassungsgeschichte des Deutschen Reiches in Mittelalter und Neuzeit, vol. vi, pt. ii (Weimar 1928); Hampe, Karl, *Deutsche Kaisergeschichte in der Zeit der Salier und Staufer* (6th ed. Leipzig 1929); Below, G. von, *Die italienische Kaiserpolitik des deutschen Mittelalters*, Historische Zeitschrift, Supplement no. x (Munich 1927); Haller,

J., *Das altdeutsche Kaisertum* (Stuttgart 1926); Werninghoff, A., *Deutsches Reich und deutsche Nation* (Königsberg 1909); Zeumer, Karl, *Heiliges römisches Reich deutscher Nation*, Quellen und Studien zur Verfassungsgeschichte des Deutschen Reiches in Mittelalter und Neuzeit, vol. iv, pt. ii (Weimar 1910); Smend, R., "Zur Geschichte der Formel 'Kaiser und Reich' in den letzten Jahrhunderten des alten Reiches" in *Historische Aufsätze für Karl Zeumer zum sechzigsten Geburtstag* (Weimar 1910) p. 439-49; Pfeil, Elisabeth, *Die fränkische und deutsche Romidee des frühen Mittelalters*, Forschungen zur mittelalterlichen und neueren Geschichte, vol. iii (Munich 1929); Lähr, G., "Vom mittelalterlichen Imperium Romanum" in *Die Antike*, vol. vii (1931) 120-34.

**HOLYOAKE, GEORGE JACOB** (1817-1906), British cooperator and journalist. Born of a working class family in Birmingham, Holyoake started work at the age of nine. He acquired a fairly good grounding in mathematics, science and logic at the Mechanics' Institution between 1833 and 1836 and joined successively the trade union, Owenite and Chartist movements. He received the most enduring impulse from Owenism, which apart from the construction of utopias consisted at that time of vigorous propaganda for secularism and cooperation or home colonization. From 1841 to 1846 he was an Owenite social missionary, and although moderate as compared to many secularists he served six months in prison for having spoken with "improper levity" of the Deity. He lectured in Yorkshire and Lancashire on home colonization and visited Rochdale, a center of Owenism and Chartism, a year before the founding of the store which was the primary cell of the consumers' cooperative movement. In 1846 after the final collapse of the last Owenite settlement in Britain Holyoake settled in London and thereafter engaged in the cooperative movement and all the Liberal political and international movements of the Mill-Gladstone era. In 1845 he took the road to sober middle class politics. Socialism was to him henceforth but a telescope for the survey of a far off land, while cooperation and copartnership with the self-help of labor were close at hand to create such conditions as would render charity as well as state protection superfluous. His political activity was directed toward bringing about a reconciliation between Liberalism and the working class. Characteristically in the last months of his life, when Labour became an independent parliamentary power, he worked in his constituency for the Liberal against the Labour candidate.

He published and edited several free thought and cooperative papers, the most successful of

which was the *Reasoner*, and published numerous pamphlets and books. To compose a good book was apparently beyond his capacity. Even his ambitious *History of Cooperation* is but a haphazard collection. He knew little of research nor did he possess the ability to synthesize, being essentially a journalist and a collector of materials. He interested the leading Liberals mainly as a working man who had acquired an education which enabled him to do good journalistic work and as an ex-Owenite and ex-Chartist zealously contending for self-help and cooperation as antidotes to revolutionary socialism and for the integration of the working class into the Liberal party.

MAX BEER

*Important works:* *Sixty Years of an Agitator's Life*, 2 vols. (London 1892); *The Co-operative Movement Today* (London 1891, 3rd ed. 1903); *The History of Cooperation in England*, 2 vols. (London 1875-79; rev. ed., 1 vol., 1908).

*Consult:* McCabe, Joseph, *George Jacob Holyoake* (London 1922).

**HOME ECONOMICS** is the generic term used chiefly in the United States to describe the subject of study formerly known as domestic science, domestic economy, household arts or the science of home making.

In Europe home economics has not developed as a separate field of study but is in the main subordinate to general education; in the United States, on the other hand, where the movement has grown rapidly since the beginning of the twentieth century, it occupies a distinctive place in the educational curriculum. It is found at every academic level—in the elementary school, high school and university, in colleges of agriculture and of liberal arts, in normal schools, in vocational and industrial training schools. The courses may be organized to form a part of the education of all women or as a specialized sequence serving the specific purposes of a smaller group.

No definition of home economics has yet been devised that would adequately describe either the varied objectives of those carrying on work under this name or the character of the subject matter with which they deal. Not only does the content of the home economics curriculum show a marked tendency to change from period to period, but there is great diversity from one academic level and type of school to another. In the elementary and high schools it may be handwork and household arts; in the college it may be "an integration of scientific and social educa-

tion that utilizes as a medium and incentive the activities and interests that arise from home and family life"; in the normal schools and technical institutes it may be preparation for specific gainful employment.

The typical pattern of home economics instruction may be suggested by the definition given by the American Home Economics Association in its *Syllabus of Home Economics* prepared in 1913. "Home economics as a distinctive subject of instruction is the study of the economic, sanitary and aesthetic aspects of food, clothing and shelter as connected with their selection, preparation and use by the family in the home or by other groups of people." This statement is an interesting combination of what actually was and what was hoped for at the time. Home economics has given slight attention to the problem of shelter and little to the economic aspects of the production and consumption of food and clothing. Many curious anomalies in the development of the discipline of home economics are explained by the tendency—indicated in the phrase "their selection, . . . use by the family in the home or by other groups of people"—to make the commodity or service the real unit of study and to consider any problem or activity connected with it whether directly related to the family or not.

The three objectives that appear to have been paramount in determining the content and character of the courses in home economics now presented in the various types of schools are, first, the development of handicraft skills, especially in cooking, sewing and other household tasks; second, the development of managerial intelligence and capacity, especially in child care, time and money budgeting and market selection; and, finally, preparation for specific gainful employments, primarily teaching but also institutional management, the practice of dietetics and a variety of positions in businesses dealing with the ultimate consumer or with the products used in the home.

The place of home economics in the educational system of the United States is indicated by figures collected by the United States Bureau of Education. In 1928-29 there were 322 colleges and universities offering a four-year course in home economics leading to a bachelor's degree; 88 others offered courses but gave no degree; 84 junior colleges as well as 90 normal schools and teachers' colleges also reported courses. In 1928, 8072 public high schools offered work in home economics, while in two thirds of all the

larger school systems it was a required subject for girls in the seventh and eighth grades. In many cities it was also required in the fifth and sixth grades. In addition there should be noted the work in the continuation and night schools and that offered farm women as a part of the rural extension program of the state colleges and universities.

Before the nineteenth century the home in large part produced what it consumed and consumed what it produced. But with the advent of industrialism its economic function shifted from the making of goods to the rendering of services, and the manufacture of articles for consumption became centered in shops and factories. Until well into the twentieth century, however, even in urban communities cooking, sewing and laundering continued to be done in the home. With the increasing employment of women in stores and factories and their consequent lack of home training in domestic tasks a need arose for more formal instruction in the household arts. This fact coupled with the growing application of chemistry and bacteriology to the problems of nutrition led to development of the early cooking schools and domestic science institutes common in the eastern part of the United States during the 1870's. These schools intended for adults were based on the theory that "young housekeepers in moderate circumstances, young women employed, and the wives and daughters of working men" needed instruction in plain family cooking. Sewing and dressmaking, a heritage from convent training in needlework, were likewise taught. During this same period an awakened social interest in the status of the domestic servant was responsible for the establishment of schools, notably in Boston, for the training of skilled household workers.

The recognition of the necessity for instruction in home making was soon interpreted to mean that it should be given in youth and that the public schools should take over the responsibility. This movement was hastened by the contemporary interest in manual training, an emphasis based on the theory that it was the duty of educators to train the whole child, to encourage him to manipulate materials and to create and to familiarize him with the activities of the world about him. As a consequence during the decade between 1880 and 1890 both manual training and household arts were quite generally introduced into the larger public schools of the United States, first into the high school and later into the elementary grades.

By 1910 the inclusion of industrial and household arts in the school program was being supported by a new argument, the vocational. The National Society for the Promotion of Industrial Education was founded in 1906. Included definitely in its program was the training of girls for home making. In 1917 Congress passed the desired legislation, the Smith-Hughes Act, providing federal aid in the carrying out of state programs for the training of persons over fourteen in agriculture, trade, industry and home economics. The effect of this act was not only to stimulate courses in home economics but also to standardize and improve the quality of the work offered. Only those schools whose teachers, courses and equipment meet the requirements of the federal and state boards for vocational education receive federal funds.

In the case of colleges and universities the introduction and development of home economics as a part of the curriculum were largely western or middle western movements. During the period in which cooking schools were being introduced into the elementary grades of the industrial cities of the east, departments of domestic economy were established in the agricultural colleges of Iowa, Kansas, Illinois and other middle western states. This was a natural outgrowth of the purpose for which these schools were established. Under the Morrill Act of 1862 public lands had been donated to the states to provide colleges for the benefit of agriculture and the mechanic arts. Since coeducation was well established in the middle west, courses for the farmer's daughter as well as the farmer's son were considered necessary. The farm home was an integral part of the farm business as a whole, and courses in home economics were therefore essential to the training which it was desired to give to the people living in the great agricultural states.

This close association between agriculture and home economics in the college has had certain noteworthy results. When it has involved the supervision of teaching and research in home economics by the agricultural director it has meant a sympathetic understanding that might not have been secured under other direction. But it has also meant that the development of home economics was subject to the limitations inherent in this association, which, originally accidental and fortuitous, came to be regarded as necessary and inevitable. Moreover the attention of the home economics staff both in organizing curricula and later in research came to be con-

centrated almost exclusively on the farm or rural home. Since various techniques and skills, such as canning, baking, sewing and laundry work, which urban home makers were abandoning remained important in farm households they remained important in home economics. Since girls from farms and small towns wanted to know the conventional usages of urban society, home economics assumed the responsibility for democratizing the standard of living of the élite. At present even the federal Bureau of Home Economics is in the Department of Agriculture and is correspondingly limited in its work.

Another association that has been powerful in shaping the objectives and the character of home economics is its connection with departments of education, teachers' colleges and normal schools. The introduction of household arts in the public schools meant a demand for teachers; and some of the best known departments of home economics were organized under the aegis of schools of education, as in the case of Teachers College, Columbia University, and of the University of Chicago. Similar courses with a similar purpose developed at the land grant and liberal arts colleges offering work in home economics. Their graduates also desired to teach; and to qualify them to do so became a major objective even of schools not nominally created for that purpose, a development quite unlike any that occurred in the schools of law, engineering and agriculture or in other departments such as those of chemistry, physics, economics or history. Accordingly the staffs of college departments of home economics were constituted largely of women who held degrees from teachers' colleges and schools of education rather than in the humanities or in the physical or social sciences.

It is not to be understood of course that the development of college work in home economics has been motivated only by the desire to prepare the graduates for employment in the secondary schools. A fundamental purpose has been to provide women with the knowledge, appreciation and understanding that would improve their functioning as home makers and indirectly thereby promote the well being of families. In the fulfilment of this aim departments of home economics have sought to embody in their curricula whatever was pertinent in literature and art and in the physical and social sciences.

Another factor that has influenced the character of home economics courses has been the desire to achieve their recognition as legitimately of college grade. This aim has sometimes led to



undue specialization in advanced scientific courses or to the setting up of unnecessary prerequisites for admission, but when intelligently applied it has resulted in a fruitful synthesis of disciplines around vital problems of the home and the family.

The fields of knowledge which home economics has incorporated into its curriculum and which it has itself increasingly enriched are varied. First to be drawn upon, perhaps because they were most easily available, were the contributions of the chemist, the bacteriologist and the physiologist to problems of diet and health. The study of human nutrition early became a distinctive part of home economics. Applications of chemistry to cookery and other household processes and of chemical analysis to textiles and household supplies were made. Women trained in chemistry, biology and bacteriology appeared on the staffs of departments of home economics, bringing with them the spirit and methods of the experimental sciences. Home economics, formerly represented by the manual, the book of recipes, etiquette or household hints, is today an organized field of knowledge devoted primarily to the application of the physical and biological sciences to the problems of the home maker and the home.

In the application of the social sciences to home economics certain recent trends are worthy of notice. In the earlier decades the social sciences had little influence on the development of home economics. Economics itself tended to lay its main emphasis on problems of business organization, when it was not dealing with theory; and those concerned with home economics had not yet turned their attention from individual situations to social problems. But, largely as a result of the increasing attention given by economists to consumption and to the problems of the consumer-buyer, beginning about 1925 the study of the economic problems of the family was introduced into the curriculum of a number of colleges and universities. As a result also of recent sociological and psychological investigations of the family the systematic study of problems of family relationships is becoming more frequent. Overshadowing both of these developments, however, has been that in child care and training, following the progress in the last decade of the scientific study of child physiology and psychology. The subject itself is of such widespread interest and so appropriate to home economics that there seems danger that the study of the child may result in neglect of that of all

other aspects of family life. Other problems with which home economics is increasingly and rightly concerning itself are public health, housing, recreation—both individual and community—and the role of aesthetics in home making.

The future character of home economics as a discipline both within and supplementary to the formal educational system will be determined by the following considerations. Will it concern itself with the problems of urban life as fully as it has with the problems of the farm and village? Will its training in skill, techniques and managerial capacity be responsive to changes in consumption standards, in home activities and in organization of the household? Will it, for example, train for buying as thoroughly as it has trained for making? What will be its attitude in regard to the economic and social position of women? Is the home economics curriculum to be built on the assumption that to women alone belong certain responsibilities and that their interests and activities will center primarily in their own families? Or will this limiting assumption be avoided and the course of study be focused on questions of the family and family welfare which concern men as well as women?

Finally, are vocational or non-vocational objectives to shape its curriculum? In addition to teaching, home economics graduates are today being called upon to fill a variety of positions as institutional managers; as dietitians in hospitals, sanatoria, hotels and restaurants; as directors of factory and school lunch rooms; as visiting housekeepers for social welfare organizations, family agencies and settlements; as household and budget consultants for banks, insurance companies, women's magazines and manufacturing concerns whose product is food or household equipment. Many of the last employ women trained in home economics as an adjunct to their advertising departments. Candy factories and food concerns often maintain research laboratories directed by home economics experts whose duty it is to test the purity of the particular product and to experiment with new foods. The radio with its opportunity for lectures on food and household products has opened still another field to home economics graduates.

The demand for trained workers to fill these and similar positions is of decided strategic value. On the other hand, home economics will to a large degree fail as an education for women if its avowed objective up to the present time—the integration of home and family problems into the larger life of the nation and the world—is

lost sight of or subordinated to the vocational end.

Despite its relatively recent emergence as a formal educational discipline home economics has developed a considerable amount of literature in both textbooks and periodicals in addition to its foundation of empirical knowledge gained in the past and transmitted from generation to generation. Chief among its various organizations is the American Home Economics Association with a membership of more than 10,000, mainly high school and college teachers. This organization was an outgrowth of the Lake Placid conferences which met annually from 1899 to 1908 for the purpose of systematizing the movement. Its official organ is the *Journal of Home Economics*. An International Bureau has been established at Fribourg, Switzerland, to collect literature on the various aspects of home economics and to serve as a clearing house for information.

HAZEL KYRK

See: WOMAN, POSITION IN SOCIETY; FAMILY; CHILD; NUTRITION; STANDARDS OF LIVING; VOCATIONAL EDUCATION; EXTENSION WORK, AGRICULTURAL; HEALTH EDUCATION; DOMESTIC SERVICE.

Consult: Campbell, Helen, *Household Economics* (rev. ed. New York 1907); Lake Placid, Conference on Home Economics, *Proceedings*, 1899-1908 (Lake Placid 1901-08); Hunt, Caroline L., *The Life of Ellen H. Richards* (Boston 1912) ch. xv; Andrews, B. R., "Education for the Home" in United States, Bureau of Education, *Bulletin*, nos. 610-13, 4 vols. (1914-15); Bevier, Isabel, *Home Economics in Education* (Philadelphia 1924); Atwater, Helen W., *Home Economics, the Art and Science of Homemaking*, American Library Association, Reading with a Purpose, no. 50 (Chicago 1929); Andrews, B. R., *Economics of the Household* (New York 1923); Columbia University, Teachers College, *Homemaking as a Center for Research, Report of the Teachers College Conference on Homemaking* (New York 1927); Betters, Paul V., *The Bureau of Home Economics: Its History, Activities and Organization*, United States, Institute for Government Research, Service Monographs, no. lxii (1930).

HOME MISSIONS. See MISSIONS.

HOME OWNERSHIP is socially significant for the most part in terms of urban conditions. Where the farmer owns his farm he attaches no more significance to the ownership of his house than to any of his agricultural equipment. Where tenancy prevails, home ownership is as impossible and housing conditions are as bad as in the slum districts of many a city. Yet it is only to the urban dweller that housing presents itself as a separate commodity and a peculiar need; and it

is among urban and suburban dwellers that special attitudes toward home ownership have developed most articulately.

The significance of home ownership has differed somewhat in the United States as compared with Europe. The modern European city, particularly on the continent, has inherited a tradition of crowding from the days when cities were surrounded by walls and the need of protection made for a contraction of the urban area. This resulted in a system of housing in which independent ownership was difficult if not impossible. The multiple dwelling was the commonest form of housing and only the very wealthy or the very important could afford to indulge in the luxury of a private house surrounded by a garden and protected by a wall or fence. The American city, on the other hand, particularly that built after the opening of the nineteenth century, started out with single, privately owned dwellings modeled on the pattern of the farmhouse—a situation favorable to home ownership. The force of this contrast has been lessened with the rapid urbanization of the United States and the growth of a number of large cities where the multiple dwelling must predominate. Nevertheless, attachment to the ideal of home ownership has persisted among many groups in the United States, while it has lost force in the more socialized communities of Europe.

The popularity of home ownership in the United States is due to several factors, not the least of which is the traditional farming attitude that still colors American psychology. Land and home owning, part of the conception of the good life in all pioneer communities, have been fostered from the start by the government land policy. The urge to own one's own home is further reenforced by the notion that family stability and social prestige as well as civic and community responsibility are thereby engendered. Economic considerations, such as financial security and independence, the development of habits of thrift and provision against adversity, are likewise conducive to home ownership, especially among the wage earning class. Finally, there is general agreement that ownership gives greater security to employment of capital in housebuilding and makes for stable conditions. For this reason home ownership has been deliberately promoted not only by real estate companies and building and loan associations, whose primary concern is the resulting financial profit, but by chambers of commerce and business and civic groups with a vested interest in the com-

munity. Employers have urged home ownership among their workers, since men who own their own homes obviously constitute a more stable type of labor and are less likely to engage in strikes. "Own your own home" campaigns have been fostered in many cities and lots have been sold on what appear to be extremely easy terms. Newspapers and magazines have assisted the movement by furnishing plans and offering their readers advice regarding costs of construction and methods of financing. It is chiefly by these promoters that home ownership on the instalment plan has been advocated.

Rising rents and land values, urban congestion and the growth of suburbs, combined to promote home ownership in outlying areas especially among the middle class. Hampered at first by inadequate means of transportation, this suburban trend was greatly stimulated by the coming of the street car, bus and subway as well as by the increased private ownership of automobiles. The pioneers in this extension of the residential section were compelled to build their own homes, since there were no places for rent and few promoters were willing to invest money in residential property which seemed to entail so great a risk. Real estate companies, however, were quick to take advantage of this spontaneous movement, and suburban residence areas were soon opened up commercially. In some cases only the land was sold in the form of individual lots, each purchaser being left free to build his own home subject to certain restrictions as to size and type or cost of dwelling. In other cases the company erected houses which were usually disposed of by amortizing the cost of the building in a series of rent payments.

Despite its sentimental appeal and its artificial stimulation by commercial interests home ownership in the United States has shown a gradual but steady decline for several decades, as indicated by the following figures:

|      | RENTED |      |
|------|--------|------|
| 1890 | 52.2   | 47.8 |
| 1900 | 53.9   | 46.1 |
| 1910 | 54.2   | 45.8 |
| 1920 | 54.4   | 45.6 |

The percentage of owned homes varies from 37.2 in the middle Atlantic states to 56.4 in the west north central and from 30.7 in the state of New York to 65.3 in North Dakota. Among cities with populations over 100,000 Des Moines ranks first with 51.1 percent home owners, while New York City with 12.7 percent ranks lowest.

These are the 1920 figures, since the census statistics for 1930 are not yet available.

There are a number of obvious reasons for this decline in home ownership. Generally speaking, ownership by the occupant goes with individual dwellings, tenancy with multifamily houses. The latter have greatly increased during recent years in suburban as well as metropolitan areas. The popularity of apartment house dwelling is due to the growing preference of women for work outside the home, their demand for labor saving devices, the desire on the part of both men and women for freedom to move from one locality to another and their unwillingness to face certain economic liabilities that go with the ownership of a home.

It is undoubtedly true that under modern economic conditions the ownership of a home may be as much of a hindrance as a help to the wage earner. The gradual bureaucratization of business and industry with the inevitable shifting of a man from one place to another as the central office may see fit creates a presumption in favor of the loosest possible attachment to a given locality and therefore makes renting more expedient than home ownership. The modern worker in either business or industry is a far more mobile person than was his father, and for him to own a home is in a sense to give hostages to fortune and in time of unemployment to be prevented from seeking work in other localities.

Other obstacles arise in connection with land and building costs, exorbitant taxes and the difficulty of financing a home. It is significant that the number of owned homes in the United States encumbered by mortgages or other liens has been steadily increased during recent decades.

|      | FREE | OWNED HOMES<br>ENCUMBERED |
|------|------|---------------------------|
| 1890 | 72   | 28                        |
| 1900 | 68.7 | 31.3                      |
| 1910 | 67.2 | 32.8                      |
| 1920 | 61.7 | 38.3                      |

Undoubtedly the decline in home ownership and the accompanying increase in encumbered ownership are due in part to the fact that it has become extremely difficult for a wage earner to own his own home. Under modern conditions it is almost impossible for him to save enough to pay a sufficient instalment on the purchase of a home. According to the Bureau of Labor Statistics the average cost of single family dwellings built in eighty-five large American cities in the year 1929 was \$4902, exclusive of land. Using the convenient rule of thumb which asserts that a family

should not undertake the purchase of a home costing more than twice its annual income, it follows that for the two thirds of the population whose income is \$1200 or less per year home ownership is out of the question. Only for those whose annual income is in excess of \$2000 is the owning of a home which costs from \$4000 to \$5000 feasible, and economists agree that less than one third of the population of the United States falls within this group.

For those in the upper income brackets who are able to furnish in cash 25 to 50 percent of the purchase price it is relatively easy to secure a first mortgage on the remainder through banks, insurance companies, private investors or building and loan associations. The last named, it is estimated, have financed nearly 70 percent of the homes built in the United States since the World War. The popularity of the building and loan associations is due not only to the reasonable terms on which they loan money but to the fact that they are specialists in this type of lending and are able to offer the home builder expert advice which saves him much inconvenience and expense.

The building and loan societies do not, however, meet the problems of families who can supply only 10 to 20 percent of the purchase price of a home in cash and who must resort to a second mortgage or to some kind of instalment purchase arrangement. Second mortgage rates, taking into account commission, discounts and other charges, are frequently so high—20 to 50 percent per annum in some cities—as to stifle home ownership. In order to combat this evil the American Bar Association and the American Mortgage Bankers Association are urging uniform mortgage laws for all states for the purpose of facilitating sound home ownership. The Conference on Home Building and Home Construction called by President Hoover in 1931 proposed as an immediate step the establishment of a system of home mortgage loan discount banks with the twofold purpose of relieving existing financial strain in the provision of small mortgage loans on urban and farm properties used for homes and of supporting various institutions in aiding the revival of home construction and alleviating unemployment.

In Europe the housing shortage after the World War led to extensive participation in housing schemes by most governments. In Germany and Austria municipal building or government aid in the construction of large multiple dwellings predominated. But in a number of

countries, particularly Great Britain and Holland, there have also been developed non-commercial financing schemes under government auspices which have made it possible for an increasing number of families in the middle and lower income groups to own their own homes. In England the Small Dwellings Acquisition Act was designed to promote home ownership among the working classes; and considerable progress has been made, even though a large proportion of the British people are renters by habit and preference.

In the cities of France and Italy the large apartment house is still entrenched and in Belgium the small one. Nevertheless, the Public Housing offices in France are doing a great deal to promote individual home ownership especially in smaller cities and rural districts. The Belgium General Savings Bank lends at a low interest rate for twenty-five years 80 percent of the money needed for purchasing a home. In Sweden under the Own Home law the government in effect offers second mortgage money at 5 percent interest. New Zealand has developed a similar system by means of which families in the middle income group are protected from exploitation and enabled to meet the problem of financing a home.

In the United States the situation has not been so clearly recognized, and efforts to meet it have been confined chiefly to private enterprise. One or two legislative efforts are, however, deserving of mention. Since 1916 the government has through the Federal Farm Loan Act provided the machinery for financing farm homes. Under the terms of this act the Federal Land Banks loan money to farmers for "building and improvements." Since homes are included in this general category, it is difficult to say to what extent the act has definitely fostered home ownership among the rural population.

Similar efforts directed toward the financing of farm homes have been embodied in legislation in Oregon, Oklahoma and South Dakota. In California the Veterans' Farm and Home Purchase Act passed by the legislature in 1927 authorized an issue of bonds to the amount of \$10,000,000 for the purchase of homes and farms to be resold on the instalment plan to veterans of United States wars. In 1925 and 1929 additional bond issues of \$20,000,000 each were approved. The state spends not more than \$5000 for a home or \$7500 for a farm. The home may be one already erected or one which is to be built. The veteran must pay 5 percent of the purchase price

as a down payment or 10 percent of the price of a farm and 5 percent in either case to cover the cost of administration throughout the life of his contract. He amortizes the remainder of the purchase price and pays 5 percent interest on the balance in equal monthly instalments extending over twenty years. According to figures issued by the Veterans' Welfare Board, which administers the Farm and Home Purchase Act, 7213 homes and 290 farms were purchased by veterans during the first decade following the passage of the act. As an aid to home ownership this act has proved highly successful, particularly since it has involved no expense to taxpayers. The California Commission of Immigration and Housing has urged the passage of a home purchase act to apply to all families within the small income group.

It is evident that the whole question of home ownership has become inextricably involved with the income-wage problem. At present the building of single family dwellings on a commercial basis is carried on almost exclusively for the top economic third of the population. Home ownership can be augmented only through increasing incomes in the lower groups or decreasing the costs of building small homes. Even should the construction of small individual homes on a large scale prove economically feasible, it is evident that some degree of coordination of efforts on the part of public agencies as well as some degree of public control will certainly be necessary if home ownership is to provide its share of the adequate housing facilities of a nation.

IDA CRAVEN

GLADYS E. MEYERAND

See: URBANIZATION; HOUSING; SUBURBS; GARDEN CITIES; MORTGAGE; BUILDING AND LOAN ASSOCIATIONS; LAND MORTGAGE CREDIT; URBAN; REAL ESTATE; STANDARDS OF LIVING; MOBILITY, SOCIAL.

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HOME RULE may be broadly considered as including all forms of local or regional self-determination. Thus in Great Britain home rule for Ireland was long a burning issue (see IRISH QUESTION), and the expression "Home rule all around" is still occasionally used to indicate the aspirations of Scotland and Wales for self-determination (see DECENTRALIZATION). In the United States the term is most generally applied to an arrangement under which municipalities are permitted to frame their own charters and regulate their local affairs. Such arrangements have sometimes been provided for by statutes passed by the state legislatures, but because statutes have proved inadequate guaranties the term has generally come to be confined to arrangements based on constitutional provisions alone. It is in this sense that the term is here used.

Municipal home rule is a comparatively recent development in the United States, having evolved almost entirely within the last fifty years. Its progress has been due in the main to three causes: the increasing complexity of municipal problems resulting from the rapid growth of cities; the popular belief that problems of municipal government do not receive adequate attention from the state legislatures; and the desire to separate municipal from state politics.

In colonial America a borough or city received its charter from the governor of the colony in which it was situated. The colonial assemblies had no authority either to grant, to amend or to repeal such charters. Nor could the governor use his power to interfere in local affairs, for it was an established principle of English law that the crown could not revoke a borough charter except with the consent of the grantees. The American Revolution, however, changed this situation. The new state legislatures assumed the power to grant city charters and to amend or revoke them at will. At the outset the legislatures did not exercise this authority except on the petition of the cities themselves, but in the course of time they began to intervene on their own initiative. This interference took the form of special legislation which the legislatures enacted for individual cities, more particularly for the largest municipalities. By such special legislation the state authorities determined the form of city government, provided the methods by which city officials should be chosen, allocated their powers and in some cases even fixed their salaries. Similarly they prescribed the system of local taxation and fixed limits to the amount of money which a city might borrow.

Toward the middle of the nineteenth century with the development of public utilities in the larger cities the practise of legislative interference in matters affecting franchises became frequent and ill advised. Special laws granted to private corporations exclusive privileges for supplying cities with water, gas or horse car service. Such measures were usually promoted by interested parties who sought and obtained from the legislature what they could not secure from the municipal authorities. In other words, the state legislature allowed itself to be used as a court of appeal from the decisions of the local governments in matters of purely local concern. Moreover its decision in such matters was often determined by political motives and the best interests of the cities were regularly sacrificed to serve partisan ends. Beginning in the states of the Atlantic seaboard this practise of legislative intermeddling spread into the newer western commonwealths and reached its climax there during the two decades which followed the Civil War.

Various attempts were made to restrict the omniscience of the legislature over municipal affairs. These took the form principally of constitutional prohibitions upon legislative interference in specific local matters and general constitutional prohibitions upon special legislation by the state for particular cities. The failure of these and similar measures to provide adequate relief led to the demand for constitutional provisions establishing the principle of municipal home rule. Missouri in its constitution of 1875 was the first state to recognize this demand by providing that the voters of a city might elect a board of freeholders with power to draft a municipal charter which on being ratified by popular vote would go into effect and be controlling as respects all matters of purely local concern. Four years later California incorporated a somewhat similar provision in its new constitution, and the example was subsequently followed by various other states. Sixteen states now have constitutional provisions insuring some measure of home rule to the cities.

Among these various home rule states there are considerable differences in the scope and nature of such constitutional provisions. Generally speaking, they give the cities power to make and amend their own municipal charters, but with a variety of limitations. One limitation is that the provisions of the city charter shall be consistent with the constitution and the general laws of the state. Another restricts the charter

provisions to matters which are of local importance only. Authority over all questions of more than local concern is reserved to the state legislature. The wording of this limitation differs from state to state: in California the home rule authority of the cities is restricted to control of their own "municipal affairs"; in New York it extends to matters affecting "the property, affairs or government of cities"; in Ohio it includes "all powers of local self-government . . . as are not in conflict with the general laws." Some other state constitutions make a detailed list of the specific matters which shall be deemed to be within the home rule powers of the cities.

The inherent weakness of the home rule charter system lies in the fact that no clear separation can be made between matters which are of strictly local importance and those which directly or indirectly affect interests outside the municipality. Governmental authority is not a thing that can be mapped off into blocks and lots like a tract of land; it is a field that is always expanding or contracting, besides being constantly changed in the urgency of its exercise. Moreover new powers to be exercised by somebody are steadily coming into the field. Hence the line of demarcation between matters of local and general interest is becoming increasingly difficult to draw. For this reason the courts are being called upon to decide large numbers of controversies on this point, and in general their decisions have tended to whittle down the field within which the home rule authority is paramount. Questions which relate to such matters as elections, police, public utilities, taxation, assessments, public health and education have one after another been adjudicated to be of general as distinct from local importance. When the provisions of a home rule charter conflict with state laws, these grants of authority have generally been held invalid.

Another limitation on municipal home rule relates to the procedure by which home rule charters may be framed and adopted. In some states the initial step is taken on the petition of a prescribed number of voters; in others the city council must make the first move; and in one state, Minnesota, the initiative rests with the district judges. In New York the drafting of a new charter may be done by the city council or by a special charter commission. But home rule charters are almost invariably framed by a special body commonly known as the board of freeholders, the members of which are elected by popular vote. The finished document must

then be submitted to the qualified voters of the city for their approval. If the voters approve it by a majority vote the charter goes to some designated public official for filing and thereupon becomes invested with the force of law. In a few states, however, it must go to the governor or to the state legislature for approval before becoming effective. This of course is a mere matter of form inasmuch as neither governors nor legislatures are in the habit of changing any provision in a home rule charter which has been adopted by the voters of the city.

The home rule system has some conspicuous merits. It enables a city to obtain the general type of governmental organization which the people desire. It insures greater care in charter drafting. Home rule charters are on the whole more concise, less ambiguous and more workable in their provisions than are charters which have been framed by legislative committees. There is more originality in home rule charters; those who frame them are more ready to try experiments. The home rule system likewise lessens the burden on the legislatures. With the rapid growth of cities it has become virtually impossible for legislatures in the more populous states to bestow adequate attention upon all the problems of urban government. Furthermore the home rule system releases the cities from bondage to those rural representatives who often form a majority in the state legislature but who have no special knowledge, interest or competence in municipal affairs. Finally it makes possible the divorce of municipal from state politics. So long as the state legislature possesses the right to interfere in city affairs and so long as it adopts the policy of doing so, there is little chance of keeping state and municipal issues apart.

The objections to municipal home rule arise almost wholly from the practical difficulties involved. To the extent that the welfare of the entire state is regarded as more important than the desires of its individual communities there must inevitably be restrictions on municipal self-determination. The city is merely the agent of the state for the performance of such functions as can be more efficiently performed by delegation. It has no inherent right of self-government. The question as to how much authority should be devolved by the state upon its municipalities is one of expediency, and the list of functions which can be profitably administered in this way is steadily diminishing.

From the cities the home rule movement has

extended in a few states to the counties as well. It has resulted in provisions which authorize the adoption of county charters in such states as California and Maryland. It seems open to question, however, whether cities and counties can properly be placed upon the same plane in this matter, for the position of the county as a governmental agent of the state makes it advantageous to have some reasonable degree of uniformity in county administrative methods.

In the countries of Europe neither cities nor counties have any constitutional guaranty of local self-determination. On the other hand, they are in most cases governed under the provisions of general municipal codes which in some of these countries are sufficient to insure a reasonable measure of protection against outside interference in local affairs.

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*See:* DECENTRALIZATION; LOCAL GOVERNMENT; MUNICIPAL GOVERNMENT; MUNICIPAL CORPORATION; ADMINISTRATIVE AREAS.

*Consult:* McGoldrick, J., *The Law and the Practice of Municipal Home Rule* (New York 1932); McBain, H. L., *The Law and the Practice of Municipal Home Rule* (New York 1916); New York, Home Rule Commission, *Second Report* (Albany 1925); Massachusetts, Commission to Compile Information and Data for the Use of the Constitutional Convention, "Municipal Home Rule," *Bulletin*, no. xi (Boston 1918); Illinois, Legislative Reference Bureau, "Municipal Home Rule," *Constitutional Convention, Bulletin*, no. 6 (Springfield, Ill. 1919).

**HOmESTEAD.** The homestead is a piece of land granted to a settler on condition that he live on it and cultivate it or otherwise utilize it as the basis of his livelihood. The granting of homesteads involves underlying political, economic and social principles. Politically it is a means of providing a population for a vacant territory. Economically the homestead is supposed to eliminate poverty, insure an equitable distribution of wealth and provide a perennial stream of new, original wealth. Socially it is designed to relieve discontent in populous centers and to furnish an opportunity for healthy development of surplus population. It should be noted that the important homestead laws have been put through by well nigh irresistible popular pressure; given a democratic form of government and unsettled land, it follows that the populace will compel the passage of some form of homestead law.

In North America the demand for free land arose in colonial times; all the colonial governments gave away some land. In 1783 the United

States government first came into possession of a public domain, the old Northwest Territory, and during the closing years of the eighteenth century Congress was asked to make the land available to settlers virtually without charge. Although Congress first adopted the plan of selling land by auction to raise revenue, much land, for example millions of acres of military grants, was obtained by settlers without payment. Several states, notably Kentucky and Tennessee, early sold state land at a nominal price. Beginning in 1796 the United States offered land on credit but sold little until 1800. After 1814 more than 1,000,000 acres were sold annually until in 1820 a cash system was introduced at reduced prices. In 1825 Senator Benton of Missouri asked Congress to inquire into the expediency of providing free land for settlers. After a long series of acts of a local or temporary nature there was passed the Preemption Act of 1841 which gave the settler the right to bid first on land he had occupied and to purchase it at a minimum price, usually \$1.25 an acre. Western interests soon began to advocate a reduction of prices, which was opposed in the east by those who looked for revenue from sales. Finally in 1854 the Graduation Act was passed. Although this was a concession to the settler it was an even greater one to the speculator since it provided for the sale of all land which had been on the market for a given time at a price between \$.12½ and \$1.00 per acre.

For several decades Congress rejected bill after bill introduced by Benton to provide for the free distribution of land. The chief opposition came from the slavery element dominant in the south, which saw that distribution of western land to the masses would interfere with the spread of the large plantation and would tend through the migration of urban easterners and immigrants from Europe to create a northwest populous and powerful enough to break the slaveholders' political power. As the issue became more clearly defined on class lines, the Free Soil party in its platforms of 1848 and 1852 came to the support of free lands and the Abolitionists and Greeley's National Reform Association used all their influence in that cause. In 1860 the Republican party declared for homesteads, which were an issue in the Lincoln campaign. Since 1840 the leaders of organized labor had fervently advocated the various homestead bills, looking to free land as a way of escape from shops and mills. But not until after the outbreak of the Civil War, when the Free Soilers were left in

control of all the federal governmental machinery, did they put through this objective as well as others. The Homestead Act, which with modifications has been in effect for nearly seventy years, was passed in 1862 and only a military victory was needed to make it effective.

The act provided that any head of a family over twenty-one years of age, either a citizen or an alien who had declared his intention of becoming a citizen, might take 160 acres (within railroad "limits," 80) and after living upon them for five years and making prescribed improvements receive a government patent. The five-year residence requirement was interpreted to mean not less than six months per year for five years, and even this was subject to considerable reinterpretation by land officials and the homesteader's conscience. The act also provided for a "commutation" of the five-year residence requirements into a cash payment of \$1.25, thus making the homestead provisions identical with the preemption obligations; i.e. residence upon the land for a short period and a payment of the minimum price. In the early years of the operation of the act settlers wanted the land and did not care to buy in larger amounts than the quarter section, 160 acres. Only later, when farms of much larger size were in demand, did commutation become common. In wheat districts such as North Dakota and in forested areas commutation became as general as the regular method of homesteading.

The Homestead Act allowed each settler about the quantity of land that had been found desirable for efficient farming in the humid portion of the middle west. The homestead served well as a family farm throughout a strip of territory some three hundred miles wide just east of the 100th meridian, but on the plains and in the mountain states it was ill adapted to the requirements of either farming or land disposal. It was a pronounced misfit and the basis of much fraud in grazing sections, where a quarter section was worth little, in areas where irrigation was needed and especially in forested areas. Many rather ineffectual efforts were made to mitigate difficulties besetting the great majority of homesteaders to the west of the 100th meridian, whose small capital had soon been exhausted and many of whom had been ruined by drought or grasshoppers. The Desert Land Act of 1877 provided that 640 acres might be granted per person, that the grantee was to irrigate the land, to live upon it at least part of the time and eventually to pay \$1.25 per acre. In 1891 the grant



was reduced to 320 acres, but a man and his wife might each take a grant of that size. After the Desert Land Act proved a failure Congress passed the Carey Act in 1893, the Reclamation Act in 1902 and the Grazing Homestead Act in 1916. The last makes available homesteads of 640 acres, still insufficient for grazing purposes in a country of sparse pasturage.

Another major effort to modify the Homestead Act for the humid section was the Timber Culture Act of 1873 providing for the taking up of a quarter section of land by any settler who would plant forty (soon cut to ten) acres of it to timber. Thus it was hoped to develop shelter belts, increase rainfall, lower summer temperatures and elicit other improvements in climate. The act succeeded only in getting rid of some millions of acres of public land.

More than a quarter of a billion acres were given away under the Homestead Act and its amendments, all of which carried out the popular view that the sooner public lands were turned into private property the better. Always keen for development and prompt returns, the west looked on private property as its main stimulus. Speculators and land companies by the purchase of military and other scrip, by bribery and misrepresentation, contrived to obtain vast tracts theoretically destined to small settlers. Subterfuge and fraud were generally winked at or condoned on the strength of the prosperity which the exploitation of natural resources seemed to promise.

All in all the homestead acts served to spread population too rapidly over a wide stretch of territory. Social relationships suffered, education lagged and, most basically, the prices of farm products collapsed. Land was being used too soon and in too great quantities in relation to other occupations and developments. The economic machine was thrown out of balance. There is good evidence that the movement of dissatisfied eastern laborers to western lands was small. On the other hand, the homestead laws prevented undue increase in the proportion of people dependent on wages by draining off potential oversupplies of labor to the prairies; but this process created an overabundance of farmers, who were in turn to flood the labor market. Thus the effect of the homestead system on the labor movement was mainly one of delaying developments. As long as western lands absorbed most of the population increase, labor had the advantage of lessened competition and of cheap food furnished by the farmers of cheap land.

But after the hope of easy escape to western lands was closed about 1890, the American labor problem took on a sharper form and the labor movement began to develop its greatest strength.

Canada is the only other country in which the free homestead has enjoyed the importance that it has had in the United States. The Canadian system has not differed greatly in form or influence from the American and like its prototype has permitted the exploitation of new land at the settler's will. There has been a certain amount of mutual influence both in legislation and in the effects of the laws. The region of the Prairie Provinces was long an object of Canadian national aspiration; its settlement and acquisition by the Americans were particularly feared and in order to develop it rapidly the recently created dominion government enacted a homestead law in 1872. The size of the homestead was fixed at 160 acres. From 1879 to 1889 preemption of a second quarter at \$1.00 an acre was allowed. The grant of alternate sections within the railway zone to the company served together with preemption to scatter the population, with consequent burdens upon local government. Provision was made, however, for settlement in villages. As a result of the large number of land companies arranging loans to help settlers clear their homesteads such loan schemes were subjected to the sanction of the government in 1886, but the law was far more advantageous to the companies than to the settlers or the government. Not until the completion of the transcontinental railway, a rise in agricultural prices, the improvement of the milling process, the end of homesteading in the United States and the inauguration of a vigorous immigration policy did the homestead succeed in settling the Canadian west. A great boom characterized the period from 1900 to 1913. Speculation was rampant; much submarginal land was taken up, later to be abandoned. Overbuilding of railways eventually resulted in a gigantic burden on the dominion government. An important contribution to homesteading success was provided by American farmers who, having sold their improved homesteads in the United States, thus came to Canada with both capital and experience. The result in the United States of this exodus was the reduction in 1912, with a slight variation in detail, of the required period of residence on the homestead to the three years required in Canada.

As the quarter section was held to be too small for grain growing regions, preemption of

a second quarter at \$3.00 an acre was again allowed in 1908. Although two quarters did not satisfy the demand of many farmers, it was not difficult to bring several homesteads together in larger holdings. Much land went into cultivation during the World War, and as high prices were anticipated in 1918 preemption was abolished. With the accessible lands taken up, the opening of land requiring more railway building was discouraged and the homestead lands played a smaller part than repurchased lands in the soldiers' settlement project of the government. In 1928, however, the number of homestead entries began to increase considerably; but in 1930 the bulk of the public lands was turned over to the provinces in which they were situated in order to place the Prairie Provinces on a par with the older ones, which had retained their lands, and to give them the benefit of the revenue to be derived. In the adjustments it appears that some consideration will be given to the revenue lost to the provinces despite the fact that the lands were given away in free homesteads. At present the provinces which provide free homesteads are British Columbia, Ontario and New Brunswick; in the last two only remote or inferior lands are offered gratis. It appears therefore that the scope of the homestead in Canada will be considerably restricted in the future.

In Australia, after a period during which settlers were allowed to take substantially as much land as they could pretend to use subject to a quit rent, which went uncollected, the disposition of public lands was dominated by the misinterpreted theories of Edwin Gibbon Wakefield. Wakefield considered the backwardness of the British colonies to be the result of a maladjustment of the factors of production and advocated the establishment of a price for land sufficient to prevent its too rapid acquisition by laborers needed to bring capital into play and sufficient to insure the scientific diffusion of settlement and to facilitate by the resulting revenue the introduction of a proper type of colonist. The result of the theory, on the whole, was stagnation. This period from 1831 to 1861 witnessed the ascendancy of the sheep owners, favored by the demand for wool and the semi-arid environment. As squatters on the public domain they entrenched themselves with fixity of tenure on leasehold and with preemptive rights in 1847. The gold rush of 1851 brought a population which eventually turned to agriculture and engaged in a struggle with the squatter. Settlers from the United States brought American ideas

of land disposal. Their influence is to be seen in the adoption by the various colonies of acts providing for the "free selection" of limited amounts of land before or after survey and its purchase by instalments with residence and improvement conditions. The most radical of these laws was enacted in 1861 in New South Wales. Without segregation of pastoral and agricultural lands and without proper administration the result was blackmailing by selectors and dummying by the squatters, who emerged victorious, their leases converted into freeholds. Safeguards were developed in other colonies, but the increase in cultivation did not meet expectations. Within the last fifty years scientific advances have increased the possibilities of agriculture; legislation on behalf of small holdings has modified the principle of free selection by classification of land as well as by leasehold tenure, and with better administration it has been more successful. The free homestead grant was adopted in Western Australia in 1893 and Queensland in 1908. In the latter the Labour party ended all alienation in freehold beginning with 1917. The Western Australian homestead consists of 160 acres but the selector in wheat areas is expected to take up at least 1000 acres, the holding outside the homestead being acquired by "conditional purchase," usually on instalments. The era since the introduction of homestead legislation in the state has been characterized by a vigorous governmental campaign to absorb into agriculture the miners brought by the gold rush in the late eighteen eighties and early nineties. An agricultural bank established in 1894, railways, a water supply first developed for the mines and the easy terms for land acquisition brought prosperity to a state in which the potentialities of wheat are good. These factors also inspired an attack upon the wet, heavily timbered southwest, where fruit growing and dairying are considered more suitable and where the heavy cost of clearing often limits the holding to the free homestead grant. In 1921 there was adopted a group settlement scheme according to which the settlers should work together for wages to clear their lands, but it has been an expensive experiment which has had to be considerably modified.

After many years of a haphazard Algerian colonization policy a form of homestead policy was adopted by the French government in 1878. In an effort to settle French peasants and make the colony a wholly French country free grants were offered. A system of officially founded villages was combined with this homestead regime

in an effort to prevent frauds and displacement of the small settler. Three years' residence and the creation of improvements to the value of 100 francs per hectare were the conditions of the grants. From 1881 to 1891 population increased considerably under the homestead policy. Shortage of public lands and other difficulties led to the theoretical abandonment of the homestead policy in 1904, but even thereafter "exceptional" grants were more numerous by far than outright sales. General economic conditions unfavorable to colonization continued, however, to prevail during the period of grants as before.

Although American legislation has had its influence upon the confused and poorly administered public land laws in Latin America, the homestead in North American form has prevailed only to a slight extent. Where it has been adopted it has frequently been applied only to inferior and remote lands and has come too late to change the general agrarian situation. Because of the failure to attract a large immigration such as that into the United States the tendency was to make grants to concessionaires, who were to colonize the land with foreigners, rather than to individuals for their personal settlement. Moreover the influence of political jobbery and of the financial dross of governments has often been more decisive than the desire to foster genuine land settlement.

In 1863 the Juárez government in Mexico enacted a law, modeled somewhat upon the American legislation of 1862, permitting at a price the denunciation of as much as 2500 hectares of the public domain. With other measures it created a class of small proprietors totaling about 50,000 in 1910, but in the Díaz era the laws were modified so as to enable the alienation of enormous tracts to corporations. To increase the number of individual holdings as opposed to the communal tenure involved in the other agrarian reforms of the period the free homestead was established in 1923. Areas denunciable varied according to the type of land with 500 hectares as the limit. After a considerable area had been alienated the law was suspended upon the enactment of a colonization law in 1926. Following an economic crisis the national government in Argentina enacted public lands and immigration legislation in 1876. Among the provisions was the free grant of small areas to the first hundred families in a settlement. What has been called a grotesque parody of American legislation is a homestead law enacted in 1884 for pastoral lands in frontier territories. Grants were

limited to 625 hectares. In this period public land administration was in the hands of unsympathetic and unscrupulous officials; land nearer the population centers could be obtained in larger tracts with less effort and a spirit of land speculation was dominant. Only after the final crash of the land boom in 1891 were a limited number of colonies founded under the homestead law. In 1903 a new system was inaugurated and again sections of agricultural and pastoral lands were offered free to the early arrivals, but the terms were hard and the territories distant. In 1917 a homestead law was enacted for certain remote regions, and sections of 20 to 200 hectares were granted. Paraguay enacted a similar law in 1918, with grants consisting of 10 or 20 hectares according to the section of the country. In Colombia it has been possible for a good many years to acquire a certain amount of public land by cultivating and residing upon it or by introducing stock and improvements.

Chile witnessed a long struggle between those who sought land privileges for nationals and a ruling oligarchy interested in land speculation and concessions and profiting from legislation providing a certain amount of land for the head of each immigrant family settled, with additional amounts for children. As early as 1896 land was provided for emigrants to Argentina, while a law for national colonization conceding grants less extensive than those for foreign colonization but with the same kinds of assistance was enacted in 1898. By a regulation of 1902 the officials succeeded in making the terms harder and the grants even smaller and refused to concede the assistance granted to foreigners. Recent legislation has taken a more patriotic point of view. A lesser portion of a scheme for land colonization under legislation of 1928 provides for the grant of fair sized lots of public land in certain regions to individuals who are worth 10 percent of the value of the land.

At present there appears to be no great enthusiasm for the homestead system in Latin America. It is argued that it is more important to break up the uneconomic system of extensive cultivation on the large estates than to spread out a still rather small population into the inaccessible regions where public lands, often of inferior quality, exist and where the assimilation of an immigrant is difficult; that the enormous immigration as well as the domestic population which made possible rapid development sufficient to compensate the loss of the proceeds of land sales in the United States is lacking and

cannot be expected; that much land is unsuited to the small holding; and that the free denunciation of land affords no guaranty of its acquisition by a competent agriculturist, a possibility that ought not to be risked, as the extension of credit and other facilities is often necessary. For the ignorant Indian the procedure of homestead survey and entry is considered too complicated and the system of ownership involved is held to be alien to his concepts of tenure. Colonization by the state or by private enterprise with more or less state supervision seems to be favored, a method which more than homesteading is in accordance with traditional procedures as well as with a certain amount of contemporary thought regarding land settlement.

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See: LAND SETTLEMENT; LAND GRANTS; LAND SPECULATION; PUBLIC DOMAIN; FRONTIER; AGRICULTURE, section on AGRICULTURE IN THE UNITED STATES; SLAVERY.

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HOMESTEAD EXEMPTION LAWS are legislative devices of purely American invention intended primarily to preserve the integrity of the family as the basic element of societal organization and incidentally to encourage colonization by exempting the family abode, within designated limits of space and value, from forced sale in satisfaction of the homesteader's debts. These laws are frequently said to be derived from the feudal land law of England, which permitted the alienation of lands to be greatly restrained by the use of entails and strict settlements and by provisions for the widow's dower and thereby tended to preserve homesteads and family lands to the family succession. But these rules of the common law, serving political and economic ends, are wholly different from the American homestead exemption laws, which are designed to further sociological and humanitarian purposes. There is no evidence that the feudal land law had anything to do with the homestead enactments; the alleged connection is an afterthought of the American courts seeking to find a basis for rationalizing their conclusion that the homestead laws should be liberally rather than strictly construed.

Homestead exemption laws have sometimes been contrasted with personal exemption laws of earlier American origin. It has been said that the latter are for the protection of the individual while the former are intended to secure the family. But an inspection of the lists of usually exempted chattels, which include such items as the family clothing, the minimum of furniture for the family abode, the implements of the breadwinner and often a year's provisions for the family, clearly indicates that the primary function of these laws too is the preservation of the

family. While chattel exemptions find their prototypes in common law rules prohibiting the landlord from distraining certain of the tenant's chattels necessary to his economic existence, they find their origin in the hard conditions of American pioneer life. Primitive law was merciless to the debtor, his default being regarded as in the nature of a crime. Not only all his goods but his body as well might be seized in satisfaction of his unpaid debt. The English law which the American states inherited was hardly less strict.

When English settlers in the New World found themselves committed to a grim struggle with the great wilderness, it is not surprising that they came to an acute realization of the value of each pioneer's family to the community, the great hazards of uncontrollable circumstance to which that family was exposed and the desirability of affording it every reasonable protection. There naturally developed a frontier philosophy that would throw a portion of the risks of the struggle upon the creditor, and the chattel exemption laws were devised to save the family from destruction by legal process.

The extension of these statutes to preserve not only the family furniture but the family abode as well was a natural step but a very long one, offending many deep seated common law prejudices. It was not until January 26, 1839, that the legislature of the Republic of Texas, newly freed from the political control of Mexico and also from some of the inhibitions of the common law, enacted the first homestead exemption law. This act, which served to fix the pattern of legislation in many other American states, provided that there should be reserved to every head of a family in the republic, free from legal execution, "fifty acres of land or one town lot, including his or her homestead, and improvements, not exceeding five hundred dollars in value." The homestead exemption idea proved so generally acceptable that it was carried into the constitution of 1845, adopted shortly after the admission of Texas into the American union, and into the later constitution of 1876; in each instance the extent of the allowable exemption was enlarged.

The movement for homestead exemption laws made rapid progress. Provisions for homestead exemptions in varying forms were made in 1841 in Georgia and Mississippi; in 1849 in California, Iowa, Vermont and Wisconsin; and in 1850 in New York and Ohio. Homestead exemption laws are now in force throughout the United States except in Delaware, Indiana, Maryland, Penn-

sylvania and Rhode Island and the District of Columbia.

Twenty-five states have incorporated some provision for homestead exemption in their constitutions. In nine states, California, Colorado, Illinois, Montana, Nevada, North Dakota, South Dakota, Washington and Wyoming, the constitutions merely enjoin the enactment of proper legislation without specifying the extent or character of the homesteads to be exempted. In Mississippi the constitution contains the mere statement that the legislature shall not be prevented from regulating the sale of homesteads. In Georgia the homesteader may claim a "long" constitutional homestead or a statutory "short" homestead but not both. In three states, Alabama, Tennessee and Utah, the minimum valuations fixed by constitutional provisions have been enlarged by legislative enactment. In the twelve remaining states, Arkansas, Florida, Georgia, Kansas, Louisiana, Michigan, North Carolina, Oklahoma, South Carolina, Texas, Virginia and West Virginia, the statutes have adopted the limitations specified in the constitutions.

The homestead laws of the several states exhibit a common purpose but they vary greatly in detail and scope. The limitations set upon the value of the exempt homestead range from \$500 to \$8000, and those upon the extent of rural property from 40 to 320 acres with 160 acres as the most common exemption. Only a minority of states have taken the Texas legislation as a model, for in most states no distinction is made as to the rural or urban location of the homestead; merely a limitation of value is provided, which most commonly is \$1000. There has been a considerable amount of new homestead legislation since the World War. At least six states, Montana, North Dakota, Oregon, Utah, Vermont and Wyoming, have amended their homestead acts, in every instance enlarging the extent of the existing exemption.

In a few states the homestead exemption exists in favor of any person. The Vermont statute uses the expression "natural" person and the Wisconsin statute speaks of a "resident." In California and Idaho a homestead of lower value may be claimed by others than heads of families. But ordinarily the statutes give the privilege of declaring a homestead to "the head of a family" or to a "householder." "Family" is construed to mean not merely minor children living with their parents, but any group of persons nearly related who live together as a social unit dependent upon a common "head." On the death of the

original homesteader the privileges of the homestead pass with the inheritance to the survivors of the family group and continue for their benefit until the youngest child reaches his majority or until the last dependent dies.

In some states careful provision is made for the notification of subsequent creditors by requiring some form of declaration of homestead to be registered, but in most a looser procedure permits the debtor without previous declaration to set up his claim of homestead to defeat a creditor's levy of execution. In nearly all states the homesteader's power of alienation is restricted to some extent, but there is much variation in the degree of restraint imposed. The usual provision is that the homesteader if married can alien the land only if joined by his spouse.

Certain liabilities are usually expressly excepted from the claim of homestead exemption. It does not thus ordinarily extend to preexisting liens, to governmental liens for taxes or penalties or liens for material and labor expended in improving the homestead. Whether the exemption extends to claims for torts or fiduciary defaults depends upon the wording of the statutes. Purchase money mortgages are practically everywhere excepted, even in such states as Texas and Georgia where the policy of the law has been very restrictive and no subsequent mortgages are valid. In most states, however, incumbrances may be freely created provided the husband and wife consent.

The American homestead exemption policy has been accepted in many parts of the world. Laws of the American type have been enacted in the American possessions. The exemption in Alaska is 160 rural acres or one quarter of an urban acre but may in neither case exceed \$2500 in value; in Hawaii, one acre with the dwelling and buildings thereon, but the property may not exceed \$1000 in value; in the Philippine Islands a limit of value is fixed at 150 pesos, and in Porto Rico at \$500. The movement has also spread to the western provinces of Canada, in which social and economic conditions are similar to those obtaining in the western part of the United States and which were partially settled by persons from the latter area carrying with them the social philosophy of the American frontier. Thus in Alberta, British Columbia, Manitoba and Saskatchewan homestead exemption laws of the American type are in force with limitations of value ranging from \$1500 to \$3000. In all but British Columbia, where no distinction is made

between rural and urban homesteads, the rural acreage within the limits of value may be 160. The policy of homestead exemption has also been accepted in other countries where pioneer conditions have obtained. Such is the case in Brazil and Venezuela, but the laws place no fixed limits of value upon the homestead. South Australia and New Zealand passed homestead acts in 1895, which are constructed according to the American pattern; the limits of value are £1500 and £1000 respectively.

An altogether different type of homestead exemption, which likewise originated in the United States, has also been adopted in other countries. The Federal Homestead Act of 1862 contained exemption provisions protecting the grantees of the public land. Acts similar to this, except for the fact that the exemption granted to settlers on public lands sometimes extends a limited time only, have been passed in Canada in the provinces of Ontario and Quebec, in Newfoundland and in Australia in the states of New South Wales, Queensland and Western Australia. Such laws function primarily to attract settlers upon public lands.

In Europe beginning with the last quarter of the nineteenth century the depressed state of agriculture and the prevailing economic distress of the small cultivators of the soil induced a marked interest in the American homestead policy as an incident of the general humanitarian movement of the period. Laws of the American type have been adopted since the beginning of the present century, but European commentators in tracing the history of the homestead movement on the continent have included many types of laws whose inspiration was certainly quite different from that of the American. Thus the earlier laws in eastern Europe, particularly in the Balkans, were part of an agrarian policy which sought to prevent the partition of the holdings of the small peasant proprietors. Other early laws, for instance, those of Belgium and France, were connected with housing programs.

The first homestead act of the American type was embodied in the Swiss civil code of 1907 (arts. 349-59), which, however, did not go into effect until 1912. These articles empowered the cantons to create agricultural, industrial or residential homesteads and laid down fundamental regulations. The size of the homestead depends upon the needs of the family. The rights of existing creditors must be safeguarded in its creation. To be valued it must be registered in the public land office; and thereafter the owner can neither

mortgage nor sell nor lease it, but during his lifetime he may apply for its dissolution. The French homestead law of July 12, 1909, is very similar, except that a limit of value of 8000 francs is fixed. In Germany on May 10, 1920, after a long period of agitation a federal homestead law was passed allowing not only the state but municipal and other authorities to create homesteads. The law directs that discharged soldiers and the families of deceased soldiers be preferred. The homestead may consist of an urban dwelling or an agricultural holding, which is limited to the amount of land which can be cultivated by the family. Such homesteads are made free from seizure by creditors. A strong motive in all the European homestead legislation has been to prevent flight from the land. In most countries other than the United States the prevailing tendency has been to require the homestead to be specially designated or registered. The owner's powers of alienation have also been much more strictly curtailed.

An Egyptian law of 1912 declared that the property of a farmer owning not more than five feddans of land should be free from forced sale. The exemption extends to the land, the habitation thereon and the beast and implements needed to till it. The purpose of the act appears to be agrarian rather than humanitarian.

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See: DEBT; JUDGMENTS; HOMESTEAD.

Consult: Thompson, Seymour D., *A Treatise on Homestead and Exemption Laws* (St. Louis 1878); Waples, Rufus, *A Treatise on Homestead and Exemption* (Chicago 1893); Martin, William A., in *Corpus juris*, vol. xxix (New York 1922) p. 770-1044; Cole, B., "The Homestead Provisions in the Texas Constitution" in *Texas Law Review*, vol. iii (1924-25) 217-33; Seefurth, N., "Is the Homestead Transfer Subject to Inheritance Tax?" in *Columbia Law Review*, vol. xxvi (1926) 293-302; Rossel, Vergile, and Mentha, F. H., *Manuel du droit civil suisse*, 3 vols. (2nd ed. Lausanne 1922) vol. i, sects. 753-68; Kruger, Hans, *Das Reichsheimstättengesetz*, ed. by Fritz Wenzel (3rd ed. Berlin 1930). For a general account of the homestead movement see the article by Grünberg, Carl, "Heimstättenrecht" in *Handwörterbuch der Staatswissenschaften*, vol. v (4th ed. Jena 1923) p. 216-33, and bibliography there cited.

**HOMEWORK, INDUSTRIAL.** The term industrial homework is applied to work carried on in the worker's home for an intermediary who takes care of the sale of the product. The combination of production and consumption activities in the home has been characteristic of agriculture throughout its entire history; even in industry work in the home is much older than indus-

trial homework. The village smithy is adjacent to the blacksmith's living quarters, and the shop of the typical handicraftsman of the guild era was not generally separate from his home. Yet unlike the guild handicraftsman the industrial homeworker does not sell his product directly to the ultimate consumer but is dependent upon a middleman for the disposal of his output. It is this combination of centralization in marketing with decentralization in production that is the distinguishing characteristic of industrial homework. It is a capitalistic form of production, its earliest instances being found in northern Italy in the thirteenth century. As a typical form of industrial organization, known also as the domestic system (*Verlagssystem*), it antedates the factory system (see PUTTING OUT SYSTEM) and persists today in a number of industries and countries. Its history, in the course of which it has assumed many indifferent forms in different periods, countries and industries, may be generalized into a scheme of stages which exemplify the logic of the development but not necessarily its actual sequence for all historical instances.

Industrial homework evolved out of the subordination of the mediaeval handicraftsman to an entrepreneur who possessed a superior knowledge of conditions outside the local market. The new entrepreneur not only interposed himself between the formerly independent handicraft shops and the market but also drew upon the peasant families in the villages, who thus for the first time undertook industrial work for sale. In the second stage of the development an intermediary, the so-called contractor (*Ferger, facteur, commis de la ronde, fattorino*, factor), negotiates between the entrepreneur and the homeworker. He takes care of the distribution of work, gives orders to the individual families and assumes responsibility for the punctual delivery of the product to the entrepreneur. In the third stage the contractor becomes independent of the entrepreneur, who is thereby transformed into a wholesale merchant exercising only indirect influence on production; the relations between them assume the form of purchase and sale and the contractor bears the entire risk of the production carried on by the industrial homeworkers. In the fourth stage the homeworker himself develops into an entrepreneur. He employs in his home hired workers in addition to the members of his family, and homework merges into shop work, often of the sweatshop variety. The entire organization is then built up of the merchant, the contractor, the entrepre-

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neural homemaker, the homeworkers who are members of the family and the hired homeworkers.

Homework means decentralized production, carried on in innumerable small shops with a much more primitive machine equipment than is to be found in large scale industrial establishments. Its persistence in certain trades may be due to the relative backwardness of technical processes, as is the case in the artificial flower industry, toy making, the finishing of garments and in certain types of food handling. Even where the machine process has been adopted for mass production, costly handicraft articles manufactured at home may cater to a special market. In other instances little capital is required to carry on an enterprise and the work can be easily subdivided, as in the case of the garment industry. Finally, the trade may be a seasonal one and the employer may find it more profitable to run his factory on its minimum load, sending out work to homes during the busy seasons. As these factors have ceased to operate, homework has died out; thus the manufacture of cigars by machinery checked homework in that trade and the invention of elaborate knitting machines has greatly reduced the home production of knit goods.

In trades where technological factors do not inhibit the persistence of homework it enjoys from the point of view of the entrepreneur certain advantages in comparison with factory labor. By relegating most of the labor processes to the homes of the workers the employer is able to economize on certain fixed charges, such as rent or interest and amortization charges on his capital, the cost of heating, lighting and maintaining the sanitary standards demanded by law and the various other costs incidental to centralized supervision and control over labor performance. It may be argued that the wage of the homemaker must include an allowance for the expense which is thus shifted to him by the employer. But as a rule the wages paid to homeworkers are lower than those of factory labor which turns out a similar product. Children, semi-invalids and aged persons are more conveniently employed at home than in a factory; similarly the percentage of women is higher among the homeworkers than among the factory workers. Homeworkers cannot be easily reached by organized effort to better their wages; thus they do not benefit by the gains which trade union organization has secured for the factory worker. The influence of trade unions has been

slight except in Soviet Russia, in the cigar trade in Germany and to a small extent in the clothing industry of France. Moreover until the last few decades homework has been free of any of the restraints and costs imposed by social legislation concerning sanitary conditions and accident prevention, and even now it has not been sufficiently affected by such legislation to wipe out the differential of social costs arising from such methods of production.

Homework frequently takes the form of the sweatshop with low wages, long hours and poor working conditions. In new countries with a large supply of immigrant labor the homeworkers are composed in part of foreign handicraftsmen competing with the machine economy. Many types of homework, however, are also carried on by native workers competing with or supplementing machine processes. There is no reason to suppose that the difference between the cost of factory labor and that of homework is not borne ultimately by society in the physical and moral deterioration of the sweated workers; but homework is often profitable to the individual entrepreneur under a system of unregulated labor bargaining.

Statistics concerning the extent of homework are extremely unsatisfactory. In the case of many highly industrialized countries with hundreds of thousands of homeworkers none exist; and for other countries the figures are so meager as to be meaningless. The difficulties of obtaining complete statistics arise from the irregular nature of much homework and from the fact that it is frequently called into being in order to avoid factory regulations and wage and hour legislation and hence exists more or less surreptitiously. Even with a careful investigation of homes the true total cannot be fixed, since, for example, it is easy to deny that a child works at home.

In the United States statistics are available for only a few states and except for New York are of little value. An investigation made for the Association of Governmental Labor Officials in 1926-27 in forty-five states disclosed that homework was widespread in all except agricultural and mining areas; but no detailed description of the extent, conditions or types of homework could be given. In New York state in the year ending June, 1927, 21,573 registered homeworkers were reported, of whom 11,516 were in New York City. This shows an increase over 1913, when 12,221 persons were reported employed at homework in New York state; but this increase may be due simply to improved regis-



tration. The total number of homeworkers in licensed houses in New York state amounts to perhaps twice this figure, and if non-licensed houses are included the number may vary between 60,000 and 100,000. Most of these homeworkers are engaged in the needle trades; over 13,000 of the 21,573 homeworkers were found to be employed in the clothing industry and about 4000 in the embroidery and artificial flower industries. In New York City 33.5 percent of the registered homeworkers were employed on men's clothing, 22.4 percent on embroidery and 15.9 percent on trimmings and flowers. In reality the proportion of workers in these trades to the total number of homeworkers is undoubtedly much smaller, since in non-licensed houses many workers are engaged on other articles the production of which at home is prohibited. The finishing or making of clothes in the home prevails also in California, Illinois, Louisiana (particularly New Orleans), Maryland, Massachusetts, New Jersey, Pennsylvania and Wisconsin. But homework extends to many other trades in the United States. In California and Illinois homework on lamp shades was reported; in Illinois, Connecticut and Pennsylvania the carding of pins and buttons, the making of children's garments, toys and paper boxes and in the latter two states the stripping of tobacco are important forms of homework. The preparation of food and the manufacture of jewelry, brushes and infants' wear at home were noted in Maine, Massachusetts, Illinois and Pennsylvania. Rhode Island reported much homework, especially by children; hosiery and clothing are made at home in Tennessee; the stringing and tagging of bags occupy the homeworkers of North Carolina; in Missouri homework takes a variety of forms, including the manufacture of millinery, neckwear, shoe ornaments, aprons and house dresses. Relatively few of the workers do machine operating; they "finish" garments by hand or perform the more simple operations in connection with production, often taking home at night some extra work after being employed in the factory all day. Homework is not restricted to large cities. In the rural districts of Pennsylvania the farmers' wives work on clothing, textiles and tobacco, which are delivered to them in vans by manufacturers who seek a cheap and unorganized labor in the countryside; and for the same reason homework accompanied by sweating is often found in small industrialized towns and in the areas surrounding industrialized centers.

No general figures are available for the number of homeworkers in Great Britain for the last twenty years; it probably reaches half a million or more. Again, the great majority are employed in the clothing and textile industries. Certain skilled trades are still practised at home and are well paid but most irregular.

In Germany according to official statistics the number of homeworkers was 476,080 in 1882, 457,984 in 1895, 405,262 in 1907 and 405,765 in 1925. In recent years the true number of homeworkers has probably been 800,000 or more. Almost 50 percent are employed in the clothing industry and allied trades and about 28 percent in the textile industry. Woodworking, food industries and metal working are next in showing large numbers of homeworkers. In the Black Forest region chain for mesh bags is manufactured by the rural population and wooden toys, dolls and bead crocheting are produced by cottagers in the mountain districts who own small plots of land but cannot live by their produce. The extent of homework among the farming groups fluctuates with the condition of agriculture and is almost impossible to measure.

In France according to the 1921 census the number of small entrepreneurs and homeworkers totals about 2,300,000. Among them the homeworkers are estimated at 522,000 (157,000 males and 365,000 females). The great majority of the industrial homeworkers are to be found in the textile and needle trades. The manufacture of shoes at home is almost entirely the occupation of men; it is still widespread in the regions around cities. Artificial flowers, often genuinely artistic products, are manufactured by homeworkers in Paris, Rouen and other cities; while laces, feathers, religious articles, jewelry, umbrellas, tapestry and wooden objects are made at home in many sections of France. Changes in fashion and the extension of the homework act of 1915 to these trades, however, have to some extent checked home manufacture.

In other countries statistics of homework are scanty and unreliable. Italy reported about 35,000 homeworkers in 1927 and in Yugoslavia 5 percent of the national income is credited to homework. In Switzerland 35,000 homeworkers were reported in 1929, representing a decrease of more than 70 percent since 1900. The sharp decline is attributed to general popular agitation and to the tendency since 1920 to confine the watchmaking trade to factories.

In pre-war Russia industrial homework was represented principally in the *kustar* industries

carried on by the peasants. Early village handicrafts, which aimed at first to eliminate the dependence of the peasant on the distant town market and to supplement the income derived from agriculture, developed in the course of time into specialized industries with a large output. Growing pauperization made peasant households increasingly dependent upon the income derived from handicrafts, and the lack of capital forced a considerable proportion of such peasant households to undertake piecework for a capitalist employer or to depend upon credit furnished by the merchant who took over their output. Peasants working on a wage basis and those selling their output more or less regularly to the same merchant formed by far the larger part of the *kustar* producers, whose number was estimated at from 10,000,000 to 12,000,000. Of these industries the most important were those based on wood as raw material—the manufacture of furniture, wagons and accessories, wooden parts of agricultural implements, wooden dishes and spoons, window frames and sashes, toys, mats and bast shoes. Certain branches of the textile industry were to a considerable extent in the hands of *kustars*, such as the manufacture of linen, hemp cloth and sacks, rope, unfinished woolen cloth, felt, felt boots and carpets. Rural homeworkers were also important in the production of tanned sheepskin and sheepskin coats, tanned leather, bricks and earthenware and the like. Generally speaking, the *kustars* utilized raw materials readily available in the surrounding countryside and manufactured articles intended primarily for peasant consumption. Nevertheless, some of these industries were concentrated in definite localities and produced for a national market rather than for local consumers. The *kustar* industries are still important in present day Russia; according to the 1925 census there were over 2,000,000 *kustars* in the Soviet Union, a figure which must be regarded as an underestimate. It is doubtful, however, whether they can still be regarded as industrial homeworkers, since the government policy of substituting producers' cooperation for capitalist employment among the *kustars* has been largely effective. On the whole, government agencies and cooperative bodies have taken over the functions of the capitalist employer and merchant in providing credit and raw material and in marketing the finished product.

Statistics show that the total number of homeworkers throughout the world has decreased within the last decades. The laws regulating

homework have multiplied, and it is quite possible that the increase of homeworkers illegally employed has more than offset the decline in the recorded number. Nothing definite is known as to the proportion of male and female and child workers. Owing to the nature of most homework women have always been the most numerous, and no doubt the proportion of women and children so employed has increased with the use in the factories of machinery at which as a rule only men work. The clothing and textile trades still employ the majority of homeworkers; but since women are invading other trades, such as the metal industries, in increasing numbers, the proportion of homeworkers in these industries has probably increased.

Social legislation for the protection of the homeworker is a very recent development. Although legislation was enacted in England for the benefit of the factory workers in the first half of the nineteenth century, the principle of *laissez faire* governed the attitude toward the "small master" and home industry until the last decade of the century. Producers' cooperation, proposed by the Christian Socialists, was directed as much against sweating in factories as in small workshops and the home. Public health acts remained the only resource for those interested in the protection of the homeworker. In other countries a few laws growing out of current ideas about sanitary and wage protection were enacted in the last quarter of the nineteenth century, but with few results. The United States was the first to extend state control over the problems of hygiene in industry in a way that offered a certain degree of protection to homeworkers. The New York law of 1884 prohibiting the manufacture of cigars and cigarettes in tenement houses in large cities was declared unconstitutional, and in 1892 the system of licensing apartments in tenement houses was substituted. The latter although modified several times is the chief measure for the protection of homeworkers today. Massachusetts followed suit in 1891 with a law resembling the earlier New York law, although it could not be enforced for lack of inspectors; and similar laws passed by other states during the same years remained ineffective for the same reason. The report of the House of Lords on sweating in England in the period from 1888 to 1890 dealt particularly with homework, which by this time provided the greatest excesses of unfavorable conditions; and in 1891 a consolidating act took cognizance of the situation by requiring lists of outworkers to be kept by employers in certain

trades and by setting up sanitary regulations similar to those in the United States. One of the chief objects of minimum wage legislation was the elimination of sweating. Protection of homeworkers' wages was first introduced by New Zealand in 1894 and by Victoria, Australia, in 1896; but the laws remained ineffective until the twentieth century, when minimum wage regulation became better organized. During the following years social legislation spread to many countries and states without, however, attaining much practical significance. Really comprehensive and partially effective laws date only from the second decade of the twentieth century. This new epoch was inaugurated by the English Homework Orders in 1911, 1912 and 1913, which extended the 1901 regulations to new trades, and the Trade Board acts of 1909 and 1918, which protected the factory as well as the homeworker; by the German homework law of 1911, amended in 1923; by the law passed in New York state in 1913 entirely prohibiting the home production of foodstuffs, children's wearing apparel and certain other products; by the Swiss minimum wage law of 1917; and by the laws regulating homework and wages in Norway and Austria in 1918 and in Czechoslovakia in 1919. The French minimum wage act of 1915 to prevent outworkers from being paid lower wages than factory hands applied only to women homeworkers in the clothing industry but in 1922 and 1926 was extended to cover all wearing apparel, artificial flowers and feathers, jewelry, laces and the like. By 1920 most of the larger industrial countries had created some sort of partially effective legislation for homeworkers.

In the United States at the present time fifteen states—California, Connecticut, Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Washington and Wisconsin—have some kind of law concerning homework. All of them except California, Connecticut, New Jersey and Washington prohibit homework of some kinds (usually the manufacture of clothing or tobacco products or both) done by persons other than the immediate members of the family. Michigan forbids industrial homework altogether in the clothing and tobacco industries. All of the states except Ohio also have some sort of law regulating homework. Missouri requires only the registration of persons so employed, Tennessee demands sanitary conditions but permits work without a license, and Connecticut asks that the commissioner of labor be notified but

does not insist upon a license. Some states have made provisions for regular inspection; New York, for instance, requires all tenement houses used for manufacturing to be inspected once every six months. But in most states there are not enough inspectors to insure proper enforcement of the laws.

Social legislation in Germany, where homework also constitutes an important problem, is concerned with both sanitary conditions and wages of the homeworkers. The health regulations safeguard the worker's own health in the form of insurance against sickness and restrictions concerning work on incendiary or unsanitary goods and, on the other hand, prohibit homework on such goods as bakery products, the production of which even if undertaken under "normal" home conditions may constitute a menace to the consumer. Furthermore, hygienic working rooms are required. Wages come under the jurisdiction of trade committees, the *Fachausschüsse*. There are fifty-seven such committees; one of them comprises the whole of the industry producing carnival and similar paraphernalia; the other committees are concerned with portions of the various industries. In the clothing industry, for instance, twenty-seven committees operate; in the textile industry there are ten. In the main the trade committees regulate wages, chiefly by fixing hourly minimum rates, although if possible they also determine piece rates with due regard to working time.

The most thorough regulation of homework is found in Russia. The Russian homeworker shares the benefits provided by the advanced social legislation of the country. Wages, fixed by collective agreement with labor unions, are in keeping with the factory wage standards; and a minimum wage is fixed by the state. It happens not infrequently that the same collective agreement which covers the factory workers also applies to the homeworkers in the same industry. Membership in labor unions is virtually universal among homeworkers.

The problem of protecting the homeworker from the evils of sweatshop conditions has not been solved in thirty years of discussion. Direct control of homework may require that the houses in which work is done be licensed or that the employer register all his homeworkers. But the licensing system may be unfair to the worker if his trade is irregular and he has to secure a new license for each work period; moreover it cannot destroy child labor, which is so easily concealed. Registration is certainly desirable, but it must be

accompanied by adequate inspection of the homes; this up to the present has been lacking. Indirect control of homework through general social legislation is equally faulty. Hours cannot be regulated when the work is performed during leisure time or on rush orders. The fixing of wage rates by boards if completely effective would probably destroy homework entirely and leave without means of support many persons incapacitated for factory labor. Only if a whole industry is included under regulatory wage acts, as is the case under the English trade boards, can discriminatory legislation resulting in the complete destruction of homework in favor of the factory system be avoided. Most of the evils of homework are inherent in that type of work. If those evils are to be abolished, then homework itself must be abolished; the factory worker must have an income high enough to support his family without the assistance of his children, and incapacitated persons unable to do factory work must be taken care of by society.

JÜRGEN KUCZYNSKI

See: PUTTING OUT SYSTEM; LABOR LEGISLATION AND LAW; INDUSTRIAL HYGIENE; MINIMUM WAGE; HOURS OF LABOR; GARMENT INDUSTRIES; WOMEN IN INDUSTRY; CHILD LABOR.

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HOMMEYER, KARL GUSTAV (1795-1874), German jurist. Homeyer was born at Wolgast a part of western Pomerania, which at that time belonged to Sweden; at an early age he came to Berlin. He studied at the University of Berlin under Savigny and Eichhorn, who strongly influenced him, and later became professor in this institution. After 1845 he also served as a judge of the supreme court at Berlin and after 1854 as a member of the Prussian upper house.

Homeyer's principal activity as a jurist was dedicated to the Germanic law books of the Middle Ages, particularly to the editing of the famous *Sachsenspiegel*. His edition of its first part containing the *Landrecht* (Berlin 1827, 3rd ed. 1861) is still of basic importance. There followed the editing of its second part with the related texts, *Des Sachsenspiegels zweiter Theil nebst den verwandten Rechtsbüchern* (2 vols., Berlin

1842-44). The first volume contained the *Lehnrecht*, or feudal law, with its accompanying procedural law, the *Richtsteig Lehnrechts*; the second contained the *Auctor vetus de beneficiis*, the *Görlitz Rechtsbuch*, both versions of the *Sachsenspiegel*, and a systematic treatment of the feudal law. The editing of the *Landrecht* procedural law was later published as *Der Richtsteig Landrechts* (Berlin 1857). Various problems and controversies led Homeyer to a long series of essays which also took their point of departure from the *Sachsenspiegel*. In a second group of works, however, he dealt with the problem of distinctive family symbols or badges. The research of several decades was finally embodied in *Die Haus- und Hofmarken* (Berlin 1870). He also wrote brilliantly in the general field of Germanic law in "Das Recht des Dreissigsten" (in *Königliche Akademie der Wissenschaften*, Berlin, *Philologische und historische Abhandlungen*, 1864, p. 87-270), in which he treated the old Germanic custom of allowing the relatives of a deceased ancestor to remain in undisturbed residence in his house for thirty days—a custom moreover which Homeyer traced back into Jewish and ancient law. He had shown his interest in northern law as early as 1824, when he began translating Kelderup-Rosenvinge's history of Danish law.

In his handling of texts Homeyer showed critical acumen and precision extending even to insignificant detail as well as scholarly caution and restraint in the elucidation of particular points. He was thus a true adherent of the historical school, standing in close spiritual relationship to his teachers, Savigny and Eichhorn, and to Jacob Grimm.

CLAUDIUS VON SCHWERIN

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HOMICIDE is the killing of a human being. Such a neutral term must be considered an obvious necessity in view of the fact that homicide may be made punishable with reference to a great number of mental elements as well as to external circumstances. The mere possibility of this should make it plain that there has never been a universal concept of wrongful homicide. The history of homicide shows little indeed that is axiomatic. Even in the historical period it has not always been treated as a public crime, and the blood vengeance feud and composition for homicide have not become entirely obsolete in modern times. A horror of homicide is a modern

phenomenon. As heresy and treason have been the great crimes of theocratic and monarchic society, homicide is the great crime of democratic, secular and individualistic society, which has elevated man to a position of supreme dignity. But this of course is not to say that church and state have been indifferent to the security of human life. Its protection becomes very soon one of the chief objectives of the organized state. Moreover in the discrimination of the degrees of guilt in homicide religious influences have played a very great role.

Among the peoples of antiquity who have most influenced western civilization the Hebrews show most clearly the traces of the conception that homicide is only a private wrong. The specific prohibition of the Pentateuch, "Ye shall take no satisfaction for the life of a murderer" (*Numbers xxxv: 31*), must obviously have been directed against a once prevailing practise of taking blood money, although by this time homicide had come to be conceived as a crime against the whole community, which might be polluted by the bloodguilt of the murderer. The provisions for the cities of refuge, to which the accidental slayer might flee, imply the existence of courts which were competent to make distinctions between homicides. It is interesting that the tests, as they tend to be in all primitive law, were largely circumstantial. The Pentateuch enumerates the circumstances of lying in wait, ambushing, the existence of enmity or hatred on the part of the perpetrator, guile, the procuring in advance of means of homicide. The most fundamental distinction perhaps is one that has significantly a theocratic tinge, that between searching the victim out and waiting for God to deliver him into the slayer's hands.

The treatment of the history of the Greek law of homicide has been almost completely overshadowed by the doctrine of pollution, which is already apparent in the Pentateuch. The famous trial scene on the shield of Achilles probably bespeaks a purely private conception of homicide. The doctrine of pollution did not become established until the latter part of the seventh century with the introduction of the cult of Apollo. While the idea of pollution thereafter played a very great role in Greek life and thought, it is wrong to regard it, as has often been the case, as the central force in the creation of Greek criminal law, which as elsewhere must have grown under the impetus of political necessities. The apparent overemphasis of homicide in Greek law may well be ascribed to the fact that

only the provisions of the code of Draco relating to homicide have remained extant. An even greater source of misconception has been the Erinyes of the Greek tragic dramatists. These hardly expressed the normal Greek attitude toward pollution.

The Greek law of homicide is also peculiar in its development of a multiplicity of special courts. The jurisdictions of these homicide courts indicate the Greek distinction between punishable homicides. The Areopagus, reputed to be the most ancient homicide court in Greece, was probably the body from which the other courts had developed, doubtless by a process of subdivision. It had jurisdiction of the most serious cases of homicide—voluntary homicide, wounding with intent, poisoning, and arson. The court of the Palladium judged involuntary homicide and the slaying of non-citizens. To the court of the Delphinium were assigned cases of justifiable homicide. The court of the Phreatto tried those who had committed a homicide while in exile for a former involuntary homicide. In order to avoid the pollution of Attic soil the defendant made his defense from a boat while the court sat upon the shore. The court of the Prytaneum sat in judgment over unknown slayers as well as over animals and inanimate objects which had caused the death of a human being. This practise of trying animals and things was very common everywhere in ancient times and lasted beyond the Middle Ages.

The Romans are remarkable in developing the concept of homicide as a public crime much earlier than any other Indo-Germanic people. *Quaestores parricidii* appear at a very early date. It is certain that homicide was a crime before the period of the Twelve Tables. Its scope is not exactly known but it constituted one of the two fundamental notions of the Roman criminal law, which were *perduellio*, applicable to acts of treason, and *parricidium*, applicable to acts of homicide. The relation of the two crimes must have been close; it can readily be imagined that to kill a Roman citizen would be regarded almost as an attempt to subvert the safety of the state. *Parricidium* as a special crime of killing a parent or other close relative has been handed down by the Roman law to the modern continental codes, but in early Roman law it had no such significance. The process by which *parricidium* came in effect to be *parricidium* is very obscure, and most of the explanations are more ingenious than convincing. The punishment for parricide was originally the terrible one of the *culleus*, but al-

though abolished in Roman law by the *lex cornelia de parricidiis* it was revived again in the Middle Ages.

The later Roman law of homicide was based on the laws of Sulla. The *lex cornelia de sicariis et veneficis* really covered a multiplicity of crimes. It is so particularistic in its terms that it must plainly have been occasional, directed primarily against the violence that was doubtless all too frequent in the republic. Whether it repealed and superseded the older law of *parricidium* is not clear. But it is certain that although by its terms it was applicable only to such crimes as assassination and banditry, it was soon stretched to cover every homicide committed or even attempted with violence. The special Cornelian delict of poisoning has, like parricide, also descended to the modern continental codes. Because of difficulties of medical diagnosis the crime was long associated with sorcery. In accordance with the general tendency of Roman law *dolus* had always to be shown, but it is not clear whether this meant premeditation as well as intention. Whether the Roman law even after Hadrian punished homicide committed with "criminal negligence" is disputed.

The conception of homicide as a public crime remained to some extent "imperfect" from the modern point of view among Hebrews, Greeks and Romans. The survival of the blood vengeance feud may be seen in the Hebrew practise of delivering the convicted murderer into the hands of the victim's nearest relative, the "avenger of blood," for execution. Among the Greeks only the relatives could institute the proceedings in the homicide courts, a practise which remained unchanged even after the reforms of Solon, who introduced the novelty of allowing any Athenian citizen to institute a public action. The Roman law of homicide did not protect slaves until very late in its history. The prominence of the privilege of exile in the ancient law may bespeak a memory of the time when expulsion from the group was the penalty for kin slaying. The Greeks allowed even the wilful slayer to go into voluntary exile. It was only when he chose to stand trial that the penalty of death was inflicted. Voluntary exile became permissible also among the Romans in the republican period and was converted into deportation only under the empire.

The homicide law of the Germanic folk laws is particularly important for an understanding of the development of western law. It is to the Germanic conception of the most aggravated

form of homicide that modern law owes at least the name murder. The Germans, a warlike people, looked upon a homicide in an open fight between two armed men as involving no disgrace. On the other hand, a secret homicide was dishonorable. *Mord* meant secret slaying but was applicable also to other wrongs: thus *Mordbrandt* meant secret arson. Literally, the slayer "murdered" the dead body by concealing it. The punishment for secret homicide was three times the ordinary wergild among the Franks and Frisians and nine times among the upper Germans and Saxons. But in the northern laws homicide was counted an evil deed that made a man peaceless.

Even more important than the idea of the secret homicide, which did not long maintain itself, was a later Germanic idea. The Germans regarded as manslaughter any slaying without cause. But soon the deed of presumptuous rashness attracted special attention because under such circumstances the family would be less likely to forgo the feud. The royal legislation of the Frankish period sought to deal with this situation. The punishment which was meted out for a homicide of presumptuous rashness became variously death or exile or total confiscation of property.

It is most important to remember that the Germanic folk laws had looked to the objective fact of injury. Their standards of liability if not absolute were certainly strict. The composition had to be paid not only for a homicide committed by misadventure but even for one in self-defense. When in the course of the thirteenth century homicide generally became a public crime—under special circumstances such as the violation of a special peace of lord, emperor, king or church it had become a public crime much earlier—the change was not accompanied by a very great degree of displacement of old ideas. The strict responsibility of the period of composition was well suited to the postmediaeval policy of savage repression; and in the main it survived, although the penalty for homicide had become capital. To be sure there were concessions. Homicide might now be committed generally in self-defense, although even in such a case it was still said that there was an "appearance" of crime. But accidental homicide might still involve a mitigated punishment. Any wounding which resulted in death made the assailant guilty of capital homicide; and in the Langobard and northern laws the death might ensue within a year and a day, a long period doubtless due to

the immaturity of medical science. Provocation would ordinarily be no excuse. To slay an enemy in a chance affray might be "simple" homicide, to lie in wait for him might be "deliberate"; but in either case the penalty was capital. The only difference was that it might assume a more comfortable form in the former case than in the latter. Thus under the *Carolina*, the penal code of the empire, the *fürsetzliche mutwillige mörder* was to be broken on the wheel, but the one who had *eyn todtschlag aus gecheyt und zorn gethan* was still to perish by the sword. As composition had pretty nearly always been due, the capital penalty was now almost always due.

The neo-Romanic period witnessed a gradual abandonment of the principle of objectivity, the most important enemy of which was without doubt the church. The church had never tended to treat homicide with the severity which it reserved for such a crime as heresy. In the Merovingian period it had favored the system of composition, although by the Carolingian period it confined itself to eradicating private revenge and securing recognition of the right of asylum. In the later public war on homicide the church could not but help to make subjective distinctions between offenders. It was concerned with moral responsibility, and hence the animus of the offender. The revived Roman law contributed the idea of *dolus*, which the Italian criminalists developed; but unfortunately *dolus* had to struggle with the idea of the deed of presumptuous rashness and its triumph was far from complete. There simply took place that unhappy marriage of convenience whereby the Germanic idea took the Latin name and became embodied in the concept of *dolus indirectus*, which dominated criminal theory after Carpov. A provocation might excuse a homicide, but it might still be murder if the act of the accused showed a depraved mind.

The English law of homicide reveals the typical Germanic evolution, with the possible exception of the famous institution of the *lex murdrorum*, which is particularly interesting because it hints at the relation of homicide to conquest. Whether it was introduced by the Danes, to whom it had been familiar in their native land, or by the Normans or continued by Norman legislation is not certain. In any event, it was certainly an urgent measure for the protection of the followers of military adventurers in a conquered country. By the *lex murdrorum* a fine was imposed by the king upon the hundred when a man was slain and it could neither produce the

murderer nor by the so-called "presentment of Englishry" prove that he was an Englishman. Other exceptions increasingly restricted the *lex murdrorum* up to the time of its final abolition in 1340.

What particularly distinguishes the English law is the longer survival in it of mediaeval Germanic ideas. The appeal of murder which gave the kin a part in the prosecution of the crime was not formally abolished until 1819. That some taint attached to almost every homicide is apparent in the distinction between "justifiable homicide," as in self-defense, and "excusable homicide," as by misadventure. Throughout the later Middle Ages the man who slew another by accident had to procure the king's pardon, and the forfeiture of movable property which followed in such a case was not formally abolished until 1828, when the distinction between justifiable and excusable homicides ceased to have any meaning in English law. Moreover the old rule that a wounding which resulted in death within a year and a day was murder is still theoretically in force in English law today.

The present English law of homicide thus still harbors the concept of *dolus indirectus*. Its prevailing test of murder is the well known "malice aforethought," a special phrase primarily due to the accident of its use in the statute, 23 Henry VIII, c. 1, which took away benefit of clergy in the case of "murder of malice aforethought." But this malice may be either express or implied; in other words, there may be neither malice nor forethought. A homicide committed according to a preconceived design will of course be murder, but so will a homicide committed intentionally but on a momentary impulse or recklessly or in the course of the commission of a felony. Murder is distinguished from manslaughter, which in English law is either voluntary or involuntary. It is voluntary when done in the heat of passion upon gross provocation; and involuntary when committed unintentionally in the performance of some unlawful act which does not amount to a felony and is unlikely to endanger life or when it results from negligence in the performance of some lawful act or from the omission to perform a legal duty. The distinction between murder and manslaughter sometimes becomes very tenuous. That the English law does not lead to a needless severity in many cases is due only to the powers of intervention of the home secretary.

Intent triumphed all but completely in the continental codes of the early nineteenth cen-

tury which, dominated by a philosophical individualism, erected the determination of the will into a guiding principle of legal liability. Thus crimes of homicide became differentiated into various kinds of intention. Premeditation became the prevailing test of murder. Simple intention became the prevailing test of manslaughter. If a homicide might still be committed with negligence, it was now only a comparatively minor crime which entailed a light penalty. But the particularistic delicts of the Roman law were generally retained in one form or another, *parricidium* and *veneficium* quite commonly, *latrocinium* much less frequently.

Upon this basis still rest the French and the German penal codes despite a considerable difference in terminology. *Mord* and *Totschlag* are murder and manslaughter in the German code; in the French code *meurtre* is not murder but manslaughter, while premeditated homicide is assassination, as indeed it is in all the Latin codes. But the more than six decades of criminological advance that separate the French and the German code have resulted in some improvements of form and substance to the advantage of the latter. Thus *guet apens*, or waylaying, is especially mentioned in the French code, but since this would clearly fall within the rule of premeditation it must be regarded as superfluous and has indeed become practically obsolete. Parricide, which is a special capital delict in the French code, has become simply an aggravating circumstance of manslaughter in the German, which also has converted poisoning into a general delict. The German homicide provisions are much simpler because greater reliance is placed upon generalization. Since an insult to honor is a possible provocation under the German code, it is not necessary to make specific provision, as in the French code, for the slaying of an adulterer taken by the husband in *flagrante delicto*, a common provision in the Latin codes. While under the French code such a homicide is entirely excusable, the tendency under more recent codes has been to impose some degree of punishment and sometimes to extend the privilege to the wife. Thus too self-defense has been erected into a general doctrine in the German law, while in the French it is specially defined in connection with homicide. The German code is milder than the French in its treatment of a homicide in the course of the commission of a criminal act. Not only is it not a capital offense as under the French code, but there must be an inner connection of purpose with the crime that



is being committed. The drafters of the German code also made murder upon request of the victim a lesser form of manslaughter, an exception which exists in a less general form in many codes which mention it in connection with suicide. The Austrian law curiously differs quite fundamentally from the German. It is still dominated by *dolus indirectus*.

The codes of the Latin countries which have been based largely either upon the Spanish or Italian codes differ from both the French and German in respect of a far greater degree of particularism. In both the old Spanish code of 1870 and the new one of 1928 premeditation is still a constitutive element which converts homicide into assassination. But so will a variety of four other circumstances: treachery; the hiring of an assassin; the resort to submersion, arson or poison; or the presence of barbarism in the execution of the deed. The new code is even more particularistic. The same characteristic is to be seen in the Italian code of 1889, which, however, took the further step of abandoning premeditation altogether as a constitutive element. The generic crime is homicide with intent to kill, and premeditation is simply one of the list of aggravating circumstances. In one stage of the drafting of the new Italian code of 1931 premeditation was omitted altogether even as an aggravating circumstance, but it was finally restored as such. Premeditation is not, however, among the aggravating circumstances which will entail capital punishment but among those leading to life imprisonment. The same course has been taken by the new Turkish penal code of 1926, with the difference that premeditation involves the death penalty.

It is held to be one of the commonplaces of Anglo-American legal history that American law represents only an adaptation of English legal institutions. It is thus interesting to note that the steady tendency in American codes has been away from the English law of homicide, which is now accepted in only a few states. The present American law is far more closely affiliated with that of the European codes of the nineteenth century. The process began as early as 1794 with a Pennsylvania statute which divided murder into two degrees. Both murder and manslaughter are now commonly divided into degrees. In murder in the first degree premeditation is emphasized. To kill in the course of the commission of such serious crimes as arson, rape, burglary and robbery is also commonly murder in the first degree. Thus the general felony rule of the

common law has been abrogated. The concept of manslaughter is frequently characterized negatively by the absence of intention and positively by the presence of provocation. In its frequent particularism, which indeed is a general characteristic of American criminal law, the American law of homicide also has a great deal in common with the European.

Certainly to the Anglo-American it may seem almost a gross impiety to question the usefulness of the concept of premeditation as a test of murder. If the German law of homicide, which still retains it, seemed to Sir James Fitzjames Stephen, the leading historian of the English criminal law, "singularly defective"—Franz von Liszt once returned the compliment in commenting on the arrested development of the English law—the newer codes would certainly appall him. To a system of criminal law based upon the idea of moral responsibility premeditation may be admitted to be fundamental. But to a system based upon the idea of social defense it is not a very useful concept. For it needs little reflection to show that a misguided idealist who kills with premeditation may be far less dangerous to society than the armed desperado who kills upon momentary impulse. A favorite example among the positivist criminologists is the murder of Caesar by Brutus. The very fact that there is a struggle of impulses in the murderer shows that he is less of a menace to society. It is motive that is all important. The newer codes are still far from the more advanced positivist position. But at least the relegation of premeditation to the categories of aggravating circumstances should have the merit of excluding its operation as a basis of complicity. For when so relegated it should become a purely personal attribute of guilt to be proved against each participant in the crime. The objection to multiplying aggravating circumstances is that they lead again to the old particularism, which has been proved to have a tendency to lead to hardship in particular cases. There is also the danger that certain circumstances will become anachronistic. Yet as long as the death penalty is retained, it is imperative that some limitations upon penological treatment exist.

The most complete break with western tradition is represented by the penal code of Soviet Russia, in which homicide has ceased to be the major crime. The normal penalty for intentional homicide is eight years of solitary confinement. The aggravating circumstances which will increase the period of incarceration to ten years

are the presence of dishonorable motives, such as greed and jealousy; recidivism; and the existence of a special duty to care for the victim. Parricide is not specially mentioned. Among extenuating circumstances are mentioned provocation and the overstepping of the bounds of necessary self-defense.

There are a great many statistics upon the frequency and distribution of homicide but they are not to be too implicitly trusted. It is more difficult to determine the criminal character of a homicide than of any other act, for, as the old adage has it, "dead men tell no tales." Thus tables based upon homicides known to the police may be very different from those based upon judicial or census records. Insurance company figures may diverge from both. Again, the variance in the legal conceptions of murder and manslaughter affects the comparability of the court statistics for different countries. Moreover, even where legal conceptions are the same, the basis of compilation may cause difficulties. Thus infanticide may be included. Germany apparently has even included legal executions in deaths due to homicide. It follows that unless the rates are considerably higher in one country than in another it is unsafe to draw too definite conclusions.

The homicide rates in European countries showed a fairly steady decline before the period of the World War. According to a table drawn up by Ferri homicides in Italy diminished in relation to 100,000 population from 12.2 in 1871-75 to 4.1 in 1911-15; in France, from 2.4 in 1827-31 to 1.4 in 1911-15; in England, from 3.1 in 1856-60 to 0.7 in 1906-10; in Germany from 1.0 in 1865-85 to 0.6 in 1906-10; in Spain from 9.4 in 1881-85 to 5.2 in 1911-15. Generally the northern European countries have shown far lower homicide rates than the southern. This is probably to be ascribed rather to the forms of social and political organization in these countries than to racial temperament. No statistical correlation has ever been established between homicide and climate.

During the war period itself the homicide rate in the belligerent European countries was very low, particularly during the first year of the war, a fact doubtless to be attributed to the subjection of a great part of the male population to military discipline. After the war, however, with the exception of England, there was a marked increase. The habituation of a large part of the population to killing in war must have had its effect, but the disorderly circumstances under

which demobilization was carried out in some countries as well as the post-war social and political unrest were probably the far more important factors.

The post-war rise in homicide has been said to be particularly striking in the United States. According to Hoffman, who has been the most diligent gatherer of American homicide statistics, the rate for thirty-one cities with a collective population of almost 25,000,000 in 1930 rose from 5.1 per 100,000 in 1900 to 10.9 in 1930. According to the Bureau of the Census the homicide rate rose from 6.5 in 1912 to 8.5 in 1929. The Wickersham Commission estimated 8720 homicides for the whole country during 1930. The situation seems even worse when the small proportion of convictions in homicide cases is considered, although with regard to this it must be remembered that in most countries the ratio of convictions to accusations is normally less for homicide than for other crimes. An examination of the homicide rates of the different sections of the country shows that the New England states have the lowest rates, while the southern states have the highest. This is in line with the homicidal tendency of southern countries, but the rates of the American southern states are particularly high because of the presence of large Negro elements in their populations. The statistics generally establish far higher homicide rates for Negroes than for whites. A survey by Brearley shows indeed that it is almost seven times more than for whites. Moreover the proportion holds in both north and south and in both urban and rural areas. It is not definitely established to what extent Negroes are slain by whites. It is certain, however, that racial antagonism resulting from oppression and not innate racial traits is primarily responsible for the situation. In any event, this situation accounts in large measure for the fact that American homicide rates are so high. Contrary to popular conception, it was neither New York nor Chicago but Memphis that had the highest homicide rate in the country in 1930. The figures are per 100,000 population 7.1, 14.4 and 58.8 respectively. It should be observed that there is no necessary correlation between urbanization and high homicide rates. In the United States in recent years rural rates have occasionally exceeded the urban. Great metropolitan centers like London or Berlin have shown very low homicide rates.

The fundamental causes of homicide are highly complex. It is interesting that while criminolo-

gists have been able to show some very striking correlations between many crimes and economic conditions, they have been unable to do so with respect to homicide. Indeed manslaughter may be more common in good times, since prosperity favors the general exultation of spirits which often occasions these crimes. Of course this is not to imply that social factors do not play a great part in the causation of homicide. It is simply to say that it is not directly connected with economic want. This is obvious enough when one considers the extent to which homicides are "crimes of passion." That mental abnormalities are very frequent here may be readily granted. Perhaps every murderer is at least temporarily insane. But to attempt to find the typical murderer is to pursue a phantom.

WILLIAM SEAGLE

See: CRIME; PUNISHMENT; CAPITAL PUNISHMENT; CRIMINOLOGY; INTENT, CRIMINAL; BLOOD VENGEANCE FEUD; EXILE; SANCTUARY; VIOLENCE; ASSASSINATION; GANGS; RACKETEERING; INFANTICIDE; SUICIDE.

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*ländischen Strafrechts, Besonderer Teil*, vol. v (Berlin 1905) p. 1-158.

**STATISTICAL AND SOCIOLOGICAL MATERIAL:** Bosco, Augusto, *La delinquenza in vari stati di Europa* (Rome 1903); Ferri, Enrico, "Un secolo di omicidii e di suicidii in Europa" in *Istituto Internazionale di Statistica, Bulletin*, vol. xxii, pt. iii (1926) 418-40; Garofalo, Raffaele, "Osservazioni statistiche sugli omicidii in Italia ed in alcune altre nazioni" in *Accademia di scienze morali e politiche, Atti*, vol. I (1925) 278-88; Sellin, Thorsten, "Is Murder Increasing in Europe?" in *American Academy of Political and Social Science, Annals*, vol. cxxv (1926) 29-34; Gast, Peter, "Die Mörder" in *Kriminalistische Abhandlungen*, vol. xi (Leipzig 1930), and studies cited there; Brearley, H. C., *Homicide in the United States* (Chapel Hill, N. C. 1932); Hoffman, F. L., *The Homicide Problem* (Newark 1925), and articles in the *Spectator*, vol. ccxv, no. 12 and vol. ccxvi, no. 15; Schmidt, C. II., "Study of Homicides in Seattle" in *Social Forces*, vol. iv (1925-26) 745-56; Stearns, A. W., "Homicide in Massachusetts" in *American Journal of Psychiatry*, vol. iv (1924-25) 725-49; Stern, M., "A Study of Unsolved Murders in Wisconsin from 1924-1928" in *American Institute of Criminal Law and Criminology, Journal*, vol. xxi (1930-31) 513-36. Consult also the various Wickersham reports, United States, National Commission on Law Observation and Enforcement, *Reports*, 6 vols. (1931). The best statistical sources are of course the official governmental tabulations where these are available.

HONOR represents a strong personal sense of socially accepted dignity or socially expected conduct. It is this consciously double aspect which distinguishes honor from other ethical attitudes. Conduct is the basic neutral stem from which all moral attitudes spring. Character is systematized and regularized conduct. Conscience is the deeply internalized acceptance of a moral order. Etiquette is the lightly externalized acceptance of social control. Honor is an open acknowledgment of external demand but an acknowledgment which through pride has become enthroned in the very citadel of the self. It combines thus the urgency that etiquette carries for the cultured with the exaction which conscience carries for all--combines them in a self-respect which bridges the moral dualism between external and internal sanctions. In this way honor represents the goal of character formation and an instrument of social control; it forms the best basis for predicting conduct; for it connotes an individual's wanting to be and do what others want him to be and do. It is impossible to appraise, however, the extent to which honor stays or facilitates moral progress. Representing as it does expected conduct, honor strongly tends to maintain at a high level the morale of the status quo.

But the status quo must be pluralistically conceived. Inside any given group there are other groups; and the same psychological technique which contrives the dominance over the individual of large scale expectedness prescribes the even more intimate emotional acceptance by the individual of small group influence. This guarantees not only that codes of honor will change with changing cultures but that they will reflect the variety of the social structure at any given time and place. Each individual may have different senses of honor to answer to his varied social contacts—in the family one code, in business another, in politics still another. A man may be a proudly good father and at the same time a sternly successful racketeer or a mean spirited family man and a generous social engineer in business. A woman may protect with her life her honor against alien advances and yet maintain the honor of her home by submitting without life or love to the sexual advances of her husband. She may protect the honor of her own children by means that limit crucially the opportunities of other children. Social evolution does not advance with equal pace along all fronts, and every lag will represent not the absence of but a discrepancy in honor.

With social mobility, however, variety in honor codes is made more difficult to maintain. Incompatibles that never contact may easily be maintained by compartmentization; but where logical incompatibles are easily and necessarily juxtaposed, their incompatibility is likely to lead to physical readjustment. A sense of humor arises, and a Don Quixote is born; or sober criticism becomes habitual, and a generalized code arises to harmonize and to supplant previous codes. A man becomes "a Christian gentleman" or "a good citizen" (generalized norms), to the making of whom will go not only prescription of idealized conduct in all his separate spheres but at least some minimum presupposition of consistency of each activity with all the others. The imperative demand made in the name of efficiency for a more or less integrated character is at once the explanation of this tendency in modern life and the guaranty of its persistence. The more generalized the ideal, however, the less emotionally poignant and perhaps the less practically effective it is. Indeed this generalized sense is likely to be called conscience or responsibility rather than honor. The notion of honor shows a strong affinity for either small groupism or for incompletely rationalized larger social perspectives. Illustrating the latter

in connection with national honor, George Herbert Mead remarks that "the only issue involved in the Monroe Doctrine is this, are you a patriot, are you a red-blooded American, or are you a mollicoddle?" Illustrating the former, we may turn to the origin of codes of honor in simpler societies.

The differential dominance of the group in primitive societies was made possible by the greater degree and sameness of social incidence upon the individual. Wherever differentiation of function arose, there was a new code; and since in the absence of substitute attraction or opportunity for expression it was accepted by all, it was a code of honor. Rules governing contests, combats, hospitality, heterosexual association, were the insignia of that inner sense which is honor. Honor might require a lot under the rules of hospitality to sacrifice the virtue of his daughters; or a Jephthah under the obligations of religion the life of his child. On the other hand, honor might permit a Jael, having fulfilled the gesture of hospitality, to drive a tent pin through the head of the sleeping Sisera. Such primitive prescriptions as survived the struggle among codes precipitated by conquest and followed by group expansion constitute the dominant antecedents of our current standards of honor. The major ones are put together, however imperfectly, in the phrase "Christian gentleman." The Christian sense of honor prescribing inflexible devotion to the outcast group's perfectionistic code regardless of what other men might say or think or do was one thing—a significant enough thing to take men gladly to the stake. The Teutonic customs which accepted Christianity as tutor until they mastered it were another. The feudal aristocracy of Europe, with its mixed ideals of chivalry, of chastity, of the sanctity of private property—this is the background of our codes of honor. One thing arises as prescribed on Sunday, another on Monday; and but for the drift already alluded to in the name of business efficiency and mental hygiene one notes little organic unity between codes of honor and norms of social welfare. There is "honor among thieves"; and the rigor with which racketeers adhere to their code even when death offers immunity from vengeful fellows indicates that social expectation has here passed into genuine personal acceptance. Compulsion has become honor. And this honor of racketeers is a more hardy growth than the loyalty that citizens feel for the law set over against, but not therefore set over, the antisocial group.

One reason for the differential effectiveness of antisocial honor is that it is born of hostility to the larger and more powerful group and is enforced with sanctions extraordinarily stern and certain. In this way the modern outlawed group achieves something of the homogeneity of the primitive group. Wherever punishment can be certain and sure, conformity will arise and be transformed in favorable cases into loyalty. Ostracism was certain and terrible when ungrouped men had no rights. The feud operated in the same exclusive situation. Fear of being turned over to the "law" has all the rigor of these ancient sanctions for modern groups whose rights are largely extralegal. In so far as hostile impulses are accompanied by intenser emotions the honor of the racketeer is more effective than that of the citizen. Libel laws and breach of promise suits are not such safeguards of honor as were the duel and the shotgun. And because of the lesser effectiveness of legal remedies there is a tendency to recognize other means as legitimate where the sense of honor persists. The unwritten law is the law written in the hearts of men, to protect the code of honor that the law itself not only does not protect but which it even tends to dissipate through the substitution of tolerance and the dilution of hotly felt loyalties.

The sense of personal dignity which honor acknowledges and protects transfers itself to whatever one can easily become identified with: the family, the school, the profession, the nation. Whatever social entity can best foster hostile impulse can most easily appropriate the honor motif. The national state has a peculiar advantage here. Generated through struggle, maintaining itself by hostile gesture if not by hostile acts, it even becomes personalized with an honor all its own. Chauvinism, negatively, and imperialism, positively, thrive upon its touchy dignity; and the sense of honor becomes thus the one great obstacle in the way of international organization and function. Honor cannot be arbitrated, because "when honor's dead, the man is dead." Honor cannot be arbitrated, but it can be vindicated; apologies, wars, indemnities, are the instruments for its protection.

T. V. SMITH

*See:* PRESTIGE; CHASTITY; GENTLEMAN, THEORY OF THE; CHIVALRY; DUELING; FEUD; NATIONALISM; PATRIOTISM; AGGRESSION, INTERNATIONAL; CHAUVINISM; ETHICS; CONDUCT; ETIQUETTE.

*Consult:* Terrailon, Eugène, *L'honneur, sentiment et principe morale* (Paris 1912); Lazarus, Moritz, *Das Leben der Seele* (3rd ed. Berlin 1883) ch. ii; Faguet,

Émile, *La démission de la morale* (Paris 1910) ch. vii; Wallas, Graham, *Our Social Heritage* (New Haven 1921) ch. viii; Mead, George H., "National-mindedness and International-mindedness" in *International Journal of Ethics*, vol. xxxix (1928-29) 385-407; Veblen, Thorstein, *An Inquiry into the Nature of Peace* (New York 1917) p. 62-63; Binding, Karl, *Die Ehre, der Zwickkampf* (new ed. Leipsic 1909); Sauer, Wilhelm, *Die Ehre und ihre Verletzung* (Berlin 1915); Malinowski, Bronislaw, *Sex and Repression in Savage Society* (New York 1927); Stuart, D. C., "Honor in the Spanish Drama" in *Romanic Review*, vol. i (1910) 247-58, 357-66; Castro, Américo, "Algunas observaciones acerca del concepto del honor en los siglos xvi y xvii" in *Revista de filología española*, vol. iii (1915) 1-50, 357-86.

HONTHEIM, JOHANN NIKOLAUS VON (1701-90), Catholic prelate and theologian. Hontheim was ordained priest in 1728, was appointed professor at the University of Treves, held office under the archbishop of Coblenz and in 1748 became suffragan bishop of Treves. Although he had earlier written voluminously on the history of Treves, he became famous only after publishing, under the pseudonym of Justinus Febronius, *De statu ecclesiae et legitima potestate romani pontificis* (Frankfort 1763, 2nd ed. 1765). Febronianism, as his position soon came to be called, reflects the direct influence of van Espen, under whom he had studied at Louvain. It was a revival or extension of the episcopatism which had been advanced against curialism during the conciliar movement and at the Council of Trent and which had regained immense prestige in France during the seventeenth century when episcopal Gallicanism became merged with nationalist sentiment. Hontheim not only declared the pope to be inferior to the general council and superior to other bishops merely in magnitude of dignity but demanded the virtual independence of all national churches. He summoned the secular powers as well as the church to participate in effecting a reorganization conformable to these theories.

*De statu* was placed on the Index in 1764 and was vigorously attacked by a number of ultramontane writers, to whom Hontheim replied in three additional volumes published between 1770 and 1774. His identity soon became known, but for a number of reasons the pope could not take vigorous action against him. Hontheim had the favor of the archbishop of Treves, one of the electors of the Holy Roman Empire. Moreover the pope's influence had been greatly diminished by the spirit of the Enlightenment and by the various recent movements to extend the power of the state at the expense of the church.

Hence although Hontheim finally gave the church his formal retraction in 1778 he continued to assert his position without essential alteration, as is shown by his *Commentarius in suam retractionem* (Frankfort 1781). Being so well in accord with the tendencies of the time Febronianism exercised considerable influence not only in the German states but in the Latin countries as well. In 1769 the archbishops of Mainz, Treves and Cologne embodied its principle in a program which they renewed at the Congress of Ems in 1786, this time in conjunction with the prince-bishop of Salzburg. Febronianism was also one of the factors responsible for the church policy of Joseph II. After the turbulent interlude of the revolutionary and Napoleonic periods a totally different tendency became dominant in the church as a result of the Restoration and the rise of romanticism. Occasional echoes of Febronianism were, however, still heard in the works of Ignaz von Wessenberg and others.

## HERMANN MULERT

*Consult:* Meier, Otto, *Febronius* (2nd ed. Tübingen 1885); Küntziger, J., *Febronius et le febronianisme* (Brussels 1889); Zilllich, J., *Febronius* (Halle 1906); Stümper, F., *Die kirchenrechtlichen Ideen des Febronius* (Aschaffenburg 1908); Hirschberg, H., *Staat und Kirche nach Febronius* (Greifswald 1911); Mitrofanov, P., *Politicheskaya deyatelnost' Iosifa II* (St. Petersburg 1907), tr. into German by V. von Deneke as *Joseph II, seine politische und kulturelle Tätigkeit* (Vienna 1910) ch. viii.

HOOKER, RICHARD (1554-1600), English ecclesiastic and historian. Hooker's *Of the Lawes of Ecclesiasticall Politie* (bks. i-v, 1594-97; bks. vi-viii first published 1648) has become not only the authoritative defense of the English Reformation settlement but also a classic of English literature. His independence of judgment had made him reject the slavish cult of Calvin which characterized the Puritan movement in Elizabethan England, before his nomination to the mastership of the Temple brought him of necessity into the public controversy on that subject. There he realized the need of a thorough examination of the issues which divided Episcopalian from Presbyterian and resolved to undertake the statement of the Anglican position, not upon ephemeral and superficial points but upon the fundamental principles of civil and ecclesiastical society. The Puritan position (based on the conviction that Scriptural revelation, especially the New Testament, had declared all things necessary to human knowledge

and life—in state as well as in church) repudiated the conception of the identity of church and state which underlay the Tudor Reformation and gave to the sovereign an ecclesiastical administration as supreme governor of the Ecclesia Anglicana. In combating this position Hooker necessarily went behind the Puritan adherence to the word of Scripture back to first principles as expounded by the mediaeval schoolmen, particularly Thomas Aquinas. He insisted on the wide spheres of human life which were ruled not by express precept of revelation but by the laws of nature and the reason of man, implanted by the Creator and therefore of equally divine origin and authority with the Bible. His careful survey of the various kinds of law as well as of its universal sway caused him to abandon the narrow and restricted notion of divine legislation entertained by his opponents. His own political predilection was for constitutional monarchy based upon an implicit contract although the text thereof might have perished, but he did not claim for this form of government divine prescription to the exclusion of other forms. Maintaining that in a Christian state the members of the body politic were identical in number and person with the members of the church, Hooker regarded the alliance of monarchy and episcopacy not only as a perfect theoretical expression of the essential unity of church and state but as a sound practical agent of moderation and constitutional government. To Hooker the English Reformation was not an innovation, but a reform; and both in church and state he rejoiced to build upon the foundations of human experience in the past, free from the restriction of outlook and extremism which hampered both the Puritan and the champion of Tridentine papalism.

## NORMAN SYKES

*Works:* *Works*, ed. by J. Keble, R. W. Church and Francis Paget, 3 vols. (Oxford 1888); *Hooker's Ecclesiastical Polity*, Book VIII, ed. by R. A. Houk (New York 1931).

*Consult:* Paget, F., *An Introduction to the Fifth Book of Hooker's Treatise of the Lawes of Ecclesiastical Polity* (Oxford 1890); Church, R. W., *Introduction to his edition of book 1 of the Ecclesiastical Polity* (Oxford 1868); Allen, J. W., *A History of Political Thought in the Sixteenth Century* (London 1928) p. 184-98, 239-41; Pearson, A. F. Scott, *Thomas Cartwright and Elizabethan Puritanism, 1535-1603* (Cambridge, Eng.

HOOKER, THOMAS (1586-1647), English-American Puritan divine. Hooker was educated at Cambridge and became a conspicuous leader

of dissent in Essex. Fleeing from Archbishop Laud in 1630 he took refuge in Holland and then in Massachusetts Bay in 1633. For reasons which are still obscure he became dissatisfied with the regime there and in 1636 led four congregations into Connecticut. He was the dominating figure in the colonies established there, directing their policies and expounding their religious and political creed. Since the settlers possessed no charter nor any prearranged government they turned to the models of rule already familiar to them in Congregational polity. Just as the assembled Christians drew up a church covenant, so they framed their political organization in a formal document, *The Fundamental Orders of Connecticut* (*Old South Leaflets*, general ser., vol. i, no. viii, Boston 1896), known as the first written constitution in America. Hooker's own principles were most clearly expressed in a sermon of 1638; this is a clear instance of the application of Congregational ideas to politics, and subsequent generations have probably overemphasized its democracy. It lays down explicitly the doctrine that the choice of public magistrates belongs by God's allowance to the people and that the people who appoint officers can also "set the bounds and limitations of the power and place." But Hooker insured these principles against popular abuse by insisting that the people could exercise their power not according to their humors but only according to the will and law of God, of which of course Hooker was the supreme interpreter in Connecticut. Although the *Fundamental Orders* did not confine the franchise to church members, the Connecticut clergy retained sufficient moral force to keep the colony hardly less a theocracy than Massachusetts. Nevertheless, in sharp contradistinction to the theory of the Massachusetts rulers, which claimed for magistrates a wide discretionary freedom, Hooker's philosophy is significant for its marked insistence upon the responsibility of elected officials to the constituency and to the fundamental law. He applied the same democratic approach in his views concerning church government. His *Survey of the Summe of Church Discipline* (London 1648) is the most vigorous statement of the Congregational, or Independent, attitude, as opposed to the Presbyterian, with regard to the Puritan polity.

PERRY G. MILLER

Consult: Walker, G. L., *Thomas Hooker* (New York 1891), with bibliography of Hooker's works, p. 184-95; Parrington, V. L., *Main Currents in American Thought*, 3 vols. (New York 1927-30) vol. i, p. 53-62;

Borgeaud, Charles, "Premiers programmes de la démocratie moderne en Angleterre (1647-1649)" in *Ecole Libre des Sciences Politiques, Annales*, vol. v (1890) 290-325, tr. by B. Hill as *The Rise of Modern Democracy in Old and New England* (London 1894) p. 117-41; Walker, Williston, *Creeks and Platforms of Congregationalism* (New York 1893) p. 139-48.

HORN, EDUARD IGNACZ (Einhorn) (1825-75), Hungarian economist and publicist. The son of middle class Jewish parents, Einhorn studied the Talmud abroad and philosophy at the University of Budapest. He wrote for the liberal press and from 1848 until its suppression in 1849 edited a weekly, *Der ungarische Israelit*, devoted chiefly to Jewish religious reform. He served as rabbi of the Pest reform community and as Jewish chaplain in the Hungarian revolutionary forces during 1849. With the collapse of the revolution he fled to Leipzig and to evade persecution changed his name. He wrote several books on Hungarian politics, one of which, a life of Kossuth, was suppressed at the demand of the Austrian government but in an English translation stimulated much sympathy for the revolution. In Leipzig Horn attended Roscher's lectures and became interested in economics, particularly questions of credit. After a stay in Brussels he settled in Paris in 1852, where he engaged in journalism, especially for the then liberal *Journal des débats* and in defense of the Hungarian revolution. He produced a number of scholarly works on economic history, financial policy and especially credit. His book advocating freedom of banking, which attracted much attention and was translated into German (Stuttgart 1867) and Hungarian (Budapest 1870), is not only a notable contribution to the study of banking but also a fundamental treatment of the entire problem of money. Horn attacked the fiat theory and the view that money is a symbol without real value; he tried to prove the commodity nature of money. He advocated a self-help program for workers, helped organize trade union credit banks in France and Belgium and proposed an international congress of co-operators. He returned to Hungary in 1866, became deputy in 1872 and minister of commerce in 1875. Horn is perhaps the leading Hungarian representative of the type of liberal mid-nineteenth century Jew, of whom Rießer in Germany and Crémieux in France are other instances.

WOLFGANG HELLER

Important works: *Zur Judenfrage in Ungarn* (Alt-Ofen 1847); *Die Revolution und die Juden in Ungarn* (Leipzig 1851); *Spinozas Staatslehre* (Dessau 1851); *Ludwig*

*Kossuth*, 2 vols. (Leipzig 1851), tr. as *Hungary and Its Revolutions* (London 1854); *Bevölkerungswissenschaftliche Studien aus Belgien* (Leipzig 1854); *Das Kreditwesen in Frankreich* (Leipzig 1857); *Jean Law, finanzgeschichtlicher Versuch* (Leipzig 1858); *Le crédit* (Paris 1860); *La crise cotonnière et textiles indigènes* (Paris 1863, 2nd ed. 1866); *La liberté des banques* (Paris 1866); *L'économie politique avant les physiocrates* (Paris 1867); *Caisses syndicales* (Paris 1867).

Consult: Ed. Horns *Lebensbeschreibung* (Pressburg 1862); Szinyei, József, *Magyar írók* (Hungarian writers), vol. iv (Budapest 1896) p. 1089-97, with bibliography; Horn, E. E., "Campagnes politiques d'un économiste" in *Académie des Sciences Morales et Politiques*, *Compte rendu*, n.s., vol. cciv (1926) 124-67.

**HORNIGK, PHILIPP WILHELM VON** (1638-1712), Austrian cameralist. Hornigk studied law in Ingolstadt and entered the service of Cardinal Lamberg of Passau in 1690. He early attained distinction as a political writer. Published under the name of H. G. D. C. (*Hippophili Galeacii de Corneliis Franco-politae*), his political writings were directed chiefly against the territorial claims of France and attempted to establish the rights of Germany to the heritage of Charlemagne; he advocated the use of force in wresting Alsace-Lorraine from France.

Hornigk's chief work, however, was *Oesterreich über Alles, wann es nur will* (n.p. 1684, later ed. Regensburg 1723). In this book he undertook to formulate an economic policy which aimed to render Austria economically self-sufficient and to raise her position above that of all other countries. This truly mercantilistic program called for a complete investigation of the country's resources, the utilization of all raw materials in domestic manufacture and a constructive population policy. Gold and silver must not leave the country. Imports should be confined to raw materials and paid for in goods. The importation of manufactured commodities ought to be strictly prohibited as "it would be better to pay for any article two thalers which would remain in the country than only one which would go abroad." A true mercantilist, he asserted the primacy of political aims over economic considerations; according to him the fundamental problem was the balance not of trade but of political power. His work attracted great attention and was of considerable influence in shaping the commercial policy of Austria in the eighteenth century.

**KURT ZIELENZIGER**

Consult: Zielenziger, Kurt, *Die alten deutschen Kameralisten* (Jena 1914) p. 278-94; Sommer, Louise, *Die österreichischen Kameralisten in dogmengeschichtlicher Darstellung*, 2 vols. (Vienna 1920-25) vol. ii, p. 124-

49; Small, Albion W., *The Cameralists* (Chicago 1909) p. 129-34; Gerstenberg, Heinrich, "Philipp Wilhelm v. Hörnigk" in *Jahrbücher für Nationalökonomie und Statistik*, 3rd ser., vol. lxxviii (1930) 813-71.

**HORTON, SAMUEL DANA** (1844-95), American bimetallicist and lawyer. During the years of bimetallic controversy from 1875 to 1895 Horton and Francis A. Walker were the leading American advocates of an international bimetallic coinage union as being the only means of solving the world's currency problems. In Horton's mind the wisdom of employing silver as well as gold as a standard coin had been demonstrated by historical developments. To those who pointed to the industrial supremacy of Britain as evidence of the superiority of a single standard Horton replied that for decades England's currency had been protected against pronounced value fluctuations only by the effective operation of the double standard elsewhere.

Much of Horton's work was done abroad and the scope of his publications pertained to currency developments in foreign countries as well as in the United States. In 1878 he was appointed secretary of the International Monetary Congress held in connection with the Paris exposition. Entrusted by the American secretary of state with the task of editing the conference reports, he annotated the actual proceedings and also secured the admission of many appendices containing valuable material for monetary study. Horton represented the United States at the Paris conference in 1881 and a year later at the request of the secretary of state visited European capitals to confer with foreign bimetallicists regarding the advisability of reassembling the monetary conference of 1881. By this time he had abandoned the practise of law and devoted himself entirely to international bimetallicism.

**HAROLD L. REED**

*Works: Silver and Gold and Their Relation to the Problem of Resumption* (p.p. Cincinnati 1876; new ed. 1895); *Silver: an Issue of International Politics* (Cincinnati 1886); *The Silver Pound and England's Monetary Policy since the Restoration; Together with the History of the Guinea* (London 1887); *Silver in Europe* (New York 1890; 2nd ed. 1892); *Confidential Notes on Silver Diplomacy* (p.p. New York 1891).

Consult: Walker, F. A., in *Economic Journal*, vol. v (1895) 304-06.

**HORVÁTH, MIHÁLY** (1809-78), Hungarian historian and statesman. Of humble birth, moving for many years as a member of the lower clergy among the Hungarian peasantry and small



bourgeoisie and later a private tutor in aristocratic families, Horváth whole heartedly embraced the liberal and democratic ideology of his generation which was to engage in a heroic fight against Hapsburg absolutism and feudal oligarchy. In 1844 he was nominated professor of Hungarian language and literature in the Viennese Theresianum, but later he was engulfed in the waves of the revolution and in 1849 was minister for religion and public instruction in the revolutionary government of Louis Kossuth. In this capacity he conducted an enthusiastic campaign among the lower clergy for separation from Austria and later for a crusade against the Russian invasion. After the collapse of the revolution he was sentenced to death by the imperial tribunal, fled and was hanged in effigy. Horváth is generally regarded as the founder of Hungarian history, which before him lacked the spirit of criticism and comparison and was largely devoted to a glorification of the past and an extolling of assumed national grandeur. Horváth opened a new road in his historical inquiries. He despised the nationalistic history of battles and kings and the old feudal slogan *Extra Hungariam non est vita*. His main interest was to show the social and cultural aspects of Hungarian history, its interdependence with the general European currents. During his exile in Brussels he collected all the documents relating to Hungary contained in the archives there and later published them in four volumes (*Magyar történelmi okmánytár*, Budapest 1857-59). His first work was dedicated to the history of Hungarian industry and commerce. Later he wrote practically the whole history of Hungary. His most significant achievements, however, were his *Huszonöt év magyarország történetéből 1823-tól 1848-ig* (Geneva 1865, 3rd ed. Budapest 1885; tr. into German by Joseph Novelli as *Fünf und zwanzig Jahre aus der Geschichte Ungarns von 1823-1848*, 2 vols., Leipzig 1867) and *Magyarország függetlenségi hárcának története* (History of the struggle for Hungarian independence, Geneva 1865; 3rd ed., 2 vols., Budapest 1881). Although his friends warned him that publication of the latter work would retard the royal amnesty for which he longed, he did not defer its appearance. In his treatment of the revolutionary period he tried to remain impartial toward both Vienna and the leaders of the Hungarian revolution. Horváth was not only a remarkable historian but by the force of his style and the vigor of his convictions he became a great educator for posterity. He can be regarded

as the representative in historiography of Hungarian liberalism and democracy.

OSCAR JÁSZI

*Consult:* Fraknói, Vilmos, *Emlékezés Horváth Mihály fölött* (Budapest 1879); Salamon, Ferencz, *Emlékezés Horváth Mihály fölött* (Budapest 1880); Márki, Sándor, *Horváth Mihály* (Budapest 1917).

HOSPITAL, MICHEL DE L' (c. 1504-73), French statesman. While a student of law in the University of Toulouse, L'Hospital was arrested and exiled by Francis I. He completed his legal studies in the University of Padua and occupied a professorial chair in civil law for two years in the former institution. In Italy he imbibed humanistic ideas, especially the belief in absolute government. Returning to France, he became one of the most erudite lawyers of his time. He engaged in politics, obtained a post in the Parliament of Paris and rapidly developed into a national figure.

As a statesman L'Hospital was an exponent of religious toleration and of a unified absolute monarchy. He was one of the first men in France to express the *politique* idea that the welfare of the absolute monarchy should supersede all other interests. Influenced by his humanistic training he believed that the antimonarchical tendencies of the religious wars had clearly demonstrated the necessity for toleration if France were to remain a consolidated state secure from foreign foes. As chancellor of France from 1560 to 1568 he endeavored to save the nation by solving the three outstanding problems threatening the monarchy. He tried to end religious divisions by advocating the principle of toleration, he curtailed the powers of the nobles and, finally, he planned to establish a uniform legal code and an organized system of tribunals. He was unable to carry out his policies and retired to private life in 1568, but he helped to pave the way for the development of the great French absolute monarchy of Henry IV, Louis XIII and Louis XIV.

FRANKLIN C. PALM

*Important works:* *Oeuvres complètes*, ed. by P. J. S. Dufey, 3 vols. (Paris 1824-25); *Oeuvres inédites*, ed. by P. J. S. Dufey, 2 vols. (Paris 1825).

*Consult:* Amphoux, H., *Michel de l'Hôpital et la liberté de conscience au seizième siècle* (Paris 1900); Atkinson, Christopher T., *Michel de L'Hôpital* (London 1900); Chauviré, R., *Jean Bodin* (La Flèche 1914) p. 224-33.

HOSPITALITY is the custom of accommodating strangers in need of shelter, food and protection. Among primitive peoples it is found in a

pronounced form among agriculturists, less among hunters and pastoral peoples. It does not arise from a spontaneous feeling of sympathy, but is regulated by tradition among definite kinship groups and later among definite individuals and entire tribes. All strangers who stand outside the circle of friendly relationships regulated by tradition and by the principle of reciprocity are considered as enemies. Hospitality relations among hunting peoples are illustrated by the customs of the Bergdama in Southwest Africa, where a traveling stranger is furnished shelter and food. The chief of this tribe formerly also permitted the stranger to have intercourse with one of his wives; such sexual hospitality, offered preferably to members of the kinship group, is found among many primitive peoples. Among agriculturists, such as the Polynesians, hospitality assumes at times a decidedly sympathetic, chivalrous character; hospitality and liberality are imperatively demanded by public opinion among the Maori of New Zealand. In Tahiti the stranger was upon arrival solemnly invited to take part in a banquet; friends related by kinship were welcomed in one's home and as soon as possible the feast was arranged. Gifts were exchanged, and to withhold from the guest anything which he might request was regarded as a disgrace.

The factors which promote hospitality are: fear of the stranger, who appears as the bearer of magical powers and mystical attributes; explicitly religious commands; the need of foreign articles of trade; the desire to achieve importance by the display of one's own wealth and the desire to hear and exchange news. Especially in higher cultures hospitality is interspersed with magical and mystical elements, which make necessary special formalities and ceremonies; whoever observes these definite forms is sure of protection. Among the pre-Islamic Arabs the stranger in search of aid insinuates himself into the community of his host by touching something which is holy to the latter; for example, he may take his host's child by the hand or may hang his own bucket on the tent rope next to that of his host. Odysseus in the house of his host, the Phaeacian king Alcinous, sat in the ashes on the hearth. Joint celebrations with the guest operate as a communion and involve the obligations of artificial kinship. Women frequently serve as the agents for the reception of the guest, as is illustrated by the story of Odysseus and Nausicaa and by the legends of Tahiti.

In antiquity the symbol of hospitality con-

sisted of a colored tablet of metal or wood which was broken into two pieces, one of which was given to each of the persons bound by hospitality. The pieces were bequeathed by the families on both sides to their descendants and served to identify visitors. Among the Greeks and Romans hospitality was given religious sanction; Zeus Xenios and Jupiter Hospitalis watched over the security of strangers. In Homeric times every guest was bathed, clothed, entertained and not until several days had elapsed—at least not until after the meal was completed—was he questioned as to his name and origin; guest gifts were then exchanged. The hospitality of the Christian Middle Ages assumed a religious character. After the Frankish capitularies of the years 802-03 the right of hospitality, which extended even to the enemy, included shelter, hearth and water and usually food for three days. In the Middle Ages the monasteries performed the functions of hospitality by establishing hospices, especially at dangerous mountain passes.

The reciprocal exchange of gifts between guest and host represents an early form of trade. In view of the lawlessness of the stranger among primitive peoples intertribal business was first confined to personal or family contact between the members of different communities. A native who insulted a guest would by doing so have disgraced his own community and discouraged the stranger seeking trade; it was primarily on this account that the violation of the law of hospitality was regarded as a serious crime.

Hospitality reflects primitive and archaic legal concepts; it represents a kind of guaranty of reciprocity—one protects the stranger in order to be protected from him. The stranger is a public enemy in the sense that he is one who may cause evil; the lawlessness of the stranger was therefore the cement of political organization. The Latin *hostis* originally signified enemy in the sense of stranger; only later did the word *peregrinus* arise for this connotation. The Greek *xenos*, derived as it is from the root *ska* meaning to harm, may have had the same original meaning as *hostis*. In Greece, where until the end of the sixth century permission to enter into the national territory was inherent in the compact of hospitality, the law concerning the rights of aliens changed with the development of more secure forms of government. According to Herodotus (1: 22) the Milesians concluded a pact of hospitality with Alyattes of Lydia which granted to Alyattes the right of access to Milesian territory and included the possibility of a military alliance; this combi-

nation of *xenia* and *symmachia* is the oldest known form of Greek political agreement. In Roman international law states with which no special compact existed did not have the right to send delegates to the government in Rome without previous negotiations. In Tahiti also hospitality assumed a political function; in the eighteenth century the members of the secret society of the Arioi were bound by an active hospitality which went beyond the familiar traditional obligation, for personal acquaintance or the lack of it played no rôle. The claim to hospitality on the part of the Arioi extended to the chief, but while the Arioi left the possessions of their noble friends inviolate they recklessly despoiled the fields of subchiefs who did not belong to the society. Hospitality carried similar guarantees in Greece; the hospitality of Pericles, for example, to King Archidamus of Sparta guaranteed the sparing of the landed property of the former in the event of a Spartan invasion; this was not sufficient, however, to prevent the Peloponnesian War.

When toward the end of the sixth century the domain of peace was extended in Greece through increased traffic, the cities guaranteed to their citizens by means of *symbola*, or covenants, mutual protection and equality before the law. Diplomatic representation abroad originated for the protection of these interests; distinguished citizens of foreign states were chosen as public guests, who served as proxeni to those who had no guests. Thus public hospitality grew out of the private, for the proxeni were preferably chosen from among men who had already dispensed distinguished hospitality. The proxeni also exercised control over aliens; in Sparta this control was very strict and the proxeni could expel undesirable aliens from the state. States attempted to win over the proxeni of a foreign state; Sparta, for example, in this way drew into its political sphere of influence members of the foreign nobility. Foreigners were admitted to Rome on the basis of friendship covenants or by a magistrate's decree. The city granted free quarters to the guests. The representatives of allied communities were accommodated in the city; those not allied were lodged outside, for the *hostes* might not set foot in the city itself. The welfare of strangers was the duty of the quæstor; he attended to housing, provisioning and guest gifts and in the event of the guest's death to burial. Provision for strangers followed conventional regulations prescribed for every occasion by the Senate.

The germ of the decay of hospitality is inherent in the institution itself, in that it inevitably extends frontiers and the domain of peace and promotes trade; as a result there arise public legal principles, which go beyond the personal and the familiar and take the place of hospitality. The guest house is replaced by the inn, the *xenos* and proxenus by the consular officials of the modern state, the symbol by commercial and legal papers.

The hospitality of modern societies has little in common with the old. Primitive hospitality was addressed to the public enemy; in the modern world the distinction between friend and enemy in the political sense is irrelevant. The old hospitality was a social or religious obligation; that of modern times rests with the discretion of the individual. The old hospitality was an integral part of the culture, often a junction of law, custom, religion and trade; that of modern times is incidental and casts little light on cultural life.

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*See:* ALIEN; MIGRATION; ETIQUETTE; RELIGIOUS ORDERS; HOTELS; HUMANITARIANISM; CHARITY.

*Consult:* Thurnwald, R., "Gastfreundschaft" in *Reallexikon der Vorgeschichte*, vol. iv, pt. i (Berlin 1926) p. 173-75; Vedder, H., *Die Bergdama*, Hamburgische Universität, Abhandlungen aus dem Gebiet der Auslandskunde, vols. xi, xiv, 2 vols. (Hamburg 1923) vol. i, p. 148; Henry, Teuira, *Ancient Tahiti*, Bernice P. Bishop Museum, Bulletin, no. xlvi (Honolulu 1928) p. 593-94, 600; Hocart, A. M., "The Divinity of the Guest" in *Ceylon Journal of Science*, sect. G, vol. i (1924-28) 125-31; Sumner, G., and Keller, A. G., *The Science of Society*, 4 vols. (New Haven 1927-28) vols. i, iii-iv; Wellhausen, J., *Reste arabischen Heidentums* (2nd ed. Berlin 1867) p. 193-95; Ihering, R. von, "Die Gastfreundschaft im Altertum" in *Deutsche Rundschau*, vol. li (Berlin 1887) p. 357-07; Beloch, K. J., *Griechische Geschichte*, 4 vols. (2nd ed. Strassbourg and Berlin 1912-27) vol. i, pt. i, p. 281-83; Monceaux, Paul, *Les proxénies grecques* (Paris 1886); Schaefer, Hans, *Staatsform und Politik. Untersuchungen zur griechischen Geschichte des 6. und 5. Jahrhunderts* (Leipzig 1932) p. 13-28, 44; Mommsen, T., *Römisches Staatsrecht*, Handbuch der römischen Alterthümer, vols. i-iii, 3 vols. (3rd ed. Leipzig 1887-88) vol. ii, p. 553-54, vol. iii.

**HOSPITALS AND SANATORIA.** Hospitals have been coexistent with man's settlement in large aggregations; their rise, decay and recrudescence reflect the development of man's culture, social ideals, religious spirit and scientific achievement. As early medicine was sacerdotal, the first organized institutions for the care of the sick were established in connection with temples; in Greece temples of Aesculapius were estab-

lished at Cos, Cnidus, Rhodes and Epidaurus. In time a differentiation among the priests of these temples took place and some of them became concerned exclusively with medical ministrations. Schools were organized and the asclepiades became full fledged physicians whose armamentarium consisted not only of herbs and drugs, poultices, fomentations, massage, baths and gymnasia but also of instruments for the performance of such surgical operations as trepanation. As early as the end of the sixth century B.C. in Greece a special tax was levied to provide for the maintenance of the *demios iatros*, or communal physician, who attended patients at a place known as the *iatreion*, which with the growth of cities became the community hospital as well as the city dispensary. According to Galen many cities provided physicians with large, light and airy buildings in the fifth century B.C. and the private physician's *iatreion* corresponded to a modern private sanatorium. Some of the numerous helpers in these institutions were medical students, many of whom were recruited from the slaves. In Rome the large landowners established *valetudinaria* on their estates for the care of their sick slaves by the *servi medici*, to which members of the landlords' families would also resort.

The Grecian *xenodochion*, which was an asylum for travelers, gave its name to and served as a model for the early Christian institutions which were founded by St. Basil in Caesarea between 370 and 379 A.D. The emperor Julian built hospitals in Constantinople, where several were subsequently established by St. Chrysostom. Among the institutions built by the emperor Justinian were open air hospitals arranged in a manner similar to those of the ancient Greek temples. With the spread of Christianity hospitals functioned as hospices or shelters for the accommodation of pilgrims, the poor and the lame as well as for the sick, who received little scientific medical attention in these institutions. Helena, the mother of the emperor Constantine, and the Roman matrons Marcella, Paula and Fabiola gave large sums for the building and maintenance of such asylums. In 542 King Childebert founded the *Domus Dei* at Lyons, and about a century and a half later the *Hôtel Dieu* of Paris was built. The responsibility for the administration of the hospitals which were heavily endowed by Charlemagne in the various parts of his domain became a matter of considerable importance to the church and in time was entrusted to the monastic orders. The care

of the sick then became for many centuries the exclusive prerogative of the monks and nuns, and lay physicians almost disappeared. The crusades led to the establishment of military monastic fraternities, the most important of which was that of the Knights of St. John of Jerusalem; this group built many hospitals along the line of communication between the West and the Holy Land. The spread of leprosy, plague and syphilis led to the establishment of lazarettos and to the organization of port hospitals where travelers from infected regions were kept for forty days before being allowed to proceed.

The heritage of Greek medicine was perpetuated and brought back to Europe by the Arabs, who established hospitals and medical schools at Bagdad, Damascus, Alexandria and other cities and whose hospitals and school of medicine at Cordova toward the close of the eighth century stimulated the revival of interest in Greek medical classics. It was not until the thirteenth century, however, that medical schools were founded as departments of universities. Although public dissection was occasionally practised, as at Bologna and Montpellier, the teaching was preeminently didactic, with little if any clinical instruction. The hospitals remained under the direction of the monks, although the Lateran Council of 1130 had forbidden monks and priests to practise medicine, particularly surgery, and Pope Innocent III had issued an anathema against it in 1215. In an attempt to extend the influence of the Holy See the latter encouraged the building of hundreds of hospitals modeled after the Hospital of the Holy Ghost at Montpellier.

After the Reformation, when the property of the monasteries was confiscated by the Protestant monarchs, the *spytals*, or hospitals, were closed, to the distress of the homeless and the crippled who had found asylum in them. During this period the hospitals of the Italian states were probably the best in Europe; the hospital of Milan accommodated two thousand patients and in Florence the organization of the hospital was under the care of resident and visiting physicians and provided an out-patient department to serve the poor of the city. In England physicians were for a considerable period opposed to the organization of hospitals, regarding them as competitors for their private practise. The hospitals of England, which had fallen into an extreme state of decadence, were closed by Henry VIII. During his reign, however, St. Bartholomew's and St. Thomas' hospitals received new charters.

There were hospitals in Mexico prior to the coming of the European conquerors; the first hospital established by the latter was built by Cortez in Mexico city in 1524 and the second was that at Santa Fe, which was founded in 1531. A law passed in 1541 ordered that hospitals be founded in all Spanish and Indian towns. About the middle of the seventeenth century the Hôtel Dieu of Quebec and of Montreal and in 1693 the General Hospital of Quebec were erected. The first charter for a hospital in the American colonies was obtained by the Pennsylvania General Hospital in 1751; two decades later New York obtained the charter for the present New York Hospital. Bellevue Hospital, the oldest municipal hospital in New York City, had its beginning in 1736 in a "Publick Workhouse and House of Correction," of which one small section was set apart for hospital purposes. In 1791 the New York Dispensary was opened for the charitable treatment of patients suffering from chronic disease who were financially unable to pay for resident hospital care.

With the exception of their development in ancient Rome, military hospitals are comparatively recent. Concern for the health of armed forces and for the wounded in battle developed with the growth of the modern state and the substitution of national armies for hired mercenaries. From the time of Aurelian (270-75) free medical treatment of the soldier had become a recognized principle. While warfare was limited to the peninsula it was possible to billet the wounded in private houses or to treat them in tents behind the battle lines, in the private hospitals maintained by Roman landlords or in the retreats, at times fortified, organized for the purpose. When, however, the troops were sent into distant lands and when they occupied foreign territory, the camp included a field hospital for each two cohorts. Byzantium preserved some of Rome's military hygiene, but in the Middle Ages the mode of warfare between feudal lords made such organization impossible. Military hospitals were built by the crusaders to take care of the maimed, the blind and the crippled who drifted back from the East, and during the Spanish-Moorish wars there was some recognition of the need of a military medical organization. Queen Isabella is credited by Hernando del Pulgar with having maintained ambulances and field hospital service at her own expense. One of the first stationary military hospitals was built toward the close of the sixteenth century at Pamplona. In England military hospitals were first estab-

lished during the reign of Henry VIII. In the latter half of the seventeenth century much was written concerning the sad plight of the sick and wounded soldier by the Pole Janus Abrahamus à Gehema. It was in Prussia that military medicine and hospitalization were first developed: other countries, including Austria, Russia, France and the United States, soon followed.

The low estate of the medicine of the period, coupled with the dichotomy between the physician and the surgeon, who often served also as barber and bath keeper; the overcrowding of patients in hospitals; the lack of proper ventilation and of appreciation of the spread of infections, all contributed to the ill repute of the hospitals both civil and military. The impetus for the reorganization and modernization of hospitals came toward the end of the eighteenth century, largely as a result of John Howard's exposé of the offensive conditions prevailing in hospitals, lazarettos and prisons. Much was also done to reform conditions in hospitals by the improvement of nursing standards through the work of Pastor Fliedner and his wife in Germany and of Florence Nightingale in England. Modern principles governing the construction of military hospitals were first formulated by a committee of the French Academy of Sciences in a report published in 1788. Although the organization of hospitals as adjuncts to medical schools in England likewise stimulated improvements, it has been only during the last fifty or sixty years, since the birth of bacteriology and the introduction of aseptic surgery, that the modern hospital movement has been under way.

The complicated organization of modern life and the refinements of medical and surgical diagnosis and treatment have led to the development of modern hospitals for the care of the sick. The extent and character of hospital provision vary from country to country, depending on tradition, wealth, social outlook and political structure. For many countries the complete data concerning hospitalization are difficult to obtain, for it has not been customary to collect such statistical information or to record it systematically or inclusively. The figures which are presented in the following table have been obtained largely from the *International Health Yearbook of the Health Organization of the League of Nations*. England and Wales appear to be most adequately provided with hospital facilities; in these countries there is an average of between nine and ten beds for every one thousand persons, including general and special hospitals, voluntary and what

# Hospitals and Sanatoria

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HOSPITAL FACILITIES BY COUNTRIES\*

| COUNTRY                     | YEAR      | HOSPITALS | BEDS    | BEDS PER 10,000 POPULATION |
|-----------------------------|-----------|-----------|---------|----------------------------|
| Australia                   | 1927      | 486       | 39,515  | 64.7                       |
| Austria                     | 1928      | 227       | 44,693  | 67.0                       |
| Belgium                     | 1929      | 429       | 33,266  | 43.56                      |
| Bulgaria                    | 1929      | 108       | 7,470   | 14.84                      |
| Canada                      | 1928      | 886       | 74,882  | 76.4                       |
| Ceylon                      | 1928      | 98        | 8,055   | 14.84                      |
| Czechoslovakia              | 1928      | 284       | 50,643  | 35.0                       |
| Denmark                     | 1928      | 343       | 27,944  | 79.7                       |
| Egypt                       | 1928      | 68        | 4,393   | 3.1                        |
| England and Wales           | 1926      | 3,510     | 370,672 | 94.7                       |
| Finland                     | 1927      | 320       | 13,686  | 39.6                       |
| France                      | 1925      | 1,863     | 103,295 | 25.6                       |
| Germany                     | 1927      | 4,546     | 526,469 | 84.1                       |
| Greece                      | 1928      | 92        | 7,158   | 11.55                      |
| Hungary                     | 1927      | 216       | 32,324  | 38.1                       |
| Italy                       | not given | 1,413     | 57,120  | —                          |
| Japan                       | 1927      | 11,254†   | 176,188 | 28.7                       |
| Latvia                      | 1928      | 109       | 8,209   | 43.33                      |
| Lithuania                   | 1928      | 55        | 2,485   | 10.82                      |
| Netherlands                 | 1928      | 297       | 46,380  | 50.24                      |
| Northern Ireland            | 1928      | 103       | 7,176   | 56.94                      |
| Norway                      | 1927      | 337       | 20,929  | 74.6                       |
| Poland                      | 1928      | 732       | 71,672  | 23.5                       |
| Scotland                    | 1928      | 443       | 44,726  | 90.43                      |
| Sweden                      | 1928      | 428       | 47,664  | 78.16                      |
| Switzerland                 | 1928      | 309       | 33,505  | 83.69                      |
| Turkey                      | 1928      | 163       | 10,025  | 6.9                        |
| U. S. S. R.                 | 1925      | 5,014     | 237,125 | 16.3                       |
| United States (continental) | 1930      | 6,719     | 955,869 | 77.5                       |

\* Data on custodial institutions are not included.

† 77.44 of which are small isolation hospitals with 70,462 beds.

until recently have been known as poor law institutions, fever hospitals, those for the tuberculous and the mentally alienated, and sanatoria and convalescent homes. Other countries relatively well supplied with hospitals are, in the following order: Scotland, Germany, Switzerland, Denmark, Sweden, the United States, Canada, Norway, Austria, Australia, the Netherlands and Northern Ireland. All other countries fall sharply below the ratios of these countries. In some countries, such as Australia, Poland, Hungary and Bulgaria, the preponderance of existing facilities is in the general hospitals; in other countries, as in the United States and Sweden, the great bulk of hospital facilities is devoted to special purposes. In the majority of countries the number of beds in general hospitals is about the same as in the special hospitals. The existing differences are conditioned by the extent of urbanization, the development of medical research and teaching as well as the degree of the development of specialism; and above all social policy, for the special hospitals are as a rule hospitals for the treatment of prolonged and linger-

ing diseases and are in the majority of instances built and maintained by the state or its political subdivisions. Among the special hospitals the mental and the tuberculous hospitals claim the major share of beds. In the United States the number of beds in hospitals for nervous and mental diseases outstrips that in the general hospitals; in 1930 the general hospitals had 371,609 beds and the mental hospitals 437,919. In the same year the tuberculosis hospitals and sanatoria reported a total of 65,940 beds, or less than a seventh of the capacity of the mental hospitals. With the possible exception of Sweden, the number of beds reserved in each country for the mentally alienated exceeds that for any other single type of disease.

Outside of Great Britain, the United States and Canada the voluntary hospital, built by philanthropy and governed by a lay board of trustees, is practically unknown. Such voluntary hospitals as exist in Europe are for the most part church or Red Cross hospitals or those established in comparatively recent years by industrial enterprises for the benefit of their employees or by insurance societies for their beneficiaries. The overwhelming majority of hospitals are maintained by tax funds, state or local, or both. Of all the countries of continental Europe Holland has the largest proportion of private hospitals; in that country the care of the tuberculous as well as of the insane devolves wholly upon voluntary religious institutions. Neither in Holland nor in the English speaking countries have the voluntary hospitals been able to meet community needs. In Great Britain, the traditional home of the voluntary hospital, the beds in tax rate hospitals outnumber those in voluntary hospitals by a ratio of five to one, and the financial difficulties experienced by the voluntary hospitals during the last ten years may call for a further extension of rate hospitals. In the United States despite the vast wealth donated for hospital purposes by individuals and philanthropic foundations the government owned hospital beds in 1930, including federal, state, county and city hospitals, totaled 619,726, while the privately owned hospitals, including church, fraternal, industrial, proprietary and non-sectarian charity hospitals, comprised 336,143 beds. With the proposed further extension of federal hospitalization of World War veterans, by which hospital care will be provided without charge to the 4,000,000 men who were enrolled in the American armed forces during the war, the number of beds in government hospitals will

greatly increase. In addition to military, naval and veterans' hospitals the United States government maintains under the direction of the United States Public Health Service hospital facilities in 157 ports for the benefit of American merchant seamen, members of the coast guard and steamboat inspectors.

Mutual benevolent or insurance associations and trade unions have only occasionally found it necessary or possible to organize their own hospitals. Although the last two decades have witnessed a wide adoption of medical service in industry, large industries have not established hospitals except in connection with mills, factories or mines located far from existing hospital centers. In 1930 there were in the United States only 146 industrial hospitals, with a total capacity of approximately 7000 beds. Some of these hospitals are operated by employees' mutual benefit associations through specially formed hospital benefit associations. Fraternal hospitals in the United States number only seventy-seven, with a capacity of about 5000 beds. Labor unions do not maintain hospitals either in the United States or in Great Britain except for a few tuberculosis sanatoria and the Manor House Orthopedic Hospital at Golders Green, London, which is maintained by funds furnished by members of the trades unions through a contributory scheme. Working men's insurance funds of various European countries maintain their own hospitals and sanatoria only in exceptional instances, for they find it more economical to utilize the existing hospital facilities, which depend for their maintenance to a large degree on the payments of the funds. In Germany in 1930 eight insurance organizations with a total membership of 1,356,000 maintained jointly nine hospitals with a bed capacity of 1069. Three funds, supported by 761,000 members, owned jointly four lung tuberculosis sanatoria, accommodating 411 patients at one time; 104 funds, covering a membership of almost 5,000,000, maintained 123 convalescent homes with 6712 beds.

The only country in the world where medical service has been completely socialized is Soviet Russia. Even under the old regime there was a state medical service in the rural districts, or *zemstvos*, and the hospitals, such as there were, were all tax maintained institutions. Little progress seems to have been made in the hospital field during the first decade of the Soviet regime, but the five-year economic plan projects an ambitious program for the development of public

health and hospital services. The present law provides for insurance against the contingencies of sickness, toward which all gainfully employed persons contribute; the hospitals, however, particularly in the remote rural areas, have been unable to meet the demands made upon them. According to the official program of the Russian Socialist Federative Soviet Republic it is to have by 1933 for every 10,000 population seventy-six beds in general hospitals, thirteen beds in contagious disease hospitals, eight beds in maternity hospitals and between three and four beds in psychiatric hospitals. The execution of such a vast plan of hospitalization calls not only for an enormous outlay of capital but for a large corps of physicians, technicians of various kinds and qualified nurses. At the present time there are about 40,000 physicians for a population of 160,000,000. According to the testimony of members of the party of British physicians and scientists who recently visited the hospitals and medical institutions of Soviet Russia, "... the large hospitals in Leningrad and Moscow appeared to be staffed as adequately as our own, and many medical men were working in laboratories, so that it must be conjectured that in rural districts there was great scarcity. Of the new medical students, 40 percent were peasants from the collective farms" (*"Soviet Medicine and Hygiene"* in *British Medical Journal*, December 5, 1931, p. 1043-44).

The financial investment in hospitals exceeds that in many important national industries. C. Rufus Rorem estimated in 1928 that the investment represented by the hospitals of the United States amounts to about \$3,000,000,000 and that the total annual cost of hospital maintenance in this country amounts annually to about \$900,000,000. In other countries the cost of hospital maintenance is lower than in the United States in proportion to the lower prevailing commodity prices and the lower scale of wages and because of gratuitous labor which the hospitals obtain through the religious sisterhoods and through the aid of convalescent patients. In each country the cost of hospital maintenance varies, depending upon the location of the hospital and the prevailing level of prices and wages as well as on the amount of service and the quantity of materials supplied. As a rule the cost of maintenance of the Catholic hospitals is lower than that of others because of the free services rendered by the religious sisters; certain types of special hospitals, such as those for the care of the insane and the tuberculous, have a lower per capita cost per

day than hospitals for acute diseases. Hospitals performing only routine services are administered less expensively than are university hospitals, where teaching and research add to the cost of maintenance. Construction costs also vary with the purpose and location of the institution. The modern compact skyscraper hospitals, built to utilize all possible space and to conserve energy, are less expensive to administer than the older type of hospitals which consist of a series of detached buildings or pavilions. An investigation by Edward F. Stevens revealed the fact that even in the modern compactly built hospital only a little over one fifth of the gross floor space is devoted to patients' rooms and wards. A similar study made in Germany indicates that considerably more space is given to patients' quarters abroad than in American hospitals. While the construction costs of American hospitals vary from place to place, they may be estimated to be about \$7500 a bed; the construction costs in Germany are about one third of this amount.

The question of whether smaller hospital units, scattered in strategic points throughout the community, are more desirable than enormous skyscraper hospitals has not as yet been definitely settled. Many students of hospital organization and management are of the opinion that a hospital of about 500 beds constitutes the optimum unit from the point of view of efficient economic and medical administration. The present tendency seems to be in the direction of larger units built along a vertical axis. On the continent of Europe, where the pavilion type still prevails, the hospitals are composed of an aggregation of self-contained units, one for each specialty, occupying many acres of ground; and their total capacity is generally larger than that of hospitals in the United States or Great Britain. With the growth of cities and the increase in real estate values the tendency everywhere is toward greater compactness in building; and the experience in the United States has demonstrated not only that it is more economical to administer compactly built hospitals but that there is no danger of the spread of infection if the institutions are properly administered.

The work of a hospital is measured not only by the number of patients it accommodates in its wards and private and semiprivate rooms but also by the service rendered to ambulatory patients. The number of these patients is many times larger than the number of resident patients, particularly in countries having no social insur-

ance. In the United States in 1929 about 6,650,000 persons resorted to dispensaries; the number of visits exceeded 19,000,000. Dispensary or outpatient service has taken an important place in the community provision for the care of those who cannot afford the services of specialists or the cost of such diagnostic or therapeutic measures as various laboratory procedures, X-ray service, diathermy and the like. In European countries dispensaries are likewise patronized heavily despite the health insurance because of the tradition established by the university hospital ambulatories, where the work has been and continues to be carried on by the teaching staff (*see CLINICS AND DISPENSARIES*).

An indispensable complement to the hospital service is the convalescent home, which is usually located outside of the city limits and devoted to restorative work. The essential features of proper convalescent care, such as rest, diversion and proper diet, cannot be obtained by the majority of city dwellers in their own homes. Furthermore with the increasing pressure on hospital facilities, created as a result of the attractiveness of the modern hospitals and a realization on the part of the public that the best care is obtainable in institutions devoted to the purpose, the average duration of a patient's stay in a hospital has been considerably shortened; patients are often requested to leave the hospital long before they are able to resume their ordinary duties. Institutional convalescent care is a community economy, for it provides care at half the cost of hospital care and it prevents breakdowns, thereby diminishing the number of repeaters in hospitals. The cost of construction of a convalescent home is less than half of that of a hospital. Just as dispensaries are being organized by the insurance funds of Europe to provide properly supervised and adequate care for the ambulatory sick, so is convalescent care becoming more popular as a result of the appreciation of its value in preventive medicine.

Similar considerations have led to the establishment of sanatoria throughout the world. These, usually located in attractive urban sections or in the country, were first designed particularly for the well to do; but of late they have become available to other classes of society, particularly the sanatoria for the treatment of chronic diseases, such as tuberculosis, intestinal and metabolic diseases and mild mental disorders, all of which require a special regimen. Spas may also be mentioned in this category. The value of certain mineral springs for bathing



and drinking purposes was known in antiquity. Their use in Europe and in other parts of the world has been continued uninterruptedly and constitutes an important addendum to the medical resources of the world. Sanatoria and hospitals are maintained in Europe by sickness insurance funds and by various municipalities as well as by armies and navies. In Soviet Russia extensive use of spas and sanatoria is part of the state program of health service.

The hospital is an indispensable school and workshop for the physician. It is in the hospital that he is taught his profession; it is here that he can carry on research as well as practise his profession scientifically. In many states of the United States and in many foreign countries license to practise medicine is given to a medical graduate only after he has completed satisfactorily a period of internship in a hospital recognized for the purpose. The medical graduate is conscious of the intricate character of the modern practise of medicine and its dependence on many ancillary facilities, and he is at a loss when he finds himself without a hospital connection after the completion of his period of internship. Neither in the European countries nor in the United States has it been possible to provide every practising physician with hospital facilities. This handicaps the medical man not only in his development as a physician but also in the practise of his profession. If he has no hospital appointment he cannot perform any surgery except by resorting to a proprietary hospital or sanatorium operated for profit, where the standards of service and the character of the adjuvants may not always be of the highest order.

Outside of municipal or voluntary hospitals, which are associated with medical schools and where the positions are held by university teachers, medical appointments are made either by the appropriate city authorities, as in the case of municipal hospitals; by boards of trustees, as in voluntary hospitals; or by ecclesiastical boards, as in church hospitals. Favoritism in appointments is guarded against in many instances by regulations whereby appointments to the medical staff are made by the appointing authorities on the recommendation of the medical board of the hospital.

The rules of the majority of hospitals provide that physicians shall not charge fees for their professional services to patients in the public wards. Fees are, however, collected from patients in private and semiprivate rooms. In municipal hospitals, where there are no accom-

modations for private patients, the visiting physicians and surgeons do not derive any direct economic benefit from these associations. It is necessary therefore for them to have additional hospital connections with voluntary hospitals, and this sharpens the competition for association with voluntary hospitals. In Great Britain and in some other countries the hospitals have no accommodation for private patients, who are compelled to patronize nursing homes, proprietary institutions maintained for profit. In the United States in late years such nursing homes or proprietary hospitals have increased in number, even in cities where abundant hospital facilities exist. There is a twofold reason for this development. The American Medical Association and the American College of Surgeons have developed minimum standards with which all hospitals must comply in order to be rated as approved hospitals. Among the requirements are proper recording of cases, the study by a competent pathologist of all the tissues and organs removed from patients at operations and conferences and stated meetings at which untoward developments must be explained by the physicians and surgeons. Some practitioners object to these safeguards as control over their professional performance. The second factor has been the policy on the part of hospitals to restrict their staffs to a few selected men who work as a team and who are responsible for all the activities within the hospital; this makes it impossible for many medical men to obtain hospital affiliations and leads them to have recourse to the proprietary institutions.

In addition to the caliber of the medical profession the efficiency of a hospital performance depends on the amount and quality of the nursing service. When comparisons are made between hospitals, the number of beds alone is not a sufficient indication of the available service; this must be expressed or weighted in terms of personnel, particularly nursing personnel, available, for infections and other untoward conditions develop in hospitals in inverse ratio to the number of available nurses. Except for obstetrical services American, Canadian and British hospitals use student nurses in carrying out the hospital routine work to a larger degree than do the hospitals in continental Europe. The ratio of student nurses to trained nurses varies greatly in different countries. While in the medical wards of the Austrian hospitals this ratio is eleven to fourteen and in Belgium and Denmark seventeen to eleven, in Germany nine to twelve and in

Holland thirty-one to eighteen, in England it is as high as twenty-nine to seven, in Canada thirty-one to seven and in the United States thirty-five to eight.

The complicated techniques of modern medicine and modern surgery require elaborate apparatus and laboratory services for diagnostic and therapeutic purposes; as techniques have developed, the costs of hospital maintenance have mounted steadily. In the United States the average daily cost of maintaining a patient, exclusive of interest on capital investment and depreciation charges, is about \$5.00 in a hospital for acute conditions and about \$3.00 in a hospital for the care of patients afflicted with chronic maladies. In Canada and in European countries the costs are appreciably lower. The distribution of the maintenance expenditures in general hospitals is much the same everywhere. In a selected group of twenty-one typical American hospitals, which includes the ordinary voluntary hospital as well as university and municipal hospitals, the major expenditures were: salaries and wages, 46.4 percent; food, ice and water, 23.4 percent; medical and surgical supplies and equipment, 8 percent; fuel, light and power, 6.7 percent.

The rates charged ward patients are usually below actual costs, and a large proportion of these patients pay only part of the rate or none of it. Private hospital room rates are similar to or below hotel rates. The charges for laboratory, X-ray and other services become considerable in the aggregate, particularly if the disease is protracted. Such costs weigh heavily upon those who have low incomes and for this reason many of the voluntary hospitals are establishing semi-private services, which offer accommodations in rooms where provision is made for several patients and where the rates for maintenance and for auxiliary services are below those prevailing in the private rooms. In some instances the hospitals limit the maximum which physicians and surgeons may charge patients for their professional services. In the United States as well as in other countries it is the middle class which finds the onus of hospital costs a particularly serious drain on its resources. The wage earning population must have recourse largely to the facilities of public or charity wards, which vary in adequacy in different communities. All the countries of Europe have insurance against the contingency of illness, and the recent tendency is to provide medical care in hospitals and dispensaries instead of in the homes of patients or in the offices of physicians. In some countries,

notably in Germany and Austria, the contributions made to the hospitals by the insurance funds constitute an important item in their finances. In recent years there has been a marked tendency in hospitals all over the world to make the patient bear directly or indirectly an increasingly large part of the hospital costs; entirely free services are reserved for the indigent. The charitable work done by hospitals is no longer measured in terms of the amount of absolutely free care given but by the difference between what the patient pays and the actual costs.

Hospitalization in rural sections of the United States, facilitated by financial assistance from the Commonwealth Fund and the Duke Endowment, has made rapid progress. In England and in the densely populated continental countries, where the distances between provincial towns are not great, the rural hospital problems are not so acute as in the United States. Small cottage hospitals are provided in the sparsely settled sections, and the Red Cross maintains hospitals especially in the remote rural areas of Scandinavian countries as well as in some of the eastern countries.

E. H. LEWINSKI-CORWIN

See: MEDICINE; NURSING; PUBLIC HEALTH; COMMUNICABLE DISEASES; CONTROL OF; CLINICS AND DISPENSARIES; CHARITY; RELIGIOUS ORDERS; ENDOWMENTS AND FOUNDATIONS; WELFARE WORK; INDUSTRIAL; SOCIAL INSURANCE; HEALTH INSURANCE; SOCIAL WORK.

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HOSTOS, EUGENIO MARÍA DE (1839-1903), Latin American publicist, sociologist and educator. Hostos was born in Porto Rico and at the age of thirteen was sent to Spain, where he studied at the universities. His literary activity began in 1863 with the publication of *La peregrinación de Bayodn* (Madrid), a novel written to point out the helplessness and exploitation of the Spanish colonists in the West Indies. For six years he collaborated with such eminent men as Salmerón, Azcárate, Giner de los Ríos, Valera, Martos and Castelar on Spanish reviews and newspapers. He was affiliated with the republicans of Spain in the belief that a republic would accord the colonies their independence in a federal system but left Spain when the Spanish Republic was established (1873-74) and its officials refused Cuba its independence. After a brief residence in New York he visited nearly all the American countries as an apostle of Cuban independence and of a federal union of Cuba,

Porto Rico and the Dominican Republic, which he advocated throughout his life as the wisest political organization for the Antilles. For a number of years he was professor of constitutional law at the University of Santiago in Chile and held the chair of sociology, international law and penal law in the Dominican Republic.

Hostos distinguished himself not only as a revolutionary publicist but also as a sociologist and educator. He tried to found a new morality and sociology and evolved a complete sociological system. He regarded society as an organism which developed according to certain formulated principles and considered that the moral idea would ultimately triumph in accord with natural law. Morality was the basis of order and duty the basis of morality.

Hostos, convinced of the efficacy of the educational work of the government, represents a tendency quite general at the time to admire Protestantism and to attribute to the Catholic tradition the decline of Spanish civilization. He was a constant protagonist of educational reform. In Santo Domingo he was responsible for an educational renaissance. Before his time the schools were poor and few in number; he established a normal school and through his efforts a regular system of educational administration was initiated by the government. He was an intellectual force throughout Latin America and his powerful educational influence, like that of Andrés Bello, was felt in various branches of learning. He was the author of works of literary criticism, political theory, law, pedagogy and sociology. Of his numerous works, comprising more than fifty titles, the following are especially worthy of mention: *Lecciones de derecho constitucional* (Santo Domingo 1887, new ed. Paris 1908); *Reforma de la enseñanza del derecho*, in collaboration with Valentin Letelier and Julio Bañados Espinosa (Santiago, Chile 1889); *Descentralización administrativa* (Santiago, Chile 1890); and *Cartas públicas acerca de Cuba* (Santiago, Chile 1897).

CARLOS PEREYRA

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HOTELS. Primitive peoples living in comparative isolation have invariably extended hospitality to the occasional wayfarer, who brought them welcome news and contacts with other communities. As population grew denser and travel more frequent, the force of the earlier law of hospitality diminished and strangers were ex-

pected to pay for their food and lodging. In some communities certain families began to receive all the travelers, a practise to which may be traced one origin of the inn. The earliest development of commercial or public lodging places occurred along the important trade routes or in and near religious centers. Rough caravansaries one day's journey apart were scattered throughout Egypt and Babylonia; in the Persian Empire they frequently gave place to a more substantial type of inn, while similar shelters served the traveler from Europe to China almost until modern times. The Greeks and probably earlier peoples maintained lodging houses for travelers within or near their temples, where the grateful guests left behind gifts according to their means.

The spread of the Roman Empire, based on the unification and pacification of large areas and the construction of post roads, made travel easier and more frequent. Large numbers of traders and provincials were drawn to the metropolis. In Rome itself and in many places throughout Italy they were put up at public inns, which in spite of a rather rigorous state supervision were noted for miserable accommodations and bad reputations. In the vast majority of cases these inns were nothing but hawdy houses and were frequented by gangs of thieves recruited from all races. Nevertheless, throughout the empire the traveler could still find lodgment almost everywhere in temple inns.

In the early Middle Ages traveling in Europe practically ceased. The roads were in general well nigh impassable and infested with bands of brigands. With the revival of commerce, however, with the increasing importance of the fair and the increasing frequency of religious pilgrimages the problem of lodgment for the traveler again became important. Traveling remained for long extremely dangerous and it was essential that all wayfarers move in groups and arrange to get shelter by nightfall. As in earlier civilizations, religious organizations were among the most important purveyors of hospitality. Several orders of monks had as their main purpose the harboring of pilgrims. Two classes in particular tended to stop at monasteries: the nobility, who were amiably received because it was through their bounty and protection that the monasteries existed; and the poor, welcomed because of the gospel admonition. The middle class were usually obliged to lodge in another type of establishment.

The inn, which catered to their needs, originated throughout most of Europe in the private

dwelling, where the guest took potluck with the family. He slept in the common hall with the servants, children and other guests. Accommodation for horses or other beasts was quite as important as for the masters and in some inns, especially on the continent, the animals were accommodated in the same room with the guests. In Italy the inns of the Roman Empire had never entirely disappeared, and the old traditions of thieving and rascality seemed concentrated in that country; but throughout Europe the inn was the center for all kinds of mischief.

The merchant or craftsman who was forced to travel did not, however, have to rely entirely on these accommodations. Most of the guilds had their own *Herbergen* in the larger cities, while in the fifteenth and sixteenth centuries, when *compagnonnage* became important, each little village was likely to have one inn frequented almost entirely by the traveling brotherhood. Such inns must often have been centers of Freemasonry. The rise of strong nationalistic states was accompanied by the construction of post roads and the appearance of more regular means of transportation. The carrier wagon, the post-boy and the individual trader with his pack horse were superseded along these new roads by the stage coach in England and the diligence on the continent. A regular post for the carriage of royal mail was established in France early in the seventeenth century, and by the middle of the eighteenth century travel by coach was common for all classes. In England the inn had greatly increased in importance upon the suppression of the monasteries; during the eighteenth century both there and on the continent it gained new prominence as a place where horses were rested or changed and travelers kept overnight. The regularization of travel did much to improve the character of such inns; complaints as to the quality of food or bed were still frequent, but the moral character of the inns was admittedly better and the host more frequently a business man and less often a blackguard.

Closely associated with the inn at all times and in smaller communities often indistinguishable from it has been the tavern. The true tavern offered no lodging but only food and liquor. Where, as in England in the sixteenth century, it was forced to close its doors at the stroke of curfew, nine o'clock, it put its patrons out at the very hour when shelter was most needed. In the growing cities the tavern was an important adjunct to the inn. It became the headquarters for the decayed gentlemen, the soldier of fortune or

the priest looking for a temporary respite from duty. The seventeenth century saw a great development of taverns frequented especially by the aristocracy or men of letters. This was the period of the coffeehouse in England and the beginning of the famous cafés of Paris.

Early in the eighteenth century inns of considerable size were appearing in France especially around Versailles. Here were accommodated visitors to the court, merchants and the crowds of tourists attracted by every court wedding or other display. In 1715 there were probably as many as 120 inns around Versailles and the regular innkeepers were beginning to complain of competition from residents who rented out their extra rooms.

The fashion for travel was thus well developed by the end of the eighteenth century. It received new impetus and new direction from the early nineteenth century interest in nature and scenic beauty. But it was the railroad and the moneyed middle classes thrown up by the commercial and industrial revolutions which produced the modern hotel. The word hotel was adopted, first in France and a little later in England, about the end of the eighteenth century to signify a departure from the customary method of housing guests to something more luxurious and ostentatious. The new hotel had its first great development in Switzerland, the playground of Europe, during the early years of the nineteenth century. The Swiss hotel keepers of the period are said to have originated the idea of the resort hotel. French cooks were imported and every effort was made to attract visitors. The Swiss hotel became what it has remained, an international institution. It was the model for the hotels which were springing up all over Europe. The railroad companies soon saw the advantages of the resort idea; and as posting houses had earlier established themselves at the termini of stage coach routes, so hotels were placed at important railroad stations and junctions. The great international fairs and expositions of the nineteenth century gave a new impetus to hotel building. In 1855 Napoleon III returned from a visit to England to build the mammoth Hôtel du Louvre. Nationalistic sentiment operated too to lead many governments to subsidize the building and operation of hotels in colonial areas. Before the World War German hotels in the Levant, in the Far East and in South America were important centers of commercial penetration and imperialist intrigue.

It is in the United States that the hotel has

developed its most spectacular forms. During colonial times and even later in frontier communities the American inn differed little from its European counterpart. Several conditions peculiar to the United States encouraged the building of especially large and especially ornate hotels. The lack of settled traditions of living led to frequent traveling and the need for hotels. American hotels were built to cater to a growing middle class. Many, such as the famous Tremont House of Boston, frankly appealed to the patronage of the newly rich. Others had rates within the reach of almost everyone. Catering originally to frontier communities, American hotels became the epitome of luxury to the ordinary person. All the silks and gilt of the late nineteenth century found their greatest display in the hotels of the period. Competition between hotels took the form of providing increasing comforts for guests. Electric lights, telephones, private bathrooms, elevators and other conveniences were introduced by enterprising hotel keepers. In large cities as well as in smaller towns hotels became social centers for the general public: favorite places for balls, banquets, political rallies, business transactions and other affairs.

A European hotel of five hundred rooms is considered large. In the United States the average size has constantly increased until a hostelry numbering over a thousand rooms is not unusual. Increase in size has been made possible by the elevator, the use of fireproof materials and other new construction methods and by the discovery that it is possible to standardize economically the various services in which the hotel specializes. Throughout early hotel history the barroom, particularly in the small town hotel, was the most lucrative part of the business. The dining room inevitably ran at a deficit, which the bar more than covered. Nevertheless, many hotels gained their reputations through the excellence of their cuisines. The growth in size of the modern hotel has been accompanied by the taking over of a vast number of subsidiary functions. A modern hotel may run a laundry, an ice cream factory, an upholstery department, an electric power plant, a florist shop and many other auxiliary services.

Modern hotels, particularly in the United States, are of three more or less distinct types: the commercial hotel, the resort hotel and the residential hotel. The commercial hotel caters particularly to the transient guest. The traveling salesman was for long its most important patron. At one time there were over 60,000 traveling salesmen in the United States alone, traveling

typically on expense accounts and offering easy money for the hotels. The commercial importance of adequate hotel facilities was evident to most communities. In Europe it was largely its excellent hotels which made Vienna the rendezvous for commercial transactions throughout the Balkans. In the United States one new town after another felt the necessity of hotel building. In spite of the increasing size of the territory covered by the individual salesman with the use of the automobile and the decreasing part played by the salesman in the marketing process, he is still the principal patron of the typical small town hotel.

The resort hotel, usually operating during only part of the year and catering to a vacationing clientele, at first benefited from the increase of motoring and the construction of new roads. But in recent years, particularly in the United States, the larger resort hotels as well as small town hotels have suffered from the competition of thousands of less pretentious roadside inns and the tourist camps which have sprung up along all the main highways.

One of the most striking developments of recent years is the growth of the residential hotel with a more or less permanent group of guests. Unattached individuals frequently find such hotels the most convenient places in which to live. But increasing numbers of families or at least of couples in the larger cities are making such hotels their homes. Many influences can be seen as contributing to this tendency: increasing rentals, the growing independence of women and the increasing difficulty of securing efficient domestic servants are all important factors. Hotel life in many ways represents an intensified city life. Urban characteristics such as impersonality, freedom from restraint and emancipation of the individual are dominant in a hotel community. It attracts persons seeking novelty and excitement, offering the stimulation of constant social contacts and a variety of leisure time amusements. Home life under such conditions becomes highly artificial, and the effect on children of such an atmosphere might become an important social problem.

The hotel business is no longer merely large scale housekeeping. In the United States it has become one of the group of billion dollar industries, and in several of the European countries it ranks near the top in the list of national industries. In such a country as Switzerland the most important item in the balance of trade may be tourist receipts based on the hotel industry.

Most of the European countries have for some years maintained special bureaus for the encouragement of tourist travel. Since the World War a number of countries, notably France, Austria and Switzerland, have found it necessary to provide subventions or to support the credit of the hotel industry. Switzerland in 1921 created the Société Fiduciaire Suisse pour l'Industrie Hôtelière, a kind of central credit institution with a capital of three million francs, one half of which was supplied by the federal government. In the United States the industry has suffered since the war not so much from decreased patronage as from excess capacity. According to a study sponsored by the American Hotel Association (Hamilton, W. I., *Promoting New Hotels*, New York 1930) the number of hotels in the United States increased from 20,800 in 1920 to 26,800 in 1929—a relative increase of from 100 to 129; the number of rooms increased in the same period relatively from 100 to 147. In 1929 alone new construction involved an expenditure of \$519,000,000.

The hotel industry early adapted itself to corporate forms of organization; Ritz began building his chain of hotels in 1880 and after 1900 a large proportion of the German hotels were run on a chain basis. The same basis of organization has been widely adopted in the United States.

The fact that before 1914 most hotel managers were Swiss, Austrian or German led to a certain similarity of development in methods of hotel management; since the war chauvinistic attitudes have somewhat changed the situation. As early as the last decade of the nineteenth century associations of hotel owners and managers had been organized in many of the European countries. In addition to various promotional and protective activities these associations have undertaken the development of special schools of hotel management. Similar schools are now in existence in the United States.

The organization of hotel personnel represents an unusually difficult problem. The diversified services require a large staff. The number of employees per guest varies from hotel to hotel but in some of the more luxurious it runs to as high as four or five; the average is probably about one employee to every two guests. Hotel employees are engaged in a variety of occupations. In most cases conditions of employment are exceedingly bad. Employees are usually engaged and discharged by department chiefs rather than through a centralized employment bureau. Often when a steward or housekeeper is engaged he is

expected to bring his personnel with him. A few hotels have inaugurated central employment bureaus where an attempt is made to select people qualified for their jobs. Where this has been done it has led inevitably to a degree of job analysis and training. Most of the schools for hotel executives give instruction in methods of modern personnel management, but the use of efficient personnel methods is still decidedly rare.

Many hotel employees "live in." The workers are frequently housed in inferior quarters and have to eat unsavory food. Lately there has been a tendency to have more of them live outside, but this is often unsatisfactory because of the low wages and the extremely long hours.

Hotel wages are notoriously low. The management although pretending in many cases to deprecate the tendency to tip has by its scandalously low wage rates made it necessary for employees to rely on tips to get an adequate living wage. Since tipping is not standardized but dependent on the whim of a patron, it is difficult for the employee to count on a fixed wage. The custom is not only demoralizing, making for discrimination in service, but means from the point of view of the patron that the initial charge is only the beginning of the price he must pay for adequate service. These evils have been recognized by the more progressive hotel managers of all countries, but nothing effective has been done to correct the condition.

The hotel day lasts for eighteen out of the twenty-four hours and some services must be provided during the entire period. This has meant long hours and night shifts for a large part of the hotel force with a consequent lessening of morale and a shiftlessness in execution of tasks. Turnover is high and many hotel workers move constantly from city to city looking for better conditions. Chambermaids, who constitute about 40 percent of the total work force, are particularly poorly paid, have completely unstandardized hours and the poorest living conditions. Very often they receive no tips for their work. As a consequence turnover is high and only the poorest class of workers will consider a job of this sort. In the United States such positions have largely been filled by immigrant or Negro girls.

In no country have unions of hotel employees achieved any marked success. The character of the work militates against effective organization. In the United States the Hotel and Restaurant Employees and Beverage Dispensers International Alliance, affiliated with the American

Federation of Labor, has lost members heavily since prohibition. The waiters were the only group of hotel workers whom it had ever organized at all successfully, and even in their case the ease with which the trade can be taught and the possibility of importing low priced Negro workers in case of strikes have made organization relatively ineffective. The International Union of Hotel and Restaurant Employees, which is affiliated with the International Federation of Trade Unions, claims a membership in 17 countries, not including the United States and Great Britain, of 74,000. Of this number 75 percent are in Germany and Austria, where organization has made some headway in the hotel and allied industries. There are no figures available for the number of hotel workers in the Red International unions in countries outside of Russia. In all cases figures are misleading because of the inclusion in the unions of food, drink and tobacco as well as restaurant and actual hotel employees.

The semipublic nature of the hotel industry has led not only to its regulation in the interests of public health, welfare and morals but to the development of a large body of legal doctrines relating to the duties and liabilities of hotel keepers and innkeepers. The hotel or inn, in contrast to the boarding house or lodging house, is under obligation to receive all non-objectionable persons who offer themselves as guests and are willing to pay, as long as it has rooms available. The existence of social prejudices, however, quite effectively nullifies the legal rule. Probably because of the necessity in earlier times of protecting travelers and preventing collusion between the hotel keeper and robbers most legal systems have placed on the hotel keeper an extraordinary degree of responsibility for the goods of his guests. Under Roman law he was absolutely liable for all damage or loss; up to the end of the nineteenth century this conception prevailed in civil law countries. In England as early as 1574 the famous Coyle's case (8 Coke 63, 1574) laid down the rule that an innkeeper was not liable except for negligence. Although the doctrine was reversed in the early nineteenth century, legislation in most countries is now tending toward this position. The rapid development of the industry and the great increase in travel have rendered the older law burdensome and unnecessary, and hotel keepers have brought pressure upon governments for legislative limitation of their liability. In the United States, where the rule in Coyle's case

had not been followed by the courts, statutory limitation began in 1855 when New York and Pennsylvania passed acts permitting a hotel keeper who provided a safe to protect himself from liability for property not deposited with him by giving proper notice. England gave statutory recognition to the limitation of liability in 1863; France followed in 1899 and 1911 with laws limiting liability for damages to 1000 francs; Germany passed similar legislation in 1900, Belgium in 1907 and Switzerland in 1911. In Italy the old Roman law doctrine still holds. In the United States rules vary in the different jurisdictions, but the trend is clearly toward limitation of liability to cases of negligence.

URSULA BATCHELDER STONE

See: RESTAURANTS; MOBILITY, SOCIAL; MIGRATION; TOURIST TRAFFIC; RESORTS; HOSPITALITY; RELIGIOUS ORDERS; URBANIZATION; LODGING HOUSES; BAILMENT.

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HOTMAN, FRANÇOIS (1524-90), French jurist. Hotman first taught Roman law in Paris. Attaching himself to the party of religious reform he became one of Calvin's secretaries. From time to time he played an active but doubtful role as a political agent. In the course

of his later wandering and unhappy life he taught at Lausanne, Strasbourg, Valence, Bourges and Geneva; he died in poverty in Basel.

As a jurist Hotman, who belonged to the humanist school of Alciati and Cujas, has a high place. His *Commentarii in xxv Ciceronis nobiliores orationes* (Paris 1554, 2nd ed. Basel 1594) is still a valuable contribution to the textual study and legal interpretation of its subject. His *Commentatio tripartita ad libros feudorum* (Lyons 1573, 2nd ed. Cologne 1574) first emphasized the Teutonic origin of feudalism; Hotman appealed to the surviving customs and original sources of feudalism rather than to the codification embodied in the *libri feudorum*. His *L'anti-Tribonian* (written c. 1567, first printed Paris 1603), perhaps his most celebrated legal work, attacked the absorption of his time in the antiquities of Roman jurisprudence. He saw that too great a contrast existed between the world of sixteenth century France and that of Justinian, between the French customary law and the Digest. He maintained that Roman law was too peculiarly a product of Roman social conditions to take the place of equity and natural reason, and he regarded the codification of Justinian as a collection of anachronisms and meaningless fragments which would have been forgotten had it not been adopted by the ruling caste and been used by the papacy in the formation of the canon law, which he no less despised. *L'anti-Tribonian* is in effect an appeal from historical jurisprudence in the Roman tradition to the judgment of men formed in Hotman's school of abstract justice, customary law and knowledge of the Scriptures. It had considerable influence and has its place in the history of the movements which later led to codification.

Hotman's fame as a political theorist is due to his *Franco-Gallia* (Geneva 1573; French translation Cologne 1574; tr. by Robert Molesworth, London 1711), which earned for him a European reputation in a few months. It is an attempt to define *La forme de la police de nostre chose publique* and provides a rapid survey of the development of French institutions. His thesis is in brief that the amalgamation of the Gauls and Franks produced a new creation, *Franco-Gallia*. The characteristics of this new regime, which prevailed until the growth of centralized monarchy destroyed it, were the limited nature of kingship and the existence of representative assemblies. This well defined system was to Hotman a harmony which had been reduced to discord by the encroachments of royal power,



and he aimed at its restoration. In his *Brutum fulmen* (Paris 1585, French translation same year) Hotman took advantage of the excommunication of Henry IV by Sixtus V to launch a sweeping attack on the papacy. This treatise is too negative and destructive, but it contains many of the elements which marked for centuries the Gallican theory of the limitations of papal authority.

DAVID BAIRD-SMITH

*Works: Opera*, 3 vols. (Geneva 1599-1601); *Opusculs françaises des Hotmans* (Paris 1616).

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**HOURS OF LABOR.** In the lower stages of civilization, where labor is not yet clearly separated from the entire complex of activities constituting life, it is customary for man to work as long as is necessary for the satisfaction of his elementary needs or the needs of his tribe. Only when work has become regularized and crystallized as a distinct activity does the problem of the hours of labor arise. The separation of work from life in general does not occur simultaneously in all parts of the social system. In this connection it is especially important to distinguish between independent and dependent labor: even in comparatively advanced civilizations independent labor—or what merely appears as such—permits of no easy separation of working from non-working time. In the typical family enterprise of the farmer, handicraftsman or small trader there are obviously no fixed hours of labor; working time is determined by the extent of human endurance, by the requirements of the particular pursuit and by external conditions, such as the weather and hours of daylight. This is not infrequently true also of the quasi-independent producers in highly developed modern society; under the pressure of competition from large scale industry they tend to draw no distinction between the hours of labor and those of rest, regarding the duration of their working time as a purely private matter. This attitude, characteristic of the lower middle class, is still an impor-

tant factor in semi-industrialized countries, where it has enormously impeded the regulation of working time in agriculture and handicrafts, in which independent and dependent labor work side by side. Another typical example of this antiquated attitude is the housewife in working men's families. The idea that her labor hours might also be limited seems to be entirely foreign to a working class housewife; yet her day begins before her husband goes to work and she continues to toil after he returns home.

The problem of working time does not arise in a society based on independent labor nor in one based on slavery; in both the length of the working day is a technical rather than a social question. Only when society has become stratified into classes and when there exist alongside independent and slave labor various forms of dependent and semidependent labor, does the problem acquire a social significance. For wage labor and the labor of serfs on the land of the feudal master the working time measures the degree of dependence of one social class on another as well as the degree of exploitation. In such a system or systems working time is determined by the living conditions of society as a whole—needs, resources available for their satisfaction and similar factors—and by the distribution of power among the social classes.

In an economy with a static technique working time will be lengthened in proportion to density of population and shortened with the increase in the power of the lower strata of society. Other things remaining equal, the progress of technology will tend to diminish the number of working hours. And yet working time does not merely depend upon technical and social progress; it also strongly influences them. When the hours of labor are excessive, the worker is denied the opportunity to become a capable citizen. A democratic regime acquires vitality only through the shortening of working time, which releases millions of people for civic activities. Shorter hours also contribute to social progress in another way: increased leisure at the disposal of employed workers tends to stimulate new wants, leading to an expansion in the demand for consumer goods and to a more intensive operation of the productive system. Technical progress too is necessarily hampered by excessive labor hours; the prevalence of such conditions implies the existence of cheap, easily satisfied labor which employers can exploit without the aid of expensive machines but which is also incompetent to operate complicated machinery. The reduction

of hours acts as a spur to increase efficiency; the employer is forced to rationalize and mechanize his plant and the laborer, no longer worked to the point of exhaustion, is better able to concentrate and to adapt himself to new processes.

The problem of working time is not simply one of shorter hours. Society cannot satisfy its wants except by means of intensive physical and mental effort, and labor must have a definite duration in order to attain the necessary productivity. While too much work means stagnation, too little work means poverty. The fundamental problem is one of finding the appropriate length of working time—appropriate to the particular stage of social development reached and the state of the industrial arts. For each national economy this problem is complicated by international competition and by the differences among the various branches of the system. While an absolutely uniform regulation of the hours of labor is impossible, it is essential that the conditions of labor prevailing among the different groups of workers should be made as nearly similar as possible.

*History.* The problem of the hours of labor, i.e. the length of the working day, can be traced historically for about one hundred years. Much older is the limitation of working time by alternating days of work with a day of rest, the beginnings of which may be found in antiquity. Inger's hypothesis that the introduction in Babylon of the seventh day as a day of rest served primarily this purpose is disputed by historians. But the social import of the Hebrew Sabbath (*Shabbattu* in Assyrian means rest) can scarcely be doubted; the severity with which it was insisted that the Sabbath must be a day of complete rest, any infraction of which was strictly forbidden, indicates that the real objective of the old Jewish law was the suspension of work. The Jewish Sabbath eventually developed into the Christian Sunday, which also came to be recognized as a day of rest by the authorities of the Roman Empire under Constantine. Beyond that the temporal power did not concern itself with the observance of Sunday; it was considered a religious institution and the church was strong enough to handle it unaided.

During the Middle Ages working time in urban occupations was limited by the external conditions affecting labor and by religious holidays. Primitive lighting arrangements and the danger of fire inherent in working after sundown definitely limited the length of the handicraftsman's working day. In many cities night work was offi-

cially prohibited. Furthermore nearly every week contained a holiday on which no work was done. In the early Middle Ages scarcely more than 48 hours on the average constituted a week's work: the 8-hour day was the normal working day. Legend attributes to King Alfred the Great the saying: "Eight hours work, eight hours sleep, eight hours play, make a just and healthy day." This condition persisted in the following centuries under the rule of the guilds. Journeymen quarreled with their masters about "blue Mondays" and the number of holidays that should be observed; peasants clashed with the nobility over the distribution of working days between their own land and the land of the lords; but the question of hours of labor seldom arose. In the late Middle Ages, however, working time was lengthened. While the prevailing methods of production remained unaltered, population increased and the economic and social conditions of the mass of the people deteriorated. In England a royal statute [11 Hen. VII, c.22 (1495)] set the working day during the summer from 5 a.m. to 7 or 8 p.m. with 2 hours of rest—an attempt to increase the hours of labor by means of police regulations. Queen Elizabeth decreed a working day from 5 a.m. to 7 or 8 p.m. with 2½ hours of rest [5 Eliz., c. 4 (1563)]. In the fifteenth and sixteenth centuries Sundays and holidays were no longer as piously observed as formerly. During this period also arose the idea of a higher social order in which the working day would last even less than 8 hours. In Thomas More's *Utopia* (1516) the day's work consisted of only 6 hours. The direction of social development, however, was entirely different. At the close of the seventeenth century, according to William Petty, the 10-hour day—12 hours from start to finish, with a rest period of 2 hours—predominated in England.

The growth of capitalism during the second half of the eighteenth century brought an unprecedented lengthening of the working day. The increasing use of expensive machinery; the establishment of large factories whose owners and employees did not work side by side as did the guild masters and their journeymen; the new ideology of the entrepreneurs, who repudiated traditional economic restraints; and improved lighting arrangements, such as gaslight, introduced into factories at the close of the eighteenth century—all these furnished important drives in the direction of longer hours. Little resistance could be expected from the workers; in the absence of protective legislation and organization

for the protection of their status they were forced by mass unemployment to accept work under almost any conditions. Handicraftsmen too were driven to the utmost of their endurance by the fear of succumbing to factory competition. No labor statistics are available for this period, but it is known that about 1800 a working day of 14 hours was customary, one of 16 hours attracted little attention and only a working day of 17 or 18 hours was considered an abuse. Such excessively long hours were worked not only by men but also by women and children, whose labor was used on a particularly large scale in the textile factories. This rapacious exploitation of human labor resulted in a reaction, which followed the turn of the century.

At the beginning of the nineteenth century the situation of the working class in England was at its worst: the working day was prolonged beyond any natural limits, wages were at their lowest and the interests of labor were not protected by law. Shortening of the working day had to proceed hand in hand with an improvement in general working conditions and the development of legal protection of labor. Such improvement depended upon a number of factors—technical progress; recognition of the interest of the state, even if only from a military standpoint, in assuring healthful living conditions to the largest class of the population; the increasing power of organized labor, which as a rule fought first for a shorter working day and later took up with renewed strength the struggle for higher wages; efforts of individual social reformers and the progress of social science. Viewed in its main outlines the history of the hours of labor since the beginning of the nineteenth century may be divided into four periods. The period from 1810 to 1850 witnessed the appearance of pioneer social reformers; the first legislative attempts to limit hours, particularly for women and children; and the emergence of labor unions which demanded shorter hours. In the following period from 1850 to 1880 the growing trade unions intensified their struggle for shorter hours, and the normal working day of 12 to 14 hours was reduced to 9 hours in England and to 10 hours in other industrial countries. During the next period, which extends to the outbreak of the World War, the unions engaged in a struggle for the 8-hour day, the hours of labor were further reduced and the length of the working day became for the first time the subject of systematic research. Finally during the post-war period the 8-hour day has been introduced in the majority

of capitalist countries; while labor has demanded the strengthening of the new regulations concerning hours and fought for a further shortening of the working day, capital has pressed for a relaxation of regulative legislation.

The early attempts to regulate working time consisted of legislative limitation of the hours of labor of women and children, who were less able than men to withstand the harmful effects of excessive work. In 1833 England adopted legislation limiting the working day of minors to 12 hours, and a few years later children under 13 years of age were prohibited from working more than 8 hours. This special legislation marked a departure from the philosophy and practise of *laissez faire*, and it was quickly used as an argument in favor of regulating the working time of adult male workers. The movement for legislative limitation of labor hours for men, which in the modern period dates from the pioneering efforts of Robert Owen, drew its support at first from public spirited bourgeois circles and progressive employers who feared that long hours might cause overproduction and a fall in prices. During the first third of the century labor, downtrodden and unorganized, was scarcely more than the passive object of social reform. Later with the growth of labor organization it began playing a more active part in the struggle for the improvement of its working and living conditions. In the 1840's the Chartist movement had developed a strong agitation for the 10-hour day, which was legally established in 1848. By the middle of the century social and political conditions changed in England and elsewhere. The skilled workers in England then formulated the demand for the 9-hour day, and some of the labor organizations were able to enforce the demand in agreements with the employers. The engineers, for example, secured the 9-hour day in 1872 after a series of strikes, and it was the subject of the majority of labor disputes in the 1870's.

In the United States there was in the first quarter of the century a fairly active movement for the reduction of hours; it was the most insistent demand of the rising labor movement and met with some success. In 1840 the federal government introduced the 10-hour day among its employees and in 1868 the 8-hour day, but private enterprise hesitated to follow the example; the 10-hour day did not become customary until after the Civil War. While for 1840 the average working week was estimated by Muirhall at 69 hours in England, 78 hours in the

United States and France and 83 hours in Germany, by 1880 the 52-hour week—a 9-hour day with 2 hours less on Saturdays—was general in England and the 60-hour week in the United States, Germany, France and Belgium. In Italy the working day usually lasted 12 hours; in Russia it fluctuated between 12 and 13 hours.

By this time organized labor was actively fighting for the 8-hour day. The demand for the legislative limitation of the maximum working day to 8 hours was advanced by the First Socialist International in 1866; in the same year similar action was taken by the National Labor Union in the United States and in 1866 by the Trades Union Congress in England. It became a major issue with the organization of the Second Socialist International in 1889 and the main slogan of the international May Day celebrations. The limitation of the working day, however, was realized not by legislative measures but by collective bargaining with employers. In the United States legislative regulation was scanty and much of it was declared unconstitutional; in addition legislative action among the 48 states was hampered by the employers' claim that reduction of hours would prove disadvantageous in competition with states in which longer hours prevailed. In England there was little legislation directly regulating the hours of labor; the most conspicuous exception was the 8-hours act for miners adopted in 1908. The situation was approximately the same in other countries; in Australia and New Zealand, however, legislative action played a much more important part than elsewhere in regulating the length of the working day among all classes of labor.

After 1890 there was an impressive reduction of hours in the leading industrial countries. In England the movement reached a high point in 1902, when 1,051,983 workers had their weekly working time reduced as against 5524 workers whose working time was increased; the aggregate net decrease amounted to 1,024,868 hours per week. Reductions were much smaller thereafter but reached a new high point in 1909, when 559,674 workers had their weekly working time reduced by approximately 4 hours. As shown in Table 1, in the United States the weekly working time in 1913 was less by 4.6 hours than in 1890—a decrease of 8 percent. In manufacturing industries alone the decrease was from 62.2 to 58.8; the hours of unionized occupations declined from 54.4 to 49.2. In Germany organized labor was fairly successful in the struggle for shorter hours so that before the World

War a working day of from 9 to 9½ hours was widespread. But since the working day was regulated mainly by local collective agreements it varied in different districts and occupations according to the strength of labor organizations. These agreements reveal a striking connection between the length of the working day and wages: in districts where the shorter day prevailed the workers earned not only more per hour but more per day than elsewhere. Thus according to statistics for 1905-06 building workers working 11 hours received a daily wage of 3.52 marks and those working 9 hours 5.80 marks; pottery workers working 11 hours received 3.63 marks and those working 9 hours 4.90 marks; metal workers working 10 hours received 3.95 marks and those working 9 hours 4.85 marks. These statistics illustrate the well known connection between lower hours and higher wages; this relation holds not only for the same occupation within one country but also for different occupations and different countries. In Australia and New Zealand, where labor has scored its most impressive gains, the 8-hour day was general.

TABLE I  
NORMAL WEEKLY WORKING TIME IN THE  
UNITED STATES, 1890-1913

| YEAR | AVERAGE<br>HOURS PER<br>WEEK |
|------|------------------------------|
| 1890 | 58.4                         |
| 1895 | 58.1                         |
| 1900 | 57.3                         |
| 1905 | 55.7                         |
| 1909 | 54.9                         |
| 1911 | 54.4                         |
| 1913 | 53.8                         |

Source: Douglas, Paul H., *Real Wages in the United States, 1890-1926* (Boston 1930) p. 208, which covers manufacturing, building trades, coal mining, transportation, unskilled labor and government employees.

In the same period most industrial countries adopted legislation regulating the hours of labor of women and children. In the United States, for example, Massachusetts in 1875 limited the working time of women to 10 hours daily, and in 1895 Illinois limited it to 8; by 1914 the work of children in the majority of states was limited to 8 or 9 hours daily, although in approximately one quarter of the states, particularly in the south, children were allowed to work 10 or more hours. England in 1907 limited the working time of women and young persons under 18 years of age in the laundry industry to 68 hours weekly, allowing time for meals. Thereby legislative regulation of hours for women and minors was ex-

tended to cover virtually all manufacturing industries. The most progressive legislation was adopted by New Zealand and the Australian states. As early as 1873 an 8-hour day for women and young persons was declared for special industries in Victoria and New Zealand. The Factories Act of the latter passed in 1894 influenced the legislation of the Australian states. Within two years all but one of them had limited working time for women and children to 48 hours weekly, with stringent regulation of overtime, which was not to exceed 90 hours yearly. France, dissatisfied with special legislation, adopted in 1900 a maximum of 10 hours daily for all employees. The special legislation limiting the hours of labor of women and children in all cases set a working day shorter than the maximum working day of men workers, but it was considerably longer than the hours of labor of many union groups and of some highly skilled non-union workmen.

Before the World War hours of labor were subject to wide variation with occupation and season. In England the standard working week in 1913 varied in the majority of occupations as follows: shortest period, 46½ to 49½ hours; longest period, 52½ to 56½ hours. In the United States the range was from 44½ to 66½ hours. The hours actually worked showed still wider variations, because employees worked only part time during slack periods and frequently worked overtime when business was good. This should be taken into consideration when international comparisons of working time are made such as those presented in Table II.

*Post-War Period.* After the World War the 8-hour day was introduced in a majority of the capitalist countries, partly by special legislation and partly by collective agreements between employers and workers. At the International Labor Conference held in Washington in October, 1919, an attempt was made to unify legislative regulation of the hours of labor under international guaranties, but the convention drafted at the conference was not ratified by the leading countries. Nevertheless, the 8-hour day has become so general within the framework of national regulation that it may now be considered the standard working day. And yet no stable balance has been achieved. The employers in the majority of European countries are convinced that the 8-hour day is too short and press for revision of the legislation and collective agreements. The workers, on the other hand, demand even shorter hours of labor, such as a 5-day week of 40 hours.

In the majority of European countries the working week is legally limited to 48 hours, which is also the standard or normal week in the United States. This, however, is simply a basic provision; the standard hours of labor may be shortened by part time work or lengthened by overtime upon agreement of employers and workers, so that the extent to which overtime is utilized is the deciding factor in the length of the working day. The amount of overtime depends not so much upon the extra pay provided for in legislation or agreements as upon the movement of business, which also determines the extent of part time work.

TABLE II  
HOURS OF LABOR PER WEEK IN SELECTED COUNTRIES, 1912-14

| COUNTRY         | YEAR   | PERCENTAGE OF WORKERS WHOSE HOURS PER WEEK WERE |                      |    |                      |    |                      |             |
|-----------------|--------|---|----------------------|----|----------------------|----|----------------------|-------------|
|                 |        | 48 AND UNDER                                    | OVER 48 AND UNDER 54 | 54 | OVER 54 AND UNDER 60 | 60 | OVER 60 AND UNDER 66 | 66 AND OVER |
| United States   | 1914   | 12  | 13                   | 26 | 22                   | 21 | 6                    |             |
| Germany: summer | 1914   | 1   | 11                   | 29 | 24                   | 31 | 4                    |             |
|                 | winter | 32  | 15                   | 23 | 15                   | 12 | 3                    |             |
| Italy           | 1913   | 6   | 2                    | 6  | 3                    | 39 | 25                   | 19          |
| Netherlands     | 1913   |   | 10                   |    | 13                   | 35 | 15                   | 27          |
| France          | 1912   |   | 2                    |    | 2                    | 68 | 3                    | 25          |

Source: The figures for the United States are census data covering about 7,000,000 workers; they are adapted from *Monthly Labor Review*, vol. xxvii (1913) 1306. The figures for Germany are based on collective agreements; they appear in *Die Tarifverträge im Deutschen Reich am Ende des Jahres 1914*, Reichsarbeitsblatt, Sonderheft no. 12 (Berlin 1916) p. 29. The Italian figures covering 881,500 workers appear in Italy, Direzione Generale della Statistica e del Lavoro, *Annuario statistico italiano 1914* (Rome 1915) p. 410. The figures for the Netherlands cover about 341,000 workers in large scale industry; they are taken from Netherlands, Department van Landbouw, Nijverheid en Handel, *Centraal verslag der arbeidssituatie over 1913* (The Hague 1915) p. 312. The French percentages are based on a classification of hours worked in 281,220 establishments; these appear in France, Ministère du Travail et de la Prévoyance Sociale, Direction du Travail, *Rapports sur l'application des lois réglementant le travail en 1912* (Paris 1914) p. xxxv.

The question of extra pay for overtime in various European countries was investigated in 1928 by the International Labour Office. Overtime rates may be fixed by law or by collective agreements. Poland and Finland had the highest rates fixed by law—150 percent of the regular pay for the first 2 hours and 200 percent for further overtime (including Sunday). The lowest rates were in Italy—a flat 110 percent for all types of overtime. Rates settled by collective agreements vary from industry to industry. Thus in Great Britain a rate of 150 percent is found in the engineering trades, 125 to 150 percent in the woolen and chemical industries and 125 to 200 percent in the printing trades. The rates range from 115 to 150 percent in Germany, from 130 to 200 percent in France and from 125 to 200 percent in Sweden. In the United States overtime is frequently paid at the normal time rates, but the more general practise is to pay higher rates up to double the normal.

Since the 8-hour day has become the basic one, the statistics of labor hours are concerned not primarily with ascertaining norms but with establishing deviations from them. Moreover a distinction is drawn between hours fixed by law, hours fixed by collective agreement and the actual working time with special reference to part time and overtime. The actual working time, as distinct from the average or normal or the most prevalent working time, can be ascertained only by computing the number of hours actually worked by the individual worker; the data thus obtained are arranged as a frequency distribution indicating how the body of workers is di-

vided into groups according to the length of the working day or working week. Comprehensive international statistics of this nature are as yet not available; efforts to compile them met with obstacles which for the time being have proved insurmountable.

Certain attempts, however, are worthy of being recorded. In 1928 the International Federation of Trade Unions instituted an inquiry through its affiliated national organizations in sixteen countries into the actual working time in the mining, chemical, metal, textile, shoe, printing, woodworking and building industries. The more significant results of this investigation are shown in Table III. Some doubt exists as to the international comparability of those results, since it is not certain that the same methods of inquiry were used in each country. Nor are the combined figures for all countries representative because of the excessive preponderance of the data for Germany.

More reliable are the results of the inquiry into the coal mining industry of Belgium, Czechoslovakia, France, Germany, Great Britain, the Netherlands and Poland in 1925 instituted by the International Labour Office. The inquiry was confined to the typical working time of underground and surface workers, and figures were obtained also for traveling time underground and breaks. While the shift hours in most cases varied from 7.75 to 8.25, the actual weekly working time of underground workers after deducting traveling time underground and breaks was as follows: Great Britain, 37.08 hours; France, 38.50 hours; Belgium, 38 hours;

TABLE III  
ACTUAL WORKING TIME IN SELECTED COUNTRIES, OCTOBER 1-6, 1928

| COUNTRY        | NUMBER OF ESTABLISHMENTS | NUMBER OF EMPLOYEES (IN 1000) | PERCENTAGE OF PART-TIME EMPLOYEES | PERCENTAGE OF FULL-TIME EMPLOYEES WHO WORKED |          |                     |                     |                     |
|----------------|--------------------------|-------------------------------|-----------------------------------|--|----------|---------------------|---------------------|---------------------|
|                |                          |                               |                                   | LESS THAN 48 HOURS                           | 48 HOURS | OVER 48 TO 51 HOURS | OVER 51 TO 54 HOURS | OVER 54 TO 60 HOURS |
| Austria        |                          | 349                           | 4.8                               | 3.1  | 88.3     | 4.7                 | 3.1                 | 0.8                 |
| Belgium        | 2,733                    | 211                           | 0.5                               | 1.8  | 95.3     | 0.3                 | 2.2                 | 0.3                 |
| Czechoslovakia | 99                       | 26                            | 9.1                               | 9.8  | 82.8     | 4.3                 | 1.5                 | 1.3                 |
| Denmark        | 16,449                   | 99                            | 3.0                               | 0.6  | 95.6     | 1.8                 | 1.1                 | 0.8                 |
| Estonia        | 959                      | 28                            | 0.5                               | 44.0   | 44.6     | 2.8                 | 1.5                 | 6.9                 |
| Germany        | 73,288                   | 3,826                         | 9.1                               | 7.2  | 62.2     | 10.7                | 16.1                | 3.6                 |
| Hungary        |                          | 90                            | —                                 | 26.1   | 43.9     | 8.6                 | 3.1                 | 16.0                |
| Latvia         |                          | 20                            | —                                 | 63.0   | 10.4     | 4.9                 | 5.0                 | 13.2                |
| Netherlands    | 4,842                    | 185                           | 0.4                               | 15.9   | 69.9     | 10.1                | 2.5                 | 0.8                 |
| Poland         | 830                      | 128                           | 2.3                               | 55.4   | 13.3     | 4.5                 | 8.4                 | 13.1                |
| Spain          | 3,698                    | 35                            | 16.3                              | 7.2  | 57.4     | 11.4                | —                   | 24.0                |
| Sweden         | 6,937                    | 256                           | 7.0                               | 4.3  | 84.3     | 3.5                 | 4.0                 | 3.4                 |
| Switzerland    | 4,209                    | 164                           | 1.1                               | 3.0  | 52.5     | 12.1                | 29.6                | 2.7                 |

Source: *International Trade Union Movement*, vol. ix (1929) 30

Poland, from 36.77 to 37.80 hours. Surface workers worked from 48 to 60 hours in Germany and about 48 hours in Great Britain and France.

The statistics of individual countries must be drawn upon to supplement the rather meager results of international studies. Turning first to the foremost industrial country of the present time, the United States, we find that American statistics do not distinguish clearly between standard working time and the time actually worked. This accounts in part for the inconsistencies in figures obtained from various sources. The most comprehensive statistics cover the trade unions, which embrace approximately 15 percent of the wage workers, mainly the better paid crafts; but the length of their working day, which is considerably lower than among the unorganized workers, is not characteristic for the working class as a whole. The 1931 figures of the United States Bureau of Labor Statistics, which appear in Table IV, cover about 705,000 organ-

duce the working day to 7 or even to 6 hours, so that the working week contains from 35 to 42 hours. The average working week of trade union members in 1931 consisted of 43.6 hours, which made it about 10 percent shorter than in 1913; in 1890 union labor's normal working week consisted of 54.4 hours.

A working week of 40 hours or less is more widespread among clerical employees than among waged workers. An investigation of the United States Personnel Classification Board in 1929, which covered 446,626 clerical employees, indicated that 31.3 percent worked less than 40 hours weekly, 20.9 percent from 40 to 44 hours, 27.7 percent from 44 to 45 hours and only 20.1 percent 45 hours or more.

The weekly working time of labor as a whole decreased according to unofficial estimates from an average of 58.4 hours in 1890 to 48.4 hours in 1929. Figures tracing the gradual shortening of the working week and based on material from

TABLE IV  
WEEKLY WORKING TIME OF TRADE UNION MEMBERS IN THE UNITED STATES, MAY 15, 1931

| TRADE GROUP                       | PERCENTAGE OF MEMBERS WHOSE HOURS PER WEEK WERE |                      |      |                      |       |                      |      |         | AVERAGE HOURS PER WEEK |
|-----------------------------------|---|----------------------|------|----------------------|-------|----------------------|------|---------|------------------------|
|                                   | 40 AND UNDER                                    | OVER 40 AND UNDER 44 | 44   | OVER 44 AND UNDER 48 | 48    | OVER 48 AND UNDER 54 | 54   | OVER 54 |                        |
| Bakers                            | —   | 5.5                  | —    | 11.8                 | 79.9  | 0.1                  | 2.6  | 0.1     | 47.5                   |
| Building trades                   | 68.7  | —                    | 29.5 | 0.6                  | 1.0   | 0.1                  | 0.1  | —       | 41.3                   |
| Chauffeurs, teamsters and drivers | —   | 0.4                  | 1.2  | 3.9                  | 25.0  | 11.3                 | 16.5 | 41.7    | 53.7                   |
| Granite and stone trades          | 60.2  | —                    | 39.7 | —                    | —     | 0.1                  | —    | —       | 41.6                   |
| Laundry workers                   | —   | —                    | —    | —                    | 100.0 | —                    | —    | —       | 48.0                   |
| Linemen                           | 18.1  | —                    | 59.4 | —                    | 16.8  | 4.9                  | 0.8  | —       | 44.4                   |
| Longshoremen                      | —   | —                    | 82.8 | —                    | 16.0  | —                    | —    | 1.2     | 44.8                   |
| Printing and publishing:          |   |                      |      |                      |       |                      |      |         |                        |
| Book and job                      | 0.3   | 0.5                  | 92.0 | 0.1                  | 7.1   | —                    | —    | —       | 44.3                   |
| Newspaper                         | 6.1   | 11.2                 | 10.5 | 44.6                 | 27.6  | —                    | —    | —       | 45.0                   |
| Average                           | 45.6  | 0.7                  | 33.5 | 3.0                  | 8.8   | 1.4                  | 2.0  | 5.0     | 43.6                   |

Source: *Monthly Labor Review*, vol. xxxiii (1931) 1180.

ized workers in the principal time work trades. Of them the largest group, limited almost entirely to the building and stone trades, had a working week of 40 hours or less; that is, a 5-day week. The next largest group had a working week of 44 hours, which may be considered standard for organized labor. It is noteworthy that in the agreements concluded by trade unions with the exception of the printing trades the length of the working day has nearly always been placed at 8 hours, even though the working week might vary from 40 to 48 hours, depending on whether it consisted of 5, 5½, 5¾, 5¾ or 6 days. In the printing trades there is a tendency to re-

different sources are presented in Table V. Statistics compiled through the Census of Manufactures indicate that the number of workers in manufacturing industries working 48 hours or less weekly increased from 11.8 percent in 1914 to 46.1 percent in 1923; those working over 48 and less than 54 hours increased from 13.5 percent to 21.9 percent; and those working 54 hours and over decreased from 74.7 percent to 32 percent. As may be seen from Table VI, the length of the working week varied considerably from trade to trade, the range for manufacturing alone extending from 44.2 hours in the boot and shoe industry to 55 hours in the iron and steel indus-

TABLE V  
NUMBER OF HOURS IN THE AVERAGE WORKING WEEK  
IN THE UNITED STATES, 1914-29

| YEAR | IN INDUSTRIES<br>COVERED BY<br>CENSUS OF<br>MANUFACTURES | IN 25 MAN-<br>UFACTURING<br>INDUSTRIES | ± TR. |
|------|--|--|-------|
| 1914 | 55.6   | 55.0*                                  |       |
| 1919 | 51.2   |  |       |
| 1920 |  | 50.0                                   | 45.8  |
| 1921 | 50.7   | 49.7                                   | 45.9  |
| 1922 |  | 50.0                                   | 46.1  |
| 1923 | 51.1   | 50.0                                   | 46.1  |
| 1924 |  | 49.8                                   | 45.9  |
| 1925 |  | 49.9                                   | 45.5  |
| 1926 |  | 49.8                                   | 45.4  |
| 1927 |  | 49.6                                   | 45.2  |
| 1928 |  | 49.6                                   | 44.9  |
| 1929 |  | 49.6                                   | 44.8  |

try. Workers engaged in the distribution of gas and electricity worked an average of 51.8 hours and railroad workers 49.8 hours. The hours of skilled and semiskilled workers averaged 46.4 and the hours of the unskilled 50.6, while the average for female workers was 44.1 hours.

TABLE VI  
WEEKLY HOURS OF LABOR IN MANUFACTURING  
INDUSTRIES IN THE UNITED STATES,

| INDUSTRY                      | HOURS |
|-------------------------------|-------|
| Iron and steel                | 55.0  |
| Paper and pulp                | 52.1  |
| Paint and varnish             | 51.8  |
| Meat packing                  | 50.8  |
| Chemical                      | 50.4  |
| Machines and tools            | 50.2  |
| Heavy equipment               | 50.0  |
| Paper products                | 49.6  |
| Agricultural implements       | 49.6  |
| Foundries                     | 49.5  |
| Foundry and machine shop      | 49.4  |
| Hardware and small parts      | 48.6  |
| Cotton (north)                | 48.2  |
| Silk                          | 47.8  |
| Hosiery and knit goods        | 47.6  |
| Leather tanning and finishing | 47.6  |
| Electrical manufacturing      | 47.5  |
| Automobile                    | 46.9  |
| Furniture                     | 46.9  |
| Wool                          | 46.4  |
| Printing: Book and job        | 46.0  |
| News and magazine             | 45.7  |
| Rubber                        | 44.8  |
| Boot and shoe                 | 44.2  |

Source: Compiled from National Industrial Conference Board, *Wages in the United States, 1914-30* (New York 1931) p. 61.

In other countries on the American continent, except Canada, hours in manufacturing and mining are longer than in the United States. Although specific information is not easily accessible, it may be stated that on the whole conditions are somewhat better in the more industrialized regions. Thus an official investigation which covered 109,520 employed persons in Buenos Aires in 1926 established that for workers of both sexes the average hours are 7.6, for salaried male employers 7.3 and for salaried female employees 7.5. In the smaller cities and in the rural districts of Argentina, however, the working day extends to 10 or more hours. In March, 1930, the government put into effect a law passed in the previous year which made the 8-hour day compulsory for all commercial and industrial enterprises throughout the country. The statute followed the lines laid down in the Washington convention except for the exemption of agriculture and industrial homework. It set a maximum of 7 hours for night work and a maximum of 6 hours for regions with unhealthy climatic conditions.

In Great Britain the average working day in the last pre-war year was about 9 hours. There were only minor reductions in working time between 1915 and 1917; in 1918, 148,000 workers had their working time reduced and the total net decrease for Great Britain amounted to 568,000 hours weekly. In 1919 the average working day was reduced to 8 hours; the reduction affected 6,305,000 workers and the net decrease in weekly working time was 40,651,000 hours. In the following year 570,000 workers benefited by a decrease in working time, the net decrease aggregating 2,114,000 hours weekly. Since then increases in hours of labor have considerably exceeded the decreases, the entire period having been marked by demands on the part of the employers, particularly in mining, for an increase in the length of the working day. In 1926, when the workers were defeated in the coal miners' strike, 934,200 workers had their weekly working time increased, the total net increase amounting to 3,985,000 hours weekly. In 1930 there were aggregate reductions of 873,500 hours weekly affecting 349,000 workers.

According to collective agreements in force at the close of 1930 a normal working week of 47 to 48 hours prevails in Great Britain. In the shipbuilding industry in London 45 hours constitute the working week; in the building trades, 44 to 46.5 hours in the summer and 44 in the winter. The 44-hour week also prevails in some govern-



TABLE VII

NORMAL WEEKLY HOURS IN THE PRINCIPAL INDUSTRIES IN GREAT BRITAIN AND NORTHERN IRELAND, 1924

| INDUSTRY                             | NUMBER OF WORKERS | PERCENTAGE OF WORKERS WHOSE NORMAL WEEKLY HOURS WERE |                |      |                |      |         | AVERAGE NORMAL WEEKLY HOURS |
|--------------------------------------|-------------------|--|----------------|------|----------------|------|---------|-----------------------------|
|                                      |                   | 44 OR UNDER  | 44.25 TO 46.75 | 47   | 47.25 TO 47.75 | 48   | OVER 48 |                             |
| Iron and steel                       | 150,683           | 50.8   | 3.6            | 42.1 | 0.2            | 2.0  | 1.3     | 44.2                        |
| Engineering                          | 700,943           | 3.5  | 3.0            | 86.4 | 0.7            | 2.6  | 3.8     | 47.0                        |
| Shipbuilding                         | 130,748           | 0.9  | 2.2            | 94.0 | 0.1            | 2.3  | 0.5     | 47.0                        |
| Textile manufacture:                 |                   |  |                |      |                |      |         |                             |
| Cotton                               | 443,688           | 2.3  | 0.5            | 0.3  | ---            | 96.1 | 0.8     | 47.9                        |
| Wool                                 | 217,724           | 1.0  | 1.3            | 0.1  | 0.4            | 95.8 | 1.4     | 48.0                        |
| Bleaching, printing, etc.            | 88,670            | 3.5  | 1.5            | 0.3  | 0.7            | 87.4 | 6.6     | 48.0                        |
| Tailoring                            | 81,424            | 10.1   | 11.6           | 8.4  | 3.2            | 62.6 | 4.1     | 47.3                        |
| Boots and shoes                      | 93,993            | 0.3  | 7.1            | 1.0  | 0.5            | 89.6 | 0.6     | 47.9                        |
| Bread baking and confectionery       | 75,405            | 6.3  | 7.9            | 4.6  | 0.8            | 52.3 | 28.1    | 48.9                        |
| Printing and bookbinding             | 124,435           | 1.6  | 2.8            | 1.5  | 2.5            | 88.0 | 2.7     | 47.9                        |
| Building and allied industries       | 293,139           | 66.9   | 12.6           | 5.5  | 0.7            | 2.6  | 11.7    | 45.4                        |
| Public utility services:             |                   |  |                |      |                |      |         |                             |
| Gas supply                           | 95,267            | 2.3  | 6.2            | 62.2 | 0.4            | 10.8 | 18.1    | 48.5                        |
| Tramway and omnibus                  | 97,891            | 1.9  | 2.9            | 23.6 | ---            | 66.6 | 5.0     | 47.8                        |
| Local authority                      | 197,724           | 11.2   | 2.7            | 48.7 | 0.6            | 20.4 | 16.4    | 47.3                        |
| Government industrial establishments | 101,810           | 1.2  | 0.1            | 65.3 | ---            | 32.6 | 0.8     | 47.3                        |

Source: Compiled from Great Britain, Ministry of Labour, *Nineteenth Abstract of Labour of the United Kingdom* (London 1928)

ment offices. In agriculture the 50-hour week is customary in the summer; in the winter it is reduced by 2 hours. Although the major portion of British labor is organized into unions, figures for the actual working time in particular establishments given in Table VII show considerable deviations from the standard set down in agreements. The lowest average weekly working time was in iron and steel with 50.8 percent of the workers working 44 hours or less; the highest average was in bread baking with 70.4 percent of the workers working 48 hours and over.

In Germany the normal 8-hour day is accompanied by unusual variations in actual working time by branches of industry as well as by localities. These variations are further aggravated by cyclical fluctuations and by conditions peculiar to the German post-war economy. Thus during the rationalization crisis of 1926 part time work increased greatly. In March, 1926, 30 percent of employed trade union members (excluding seasonal occupations) were working part time; the average difference between part time and full time employment amounted to 17 hours weekly, while all employed workers worked on the average not more than 42 hours a week. So high a proportion of part time employment was of course only temporary; the employers believed that the depression would be of short duration and preferred to reduce working time rather

than to discharge superfluous workers. When in 1930 and 1931 the employers were no longer inclined to divide the available work, organized labor attempted to prevent an aggravation of the ally plo by adv

the demand for a general reduction of the working week to 40 hours. Although the proposal was regarded as an emergency measure it was intended to pave the way for a permanent reduction of the hours of labor. Whether the 40-hour week should be based on a 7-hour day or should consist of five 8-hour days was left undecided. While part time employment meant in most cases a reduction in the number of days worked, the adoption of the 7-hour day would offer more hope for a permanent reduction in hours.

German statistics on the hours of labor are compiled by two bodies: the Central Statistical Office of the Reich, which collects information as to hours and wages from pay rolls of individual establishments, and the German Federation of Trade Unions, which makes inquiries through its affiliated bodies. While the data obtained by the latter method are neither exhaustive nor strictly accurate they cover a large proportion of workers, supply a fair approximation and are available at more frequent intervals than the official figures. Table VIII based on trade union data includes workers in the chemical, metal, textile, boot and shoe, book printing, wood-

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TABLE VIII

WEEKLY HOURS OF LABOR IN GERMANY, 1924-30

|  | NOVEMBER,<br>1924 | APRIL,<br>1927 | OCTOBER,<br>1927 | OCTOBER,<br>1928 | FEBRUARY,<br>1930 |
|--|-------------------|----------------|------------------|------------------|-------------------|
| Number of workers (in 1000)                | 2363              | 2533           | 2006             | 3101             | 2700              |
| Percentage employed part time              | 9.3               | 4.6            | 1.7              | 11.3             | 22.9              |
| Percentage of full time employees working: |                   |                |                  |                  |                   |
| Less than 48 hours                         | 4.5               | 6.6            | 6.1              | 7.3              | 8.3               |
| 48 hours                                   | 45.4              | 43.1           | 50.5             | 62.7             | 69.4              |
| Over 48 to 51 hours                        | 7.4               | 11.0           | 14.7             | 12.8             | 10.5              |
| Over 51 to 54 hours                        | 30.9              | 26.4           | 22.4             | 13.4             | 9.2               |
| Over 54 hours                              | 11.8              | 12.9           | 6.3              | 3.8              | 2.6               |

Source: Compiled from Allgemeiner Deutscher Gewerkschaftsbund, *Jahrbuch 1929* (Berlin 1930) p. 221.

working and building industries. It illustrates the fairly steady increase in the group with a 48-hour week at the expense of groups with longer hours and offers striking proof of the growth of part time employment in the years 1928 to 1930. Hours of labor figures by industries as compiled by the Central Statistical Office are given in Table IX. It shows that the

TABLE IX

WEEKLY HOURS OF LABOR IN GERMANY, 1927-28

| INDUSTRY AND<br>TYPE OF LABOR        | NUMBER<br>OF<br>WORKERS<br>COVERED | PERCENTAGE OF EMPLOYEES WHOSE WEEKLY<br>HOURS WERE |                               |      |                     |                     |            | AVERAGE<br>HOURS<br>PER WEEK | AVERAGE<br>OVERTIME<br>PER WEEK |
|--------------------------------------|------------------------------------|--|-------------------------------|------|---------------------|---------------------|------------|------------------------------|---------------------------------|
|                                      |                                    | 40<br>OR<br>UNDER                                  | OVER<br>40 AND<br>UNDER<br>48 | 48   | OVER<br>48<br>TO 52 | OVER<br>52<br>TO 56 | OVER<br>56 |                              |                                 |
| Textile industry (September, 1927)   |                                    |  |                               |      |                     |                     |            |                              |                                 |
| Skilled workers: male                | 15,107                             | 5.6  | 11.0                          | 15.8 | 22.5                | 44.4                | 0.7        | 50.0                         | 3.3                             |
| female                               | 15,227                             | 5.2  | 12.6                          | 18.0 | 30.1                | 33.9                | 0.2        | 49.5                         | 2.8                             |
| Assistants: male                     | 3,156                              | 3.4  | 4.4                           | 7.5  | 20.3                | 43.3                | 21.1       | 53.1                         | 6.1                             |
| female                               | 3,029                              | 5.2  | 11.0                          | 15.8 | 31.3                | 35.3                | 1.4        | 49.6                         | 3.1                             |
| Metal industries (October, 1928)     |                                    |  |                               |      |                     |                     |            |                              |                                 |
| Skilled workers, male:               |                                    |  |                               |      |                     |                     |            |                              |                                 |
| time work                            | 43,440                             | 7.2  | 16.8                          | 27.1 | 23.5                | 14.7                | 10.7       | 49.25                        | 2.0                             |
| piece work                           | 93,063                             | 10.0   | 21.0                          | 27.0 | 26.9                | 12.5                | 2.6        | 47.25                        | 1.0                             |
| Semiskilled workers, male:           |                                    |  |                               |      |                     |                     |            |                              |                                 |
| time work                            | 21,530                             | 7.9  | 14.3                          | 23.1 | 27.8                | 16.9                | 10.0       | 49.0                         | 1.75                            |
| piece work                           | 39,645                             | 12.0   | 23.9                          | 23.7 | 24.0                | 13.6                | 2.8        | 47.0                         | 0.75                            |
| Assistants, male:                    |                                    |  |                               |      |                     |                     |            |                              |                                 |
| time work                            | 28,243                             |  | 22.4                          | 26.9 |                     | 50.7                |            | 48.75                        | 1.75                            |
| piece work                           | 10,594                             |  | 31.2                          | 30.6 |                     | 38.2                |            | 47.0                         | 1.0                             |
| Women workers:                       |                                    |  |                               |      |                     |                     |            |                              |                                 |
| time work                            | 12,831                             |  | 40.5                          | 30.0 |                     | 29.5                |            | 45.75                        | 0.75                            |
| piece work                           | 32,573                             |  | 45.6                          | 33.0 |                     | 21.4                |            | 46.0                         | 0.75                            |
| Chemical industry (June, 1928)       |                                    |  |                               |      |                     |                     |            |                              |                                 |
| Factory workers, male:               |                                    |  |                               |      |                     |                     |            |                              |                                 |
| time work                            | 41,414                             | 11.6   | 17.0                          | 10.7 | 17.2                | 31.2                | 12.3       | 49.1                         | 1.7                             |
| piece work                           | 7,171                              | 11.7   | 23.1                          | 4.2  | 16.2                | 32.7                | 12.1       | 49.0                         | 1.6                             |
| Skilled workers, male:               |                                    |  |                               |      |                     |                     |            |                              |                                 |
| time work                            | 15,152                             | 11.4   | 18.5                          | 9.9  | 22.0                | 32.2                | 8.0        | 48.7                         | 2.9                             |
| piece work                           | 8,101                              |  | 8.9                           | 2.3  | 22.0                | 47.6                | 8.5        | 50.9                         | 2.5                             |
| Woodworking industries (March, 1928) |                                    |  |                               |      |                     |                     |            |                              |                                 |
| Skilled workers, male:               |                                    |  |                               |      |                     |                     |            |                              |                                 |
| time work                            | 23,413                             | 12.2   | 31.5                          | 33.8 | 14.5                | 4.4                 | 3.6        | 45.6                         | 0.7                             |
| piece work                           | 14,706                             | 19.7   | 33.4                          | 30.1 | 6.7                 | 2.1                 | 2.0        | 43.9                         | 0.3                             |
| Unskilled workers, male              | 5,198                              | 12.3   | 25.7                          | 25.7 | 20.9                | 8.9                 | 6.5        | 46.1                         | 0.6                             |

Source: Compiled from *Wirtschaft und Statistik*, vol. viii (1928) 162-69, 545-51, and vol. ix (1929) 150-58, 1000-06.

hours for labor as a whole are somewhat longer than those for organized labor and that pronounced differences exist among industries and labor of different qualifications; women workers work consistently fewer hours than men.

In other European countries despite variations due to local conditions the 8-hour day or 48-hour week is recognized as basic in industry. In France a working week of 48 to 50 hours was introduced by law of April 23, 1919. Some industries, such as the textile, operate on five and a half 9-hour days or five 10-hour days. Current statistics are available only for enterprises with more than 100 employees, i.e. for medium and large scale establishments. As shown in Table x,

TABLE X

HOURS OF LABOR IN COMMERCIAL AND INDUSTRIAL ESTABLISHMENTS EMPLOYING MORE THAN 100 WORKERS, FRANCE 1930-31

|                 | PERCENTAGE OF EMPLOYEES WHOSE HOURS PER WEEK WERE |     |                      |             |
|-----------------|---|-----|----------------------|-------------|
|                 | UNDER 40  | 40  | OVER 40 AND UNDER 48 | 48 AND OVER |
| June 1, 1930    | 0.2   | 0.5 | 2.5                  | 96.8        |
| October 1, 1930 | 0.4   | 1.8 | 2.7                  | 95.1        |
| April 1, 1931   | 6.1   | 7.2 | 18.3                 | 68.4        |
| June 1, 1931    | 5.0   | 6.9 | 17.5                 | 69.7        |
| October 1, 1931 | 9.9   | 7.3 | 20.4                 | 62.4        |
| January 1, 1932 | 22.4  | 9.4 | 19.8                 | 48.4        |

Source: International Labour Office, *Industrial and Labour Information*, vol. XI (1931) 12, 288, and vol. XII (1932) 166-67.

of 2,586,654 persons employed in 8577 enterprises covered on October 1, 1931, 37.6 percent worked less than 48 hours per week. Belgium, well known for its advanced labor legislation, decreed an 8-hour day (or 48-hour week) by law of June 14, 1921. Under no conditions may the annual maximum of hours set by law be exceeded, but within these limits seasonal adjustments are allowed. Thus by royal order of May 15, 1923, the automobile and bicycle industries were permitted to institute a 9-hour day in the months from December to March provided that the working day be limited to 7 hours in the off season from June to September. Similar adjustments are to be observed in other industries. In Italy since 1927 labor time is regulated by collective agreements between the corporations of employers and employees. As a rule these agreements provide for an 8-hour day but also permit overtime. In 1931 in view of the increase in unemployment the government instructed the ministries and the provincial and

municipal administrations not to allow any overtime work. In Spain a universal 8-hour day was proclaimed after the revolution; the working day of miners was limited to 7 hours by a special decree of August 28, 1931.

The history of labor in Russia since 1917 displays many unique features. Before the World War a working day of 9 to 10 hours was customary in Russia, but after the revolution of March, 1917, the 8-hour day was introduced in virtually all occupations. The new regulation of working time originated with workers' committees of individual establishments or with local soviets, and the managements were forced to accept it, willingly or unwillingly. Later the 8-hour day was sanctioned by the provisional government. The revolution of October, 1917, modified the legal form of the regulations concerning working time, but the length of the working day remained generally unchanged until 1927. In that year the tenth anniversary of the Soviet regime was celebrated by the promulgation of a manifesto reducing the working day to 7 hours. The introduction of shorter hours was due only in part to the consideration that the proletarian revolution must afford the worker a shorter working day than the standard day of capitalist countries. The more important reason was found in the decision to carry on continuous production with three shifts; it was expected that 7-hour shifts would allow sufficient time for the change of shifts, the necessary pause in the operation of machinery, minor repairs and the like. The new regulation became effective in January, 1928, but was only gradually enforced. By October, 1928, only 24 textile establishments, employing a total of 118,600 workers, and 4 others operated on a 7-hour basis. In October, 1929, about 20 percent of all industrial workers enjoyed a 7-hour day; in 1930 it was extended from 43 to 46 percent of the workers and early in 1931 to about 60 percent. The new working arrangement proved, however, impractical and inconvenient. It was bound up with night work on a large scale for women as well as men. Seven hours of uninterrupted work was found to be more fatiguing and harmful than an 8-hour day with a midday rest period. Moreover the three 7-hour shifts did not entirely fill the 24-hour day and night period, which tempted many establishments to change to shifts of 8 hours of uninterrupted work. The workers received in such cases credit for 1½ days or the eighth hour was taken into consideration in the granting of vacations, but in neither case were the injurious effects of an uninterrupted 8-

hour working day done away with: productivity, morale and hygienic conditions were adversely affected.

The failure of uninterrupted work in three 7-hour shifts was one of the main reasons for the decision in August, 1929, to introduce the 5-day week, consisting of 4 days of work and 1 day of rest. Under this plan the division of the year into weeks is eliminated, the factory operates without interruption and the working force is divided into five groups, four of which are always working while the fifth rests. It was anticipated that this would mean a higher degree of utilization of technical equipment as well as the elimination of Sunday, the day of rest favored by religious tradition. On October 1, 1930, 72.9 percent of the industrial and agricultural workers in government enterprises were put on the 5-day week. A reaction, however, was not slow in coming. Enterprises gradually abandoned the "uninterrupted 5-day week" and introduced a working week of 4 days with a common day of rest. In June, 1931, the failure of this scheme was officially recognized and a return to the 6-day week recommended. The 5-day week failed not because of the resistance of the workers to certain minor inconveniences connected with it but because of the technical and economic defects of the system. It resulted in a continuous change of workers at the machines, in the course of which no one seemed able to become accustomed to his place of work and no one felt responsible for the condition of machines and tools. The maintenance of discipline was in consequence made more difficult.

Since the middle of 1931 the government industries in the Union of Socialist Soviet Republics have returned to the uninterrupted 6-day week. Aside from the revolutionary holidays this means that the year is divided into 61 "weeks" with 305 working days and 61 days of rest. Since the working day consists of 7 hours, a year thus has 2135 hours of labor, which compares with 2080 hours of labor on the basis of the 5-day week as understood in western Europe and the United States, with 2288 hours on the basis of the 5½-day week of 44 hours and with 2496 hours on the basis of the 6-day week of 48 hours. In the seasonal occupations and the building trades production is often carried on uninterruptedly under the 6-day week by staggering the rest day. While the 7-hour day is the normal one for adult workers, the 6-hour day prevails for minors, who in 1929 constituted nearly 6 percent of employed workers.

In the economically backward countries of Asia and Africa the hours of labor are very long. While the conditions in customary agricultural and handicraft pursuits approximate those of mediaeval Europe, capitalist mining and manufacturing enterprises reproduce the worst aspects of the industrial revolution. The former comparatively low hours of labor have everywhere been increased; legislative regulation is insignificant and the labor movement weak. In 1927 an investigation in China revealed that in the factories of Peking, Hankow and Shanghai the customary working day consists of 12 hours with many workers toiling 14 and 15 hours. Day and night shifts are prevalent and many factories grant no day of rest; half an hour is allowed for the noonday meal and there are only 3 to 5 holidays yearly. This excessive working time prevails also for women. An official investigation of wages and hours in Greater Shanghai carried out in 1929 established that the working time of women in cotton spinneries averaged 12 hours per day. Children work as a rule the same number of hours as adults and in some cases have an even longer day than men; thus in printing establishments men worked on the average 8.4 hours, while the children's day extended to 10.2 hours.

Japanese labor works particularly long hours. This was recognized by the Washington convention, which set the working week for Japan at 57 hours and for some industries even at 60 hours. Despite this important concession the convention was not ratified by the Japanese government. At present the working day of women and of minors under 16 in establishments subject to the factory law is limited to 11 hours, which includes a rest period of 1 hour. Until August 31, 1931, spinneries and silk factories producing for export were allowed to employ women and children on the basis of a 12-hour day including an hour's rest pause.

The Washington convention contains also special provisions for India's benefit. It permits an 11-hour day with a 60-hour week; minors between the ages of 12 and 15, however, are allowed to work only 6 hours daily. It forbids overtime and night work for women and children, except in canning and curing, and limits the hours of miners working underground to 54 per week. Although the convention was ratified by the government of India, the limits set by it are frequently exceeded. In 1929 the Royal Commission on Labour in India recommended a reduction of hours in factories to 54 per week and

10 per day; a working week of 60 hours is to be the absolute maximum allowed only in exceptional cases, while the working day of children is to be limited to 5 hours.

Because of its distinguished history in the field of wage and hours policies special mention must be made of Australia. Since the second half of the nineteenth century it has been ahead of all other nations in reducing the hours of labor. The 8-hour day began to spread around 1870 and was customary prior to the World War. By the legislation of 1925 the 44-hour week was introduced in New South Wales. The standard 48-hour week was restored by law of June 16, 1930, but in December of the same year the new labor government went back to the 44-hour week. Since September, 1931, Western Australia has a 44-hour week, while Queensland is still on a 48-hour basis. Post-war statistics on actual working time in all occupations, excluding agriculture, animal husbandry and shipping, are presented in Table XI.

TABLE XI

AVERAGE WEEKLY HOURS OF LABOR IN AUSTRALIA,  
1914-29

| END OF YEAR | ADULT MALES | ADULT FEMALES |
|-------------|-------------|---------------|
| 1914*       | 48.93       | 49.08         |
| 1921        | 46.22       | 45.69         |
| 1922        | 46.38       | 45.82         |
| 1923        | 46.70       | 45.98         |
| 1924        | 46.66       | 46.02         |
| 1925        | 46.44       | 45.78         |
| 1926        | 45.57       | 44.94         |
| 1927        | 45.46       | 44.94         |
| 1928        | 45.27       | 44.79         |
| 1929        | 45.34       | 44.79         |

\* Data for April 30.

Source: Australia, Commonwealth Bureau of Census and Statistics, *Labour Report*, vol. xx (1929) 73-74.

**Principles.** The nineteenth century writers on the hours of labor problems were divided into two camps, those siding with employers and those with employees. Opponents of shorter hours, who drew their theoretical arguments from the works of the classical economists of the first half of the nineteenth century, stressed the purely economic aspects of the problem; they admitted that shortening the working day was socially desirable but doubted whether such a measure was economically practicable and opposed arbitrary uniform regulation of the hours of labor. Social reformers, on the other hand, were convinced that the existing hours of labor were altogether too long and could be reduced without entailing harmful economic consequences; such a reduction promised in their

opinion a decided improvement in the hygienic cultural and social conditions of the working classes. The ideological father of this orientation was Robert Owen.

In 1833 Owen formulated for the Society for Promoting National Regeneration several arguments in favor of the 8-hour day (*Crisis*, vol. iii, p. 125). He argued that if the right to exist be granted to the weak as well as the strong, then 8 hours constitutes on the average the longest period of physical exertion of which a human being is capable without impairing health, intelligence, the sense of moral values and happiness, the maintenance of which is in the true interest of every human being. He believed moreover that modern inventions in chemistry and mechanics make it possible under appropriate arrangements to produce in an 8-hour day an amount of commodities entirely sufficient for all. And, finally, he contended that no human being has the right to demand that others work more than is needed for the good of humanity in general merely for the purpose of enriching himself by impoverishing others. It is obvious that these are arguments not merely for the 8-hour day but for shortening the working day in accordance with technical progress, a thesis which is more clearly stated in his later contributions to the discussion.

In addition to the moral and social factors, of major importance to Owen, he brought forward also two considerations of an economic character; namely, that longer hours have become unnecessary because of technical progress and that "under appropriate arrangements" it is possible to increase productivity by reducing hours. As time went by the latter argument acquired increasing force. A shortening of hours without an increase in the productivity of labor would necessarily decrease the social product and, should the distribution between capitalists and workers remain the same, result in a proportional reduction of the earnings of both capital and labor. Under these conditions a reduction of hours could not take place without a corresponding adjustment of wages, a prospect which made Karl Rodbertus the sworn enemy of legislative regulation of hours on the English model. Evidence began to accumulate, however, which indicated that the decrease in hours of labor was followed by an increase in productivity and that the workers earned more in the shorter than in the longer working period. The causal connection between the two phenomena was accepted by some as a matter of course and emphatically

denied by others, but it was not objectively investigated until the early years of the twentieth century.

At that time Ernst Abbe, pioneer in the scientific research into the problems of working time, established on the basis of experience in the Zeiss works in Jena the three factors which caused fatigue. He traced one part of fatigue to the magnitude of the output, or to the physical expenditure of labor power; the second factor is the speed with which work is performed, the fatigue increasing only after a definite speed limit is passed; the third factor, responsible for passive fatigue, is the length of time during which the worker must sit or stand at his machine regardless of whether the time is productively occupied. The second and third factors in fatigue are, according to Abbe, of primary importance in determining the "correct" length of the working day. Thus the shortening of the working day would result in an increased output so long as the gain due to the longer rest period and to the saving of energy by shortening unused time at the bench is greater than the loss of energy required by the acceleration of the working tempo. On this basis Abbe believed that for at least 75 percent of the industrial workers of Germany the correct working day ought to be 8 hours or less.

The general reduction in the hours of labor in Europe after the World War put the conception of lower hours of labor to a severe test and transformed many supporters of the short working day into its opponents. This can be explained by the unusual circumstances under which the reduction of working time was carried out in most European countries. It was a period of political, economic, technological and psychological reorganization. Government and industry in the various countries had to adapt themselves to the new conditions, which differed considerably from conditions prevailing during and before the war. Most countries were suffering from violent currency fluctuations, there was no fixed price level and profits depended not so much on correct cost calculations and competent management as on chance and the ability of the entrepreneur to adapt himself quickly to changing conditions. The productivity of labor declined from the pre-war level. Whether this was due to poor organization of work, to an overcrowding of establishments with superfluous workers caused by the demobilization of the armies, to the physical obsolescence of the equipment or to the psychological aftermath of the war, European

employers charged it to the arbitrary reduction in labor hours and nicknamed the cause a "wave of laziness." A questionnaire by the International Labour Office about the new conditions of production elicited numerous complaints from employers regarding the effect on production of the 8-hour day. The inquiries made by the governments of various countries during the years 1919 to 1922 had similar results. Not only did this seriously shake Abbe's theory of the optimum working day, but it likewise discredited the social reform policy which had prevailed before the war.

Karl Diehl, the typical academic representative of the new orientation in Europe, asserts that there can be no such thing as a normal working day in the sense that an optimum of labor intensity is reached in a given number of hours. Theoretically Diehl is willing to recognize maximum limits to a working day only from the hygienic and cultural standpoint. Practically, however, this recognition is of no great importance, as in his opinion a working day of 9 or 10 hours is not excluded by reasons of health, while a cultural maximum working day constitutes a luxury which a country cannot always afford.

A more thorough analysis is offered by Otto Lipmann, who also distinguishes three aspects of the problem: the cultural, the hygienic and the economic. In his opinion a cultural maximum working day does not admit of specific limitations. A healthful maximum working day is defined by the fact that each worker must have at least sufficient time for rest and sleep fully to restore the energy expended during one working day before the beginning of the next. Lipmann thinks that this limit is continually being exceeded. The economic optimum working day is that which results in the maximum daily output. That is, if the length of the working day is  $x$ , the daily output  $z$  and the rate of output  $y$ , the economic optimum working day is determined by that value of  $x$  which makes the value of  $z = x \cdot y$  a maximum. Lipmann believes that an increase in the length of the working day results in a somewhat less than proportional decline in the rate of output, the relation obtaining between the changes in their variables being expressed as follows:  $(x_m^2 - x_n^2)/(y_n^2 - y_m^2) = \text{constant}$ . If  $E$  signifies the length of a working day lasting until complete exhaustion has taken place, or the maximum value of  $x$  (a point at which  $y$  declines to zero), and  $P$  the output that can be obtained when the worker is completely recuperated, or the maximum value of  $y$

(with a corresponding value of zero for  $x$ ), then  $E^2/P^2 = (x_m^2 - x_n^2)/(y_n^2 - y_m^2) = \text{constant}$ , and  $(x^2/P^2) + (y^2/E^2) = 1$  on the basis of the expression above. It follows that  $y = (E\sqrt{P^2 - x^2})/P$  and  $2 = (Ex\sqrt{P^2 - x^2})/P$ . The value of  $x$  which will make  $z$  a maximum is  $P/\sqrt{2}$  and the maximum value of  $z$  is  $PE/2$ . In other words, the length of the economic optimum working day is about seven tenths of the physical maximum possible, and the maximum daily output which can be kept up over a long period is a half of the product of the highest conceivable rate of productivity by the length of the physical maximum working day. The validity of these conclusions depends entirely on the relationship between the changes in the length of working day and in the rate of productivity postulated in the first expression above.

The conclusion to which Lipmann comes is that the friends of shorter working time would strengthen their position if they admitted that there can be no one economic optimum working time applicable to all countries, all industries, all establishments and all workers. Having admitted this they could press with all the greater emphasis the view that in the case of many industries the shorter working time would in all probability approximate more closely the economic optimum and that if only because of cultural reasons a maximum working day should be demanded for all workers. Moreover they could justly hold that even where longer working time would seem economically profitable it will not turn out to be so unless the wages of the workers are raised to allow for an increase in their working capacity and their will to work. At any rate there is no doubt that the experience gathered of recent years proves that productivity does not increase appreciably in every instance with a reduction of working time. Where productivity was increased, the net result was achieved very slowly and indirectly because of technological progress stimulated by the shorter working day and relatively high wages. Working time is only one element in the complex of conditions determining labor productivity; the effect of its variations cannot be studied without taking account of adjustments in the other factors.

More recently the reduction of hours has been advocated on other grounds—the establishing of a balance between production and consumption not by increasing production but by increasing consumption. It is argued that working time must be reduced in order to give the workers

more leisure for increased consumption, which in turn is a prerequisite for increasing production. This new conception first became popular in the United States but has since spread also to Europe. The main problem is not so much a shortening of the working day as the limitation of the working week to only 5 days; Saturday, it is maintained, should be free from work so as to permit the workers an uninterrupted rest period of approximately 63 hours. This conception is not as new as it appears; in 1865 Ira Stewart, in arguing for the 8-hour day, said: "... men who labor excessively are robbed of all ambition to ask for anything more than will satisfy their bodily necessities..." (quoted in *A Documentary History of American Labor*, ed. by J. R. Commons and associates, vol. ix, Cleveland 1910, p. 285), and insisted that reduction of the hours of labor would stimulate consumption and consequently production as well. In recent years a group of employers, among whom Henry Ford is the most conspicuous, have argued that shorter working time is necessary in order to afford the workers an opportunity to enjoy the consumption of commodities which they have been instrumental in producing, thus insuring a balance between production and consumption. This viewpoint was adopted in 1929 by the President's Committee on Recent Economic Changes, which said in its report: "Closely related to the increased rate of production-consumption of products is the consumption of leisure. It was during the period covered by the survey that the conception of leisure as 'consumable' began to be realized upon in business in a practical way and on a broad scale. It began to be recognized, not only that leisure is 'consumable,' but that people cannot 'consume' leisure without consuming goods and services, and that leisure which results from an increased man-hour productivity helps to create new needs and new and broader markets..." During the period covered in the survey the trend toward increased leisure received a considerable impetus" (Conference on Unemployment, 1921, *Recent Economic Changes in the United States*, 2 vols., New York 1929, vol. i, p. xvi).

At the same time organized labor in the United States urged shorter working time in the form of the 5-day week from another angle—to offset the growth in technological unemployment. Between 1929 and 1931 the 5-day week was also urged as a means of restoring prosperity by increasing employment and wages. In both formulations shorter working time is proposed as a means of

maintaining the balance between production and consumption.

In a time of rapid technological progress the emphasis is not so much on a further increase of productivity as on maintaining the proper economic balance. This is also reflected in the new point of view concerning the effect of a shorter working day on the economic system. In any event the emphasis has shifted from the number of hours in a single working day to the number of days in the working week; in this new form the problem of the duration of working time has once more been posed in the form which it assumed in the period prior to the rise of capitalism.

#### WLADIMIR WOYTINSKY

See: LABOR; FATIGUE; EFFICIENCY; ACCIDENTS, INDUSTRIAL; LEISURE; LABOR LEGISLATION AND LAW; LABOR MOVEMENT; TRADE UNIONS; SHORT HOURS MOVEMENT; TRADE AGREEMENTS; CHILD; WOMEN IN INDUSTRY; CONSUMERS' LEAGUES; VACATIONS; FACTORY SYSTEM; INDUSTRIAL REVOLUTION; CONTINUOUS INDUSTRY; DOMESTIC SERVICE; HOMEWORK, INDUSTRIAL.

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HOURLWICH, ISAAC ARONOVICH (1860-1924), Russian-American economist and publicist. He was born in Vilna and studied at the University of St. Petersburg and the Yaroslavl law lyceum. Exiled to Siberia for revolutionary activities, he escaped to America in 1891. Several of his writings attracted attention in Russian translations and after the 1905 revolution he returned to Russia and ran for the first Duma, but his candidacy was canceled by the authorities and he was forced to return to the United States.

Hourwich was one of the earliest American economists admittedly of the Marxian school of thought, and particularly in his early writings he belonged to the orthodox wing of that school. His doctor's dissertation, one of the first accepted in economics by Columbia University, is a Marxian interpretation of Russian agricultural developments. His articles in the *Journal of Political Economy* were a pioneer effort to determine quantitative distribution of American population according to economic class on the basis of census data. He contributed numerous articles on economic and political questions to socialist periodicals. In his later writings he considerably modified his point of view. He frequently advocated cooperation of socialist and labor groups with progressive and radical bourgeois elements, the formation of a labor party which should not be exclusively socialist in principles and even the formation of a third party on general progressive lines.

Perhaps his most important economic work was *Immigration and Labor*, a penetrating analysis of the reports of the Immigration Commission leading to conclusions diametrically opposite to those of the commission as summarized by Jenks and Lauck. He argued that free immigration instead of representing a dangerous competition to American labor was an important factor in rapid industrial development and largely responsible for the growth of an active American labor movement. These conclusions were severely criticized by many American economists.

His greatest contribution to American life was through his journalistic activity, and he was considered the most important Yiddish publicist in America. Temperamentally somewhat unsuited to organizational activity and generally regarded as somewhat unstable in his economic and social views, he always fulfilled the role of questioner and critic.

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*Important works:* *Pereseleniya krest'yan v Sibir* (Peasant emigration to Siberia) (Moscow 1889); *Economics*

*of the Russian Village*, Columbia University, Studies in History, Economics and Public Law, vol. ii, no. i (New York 1892); *Immigration and Labor* (New York 1912, 2nd ed. 1922); "The Social and Economic Classes of the United States" in *Journal of Political Economy*, vol. xix (1911) 188-215, 309-37; *Ausgewählte Schriften* (Selected works, in Yiddish), 4 vols. (New York 1917).

HOUSE AND BUILDING TAXES. The house, or building, tax is a tax on the earnings derived from the ownership or use of buildings. In its pure form it is a tax in rem levied on the object and assessed according to objective criteria usually without regard to the personal status of the taxpayer. Frequently, however, the tax assumes the form of a levy on rental expenditure imposed on the tenant, in which case it approaches the character of a direct consumption tax. The modern building tax is to be distinguished from the house taxes levied in the Middle Ages and in early modern times, for such taxes aimed to reach the entire taxable capacity and the house was merely singled out as a convenient index of taxpaying ability. It is further to be distinguished from taxation of buildings, which forms an integral part of the general property or real estate tax. The building tax is frequently used along with many other similar taxes on specific sources of income to fill the place of a general income tax. Where the building tax is resorted to in addition to a general income tax the former is intended as a means of subjecting income from property to a heavier tax burden.

Modern building taxes are traced to two sources. Some evolved out of the French chimney tax—a sort of poll tax imposed on the members of one household. The chimney tax was also introduced in England but was transformed into a classified window tax in 1696 and finally repealed in 1851. The English window tax served as the model for the French door and window tax which was introduced in 1798 and abolished in 1917. The tax was originally of general income tax nature with the doors and windows used as presumptive criteria of ability to pay, but it gradually evolved into a specific tax on earnings derived from houses. In the meantime another tax was introduced in England in 1778; this tax levied on the annual rental of the premises was repealed in 1834 but reintroduced in 1851. The tax known as the Inhabited House Duty is levied on the occupier of the premises.

More frequently, however, the building tax is traced to the thousand-year old land tax. The

process of separation from the land tax, first in the form of a special levy upon land covered with buildings and later as an independent tax on the building itself, extends all through the nineteenth century and still continues today. At the present time there are even tendencies toward a retrograde development in reuniting the land and building taxes.

The object of the building tax—the taxing of the earnings derived from buildings—may be achieved either directly by assessing the actual or estimated annual yield or indirectly by taxing the value of the building. In some countries the buildings are classified according to type or location of buildings or according to the number of stories, doors and windows. In still other countries the buildings are assessed according to the size of the area they occupy. Depending then on the selection of the taxable base the tax may assume the form of a building yield tax, a building value tax, a classified building tax or an area, or surface, tax.

Where the annual yield is selected as the taxable base, the tax may be assessed with the aid of a rental cadastre which registers actual rentals from year to year and estimates the rental values of buildings occupied by their owners by comparison with rentals charged in similar buildings. In some cases the assessment may take the form of an individual declaration of the house owner of the actual rent received.

The tax may be levied on either gross or net yield. The former is the simpler, the latter the more accurate measure of taxable capacity. It is, however, practically impossible to determine the actual net yield by general principles applicable to all taxpayers, as the amounts charged to depreciation, repairs and amortization differ almost from case to case. On the other hand, assessment on the basis of an individual tax declaration, taking into account all individual deductible charges and the checking of these items, would involve an expense which would absorb a considerable portion of the tax yield. Consequently fiscal practise in most countries dispenses with the determination of the actual net yield and either confines itself to a tax on gross yield or provides arbitrary allowances for depreciation and similar charges in the form of a lump sum or proportional fraction of the gross yield. While such crude methods are harmless in cases where the general income tax or the general property tax forms the major portion of the tax burden and building taxes are of subsidiary nature and assessed at low rates, the crude assess-

ment methods may lead to grave inequalities in the case of high tax rates.

Where the value of the building is taken on the basis of assessment, fiscal practise resorts to taxing either market value as expressed in current transactions or earning value as ascertained by capitalizing the actual or estimated income at the prevailing rate of interest. While in a perfect market the two values are identical and under stable market conditions they tend to be equal, there may be wide discrepancies between the two in a period of fluctuating economic conditions; a fluctuating interest rate may lead to the imposition of an unjust tax burden. This of course may be obviated by having the legislature prescribe a definite capitalization rate.

The classified building tax is of merely supplementary nature; it is used in addition to the building value tax or more usually the building yield tax and applies to buildings which do not lend themselves readily to other forms of building taxation. This tax is suitable primarily to the rather uniform conditions in rural districts. When applied to urban conditions it usually requires too elaborate and complicated classification schedules. The French door and window tax was classified according to the locality of the building and the number of stories, doors and windows. The Austrian house tax of 1882 distinguished sixteen classes graded according to the number of dwelling rooms with a different rate for each class. The Hungarian house tax of 1920 differentiates three classes of buildings according to the town in which they are located with a further differentiation of ten subclasses according to the number of rooms.

The term area, or surface, tax designates a building tax based upon the size of the building site together with the accessory ground such as courtyard, garden and the like. The ordinary area tax is the most primitive of all building taxes and is used only under the simplest and most uniform conditions usually as a supplement to another form of building tax. A variant of the area tax is the so-called classified area tax existing in several of the Austrian provinces. It is levied on industrial, commercial and transportation buildings and on the ground used for storage and other purposes. The rate applied to the built up area is differentiated according to the number of stories, the character of the building (main or auxiliary) and the class of town in which the buildings are located.

A unique type of building tax is presented by the so-called building revaluation taxes (*Ge-*

*bäudeaufwertungssteuer*) which were introduced in the various German states after the stabilization of currency in 1924. The tax is levied on the annual rental and is intended to capture for the state some of the benefits accrued to the mortgagors by virtue of complete depreciation of their mortgage indebtedness during the inflation period. The considerable tax yield is in part applied to the promotion of building construction and in part merged with the general revenue of the state.

The practise of exempting certain types of building from taxation has been frequently resorted to in many countries. Apart from general exemption of buildings devoted to religious, educational and charitable purposes economic and social considerations compelled many countries to exempt new buildings as a stimulus to construction, thus alleviating the housing shortage. In some countries agricultural buildings are assessed at a lower rate to alleviate the position of the farmer. In others manufacturing plants are favored in order to stimulate industrial development. The single tax experiment in the north-western provinces of Canada implied the general blank exemption of all improvements.

In tracing the incidence of building taxes it is advisable to differentiate between cases where a tax of this sort has existed for a long time and those in which a tax is suddenly introduced or greatly increased. Building taxes which are levied on a building for a long time in about the same magnitude act as a capital burden and are usually capitalized and deducted from the purchase price by the buyer of the building. On the other hand, the introduction of a building tax or the sudden rise in the rate of the existing tax involves a corresponding reduction of the net yield and of the value of the property for the owner, who consequently endeavors to relieve himself of the loss by raising the rents. It is obvious that the tenants resist this endeavor. The extent to which the building owner succeeds in shifting the tax to the tenants depends upon a large number of factors, the most important of which is the condition of the housing market at the time. In times of housing shortage the shift of the burden to the tenants will occur sooner than when there is a liberal supply of housing facilities. If a building tax is levied on the tenant, it is but seldom that he succeeds in shifting it to the owner; and a tax shift is obviously out of the question when the owner is taxed for the building which he himself occupies. With regard to buildings used for trade or agriculture the

building tax burden represents a factor in the cost of production and can be recouped under normal price conditions in the sales price of the products and thus shifted to the consumer.

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*See:* TAXATION; TAX ADMINISTRATION; ASSESSMENT OF TAXES; VALUATION; LAND TAXATION; GENERAL PROPERTY TAX.

*Consult:* Bastable, C. F., *Public Finance* (3rd ed. London 1903) p. 443-52; Sodoffsky, Gustav, *Zur Einführung in die Gebäude- und Grundbesteuerung* (Leipzig 1910); Bräuer, Karl, "Gebäudesteuer" in his "Ertragssteuer" in *Handbuch der Finanzwissenschaft*, 3 vols. (Tübingen 1926-29) vol. ii, p. 23-32; Seligman, Edwin R. A., *The Shifting and Incidence of Taxation* (5th ed. New York 1926) p. 276-324. For extensive bibliography see Elchberg, K. T. von, "Gebäudesteuer" in *Handwörterbuch der Staatswissenschaft*, vol. iv (4th ed. Jena 1927) p. 615-16.

HOUSE OF COMMONS. *See* LEGISLATIVE ASSEMBLIES.

HOUSE OF LORDS. *See* LEGISLATIVE ASSEMBLIES.

HOUSE OF REPRESENTATIVES, UNITED STATES. *See* LEGISLATIVE ASSEMBLIES.

## HOUSING

EUROPE. *Early History.* The history of human habitation is integrally bound up with the social and economic history of mankind. Rising originally out of the elementary need for protection from wind and weather, the dwelling comes eventually to provide the framework for the development of the primary form of social life—family life. When permanent settlement supersedes nomadic existence, the dwelling becomes also the workshop, until with advancing industrialization there occurs a separation between home and shop. At the same time the differentiation within society on the basis of wealth and other criteria relevant to the stage of development leads to wide variation in the form of dwelling adopted by different members of the community.

Already at the very beginning of history there may be found two types of human habitation which despite all subsequent evolution have retained their characteristic contrasts: the small cave which sheltered a single family and the larger cave in which several families sought refuge—the one-family house and the multi-family house. When man begins to build his dwelling, the material he employs is determined by conditions of climate, topography and vege-

tation. First the most accessible types of wood are used; later minerals or materials obtained by processing textile fibers are employed. Wilhelm Wundt, who describes the most important types of primitive dwellings in his *Völkerpsychologie* (vol. vii), points out that their form is influenced by certain general aesthetic requirements. The simplest geometric patterns—the circle, the oval, the triangle or the quadrangle—are preferred. Thus in the most elementary dwelling forms—the tent and the spherical and beehive huts—the circle is combined with the triangle; the quadrangular house usually has a triangular shaped roof.

The form of the dwelling is also affected by its size, or the type and number of occupants for whom it is intended, which in its turn is conditioned by the prevailing social order. The men's house is characteristic of an organization of primitive social life which is dominated by the principle of male associations; in societies of this type the family huts are inhabited only by the women, the children and the aged. With the introduction of polygamy and the ensuing stratification of society the men's house disappears. The powerful and the rich own several huts, providing living quarters for their wives and children; scattered at first, they are later concentrated within a limited area forming a farmstead which includes also storerooms, slave quarters and animal stalls. But the socially inferior and the poor live in single modest huts. The men's house becomes a public building and serves either as a meeting place or as the dwelling of the chief. The multifamily house, on the other hand, is found where several families maintain under single leadership a closely knit communal life; the characteristic form of the primitive multifamily house is the long house with a separate division for each family.

Out of these original forms of human habitation developed the purely agricultural settlement, the village, and the center of primarily industrial activity, the city, in which at a comparatively early date the various trades were assigned particular sections. In the cities of antiquity the one-story, one-family house was most common; planned arrangement of dwelling houses came only at a later date. The cities of the Babylonian-Assyrian Empire were laid out on a very large scale; streets and roads were well constructed and there were water pipes and sewers. But great masses of people were crowded within the city walls and the individual dwellings, providing only the barest necessary space, were arranged

alongside one another haphazardly. It was until the fourth century B.C. that there emerged in Greece a systematic city plan, with distinct residential areas and districts for public buildings and temples; Greek cities were also provided with an adequate water supply and sewage systems, the rational use of which was insured by legislation.

More and better information is available regarding housing conditions in ancient Rome, particularly during the period of the empire. The city occupied a comparatively small area; as its wealth increased, the greater the space taken up by public edifices, temples and dwellings of the wealthy, the more crowded were the districts allotted to the working population. With the development of a money economy speculation in building sites and residential buildings became very extensive. Land was therefore utilized to the utmost by the erection of as many stories as possible and by reducing the size of rooms; houses were filled with people from garret to cellar. Rentals were continually rising and the profits of landlords, their lessees and sublessees increased together with the evils resulting from crowding in inadequate quarters. The extent to which the much admired water supply and sewer system of Rome benefited the dwellings of the poor is questionable. Similar conditions are reported for Byzantium.

In the history of housing there is no apparent continuity, at least for central and western Europe, between the Roman period and the Middle Ages. The Roman settlements in western and southern Germany and in Gaul fell into ruin; and the Germans, prevented by superstition and fear of ghosts from moving into the Roman houses, erected their wooden huts alongside the Roman villas. Thus out of the conditions of primitive peasant life developed an entirely new housing system, closely related to the feudal order of the Middle Ages. For some time the largest settlements were those of vassals and serfs attached to manor houses, cloisters and castles. Cities with a distinctly urban form of life appeared only in the twelfth and the thirteenth century. Here with the growing extension of industrial activity developed a new bourgeois class which knew how to preserve its freedom and which shaped the plan of the city according to its own living and working requirements. At first the cities were spaciouly laid out and offered their inhabitants the possibility of combining agriculture with the exercise of their trade as merchants or artisans. In the twelfth and

the thirteenth century land in the cities was owned largely by great landowners—the king, the nobility, the clergy or the urban patriciate; later the progressive subdivision of the extensive areas of mediæval cities into individual small home parcels was accompanied by the complete separation of ownership of land and of buildings. As early as the thirteenth century house owning became a trade, since at the time when interest bearing loans were prohibited it offered an opportunity for advantageous investment of capital and profitable speculation. If favorable location or the special value of the building enhanced site value, this increase accrued to the building owner and not to the landowner, as was provided in the Roman law later introduced; the landowner received only a small lease rent, which was fixed once and for all. As new population streamed into the cities, city land hitherto employed for agriculture was settled or the city fortifications were placed at a greater distance from the center.

These conditions lasted only while the flow of rural population into the city was comparatively limited. When "the sheep crowded out the people" and because of the transition from grain farming to pasture farming, as in England, or for other reasons the influx of outsiders into the cities became large, attempts were made to limit the migration of persons without means. Henry II issued such prohibitions for Paris in 1154 and Elizabeth decreed similar restrictions for London in 1580 and 1593. In the meantime the extension of the cities had become a much more difficult problem, for with the perfection of artillery the city had become a fortress and every shift of the strong walls and bulwarks was very costly. Soon the old reserve of open spaces and gardens within the cities vanished; buildings increased in height and in number of stories; and the walled city area became ever more crowded with buildings separated by the narrow winding streets still characteristic of central districts in the cities which have escaped demolition since the Middle Ages.

But the most important influence upon the growth of the cities and the development of housing was the change in the constitution of economic life, which set in with the increasing extension of the market and the intensification of money economy and which led to the development of a mercantilist economic policy. The rulers of mercantilistic states, who sought to further the production of goods for export, endeavored to encourage population and urban growth by every means at their disposal. People

who had a trade were attracted to the cities by offers of special liberties, privileges and loans; the same purpose was served by an extensive policy of building, which reached its climax on the continent during the eighteenth century and which was encouraged by such measures as grants of sites, building material and even building subsidies; at the same time the prices of dwellings built as a result of such aid were limited by administrative regulation. Building activity in the age of mercantilism had thus a certain methodical character.

*From the Industrial Revolution to the World War.* The industrial revolution effected a profound change. The development of large factory industry brought about the separation of the dwelling from the workshop and the subdivision of the city into factory, business and residential districts. In order to accommodate the working population the areas lying outside the cities were rapidly settled, and new urban developments soon clustered about outlying factory establishments. Moreover this entire movement, often extremely rapid, took place in an environment in which the free interplay of economic forces was not hindered by the slightest endeavor on the part of public authority to prescribe regulations of settlement and housing conditions. In accordance with the prevailing principle of liberalism housing was left entirely to free competition and the exigencies of the profit motive.

The results of this structural change in the economic life were manifested first in England, where the numerical ratio of agricultural laborers to industrial workers was reversed during the half century from 1790 to 1840. Where housing facilities in industrial cities did not meet the requirements of the influx of workers, the old nucleus of the city was surrounded by growing suburbs. When builders for profit failed to meet the demand, the employers themselves often erected dwellings for their workers, thus increasing the dependence of the worker who lost his dwelling together with his job. Landlords exploited the situation by endeavoring to house as many people as possible in the smallest area and at the lowest cost, thus giving rise to the frightful housing conditions characteristic of the industrial revolution and still prevailing to a very real extent today. In England the lease system—the erection of dwellings under long term leasehold on land belonging to a large landowner—adversely affected housing conditions, for the owner of the house let it fall into disrepair as the termination of his lease approached. This sys-

tem also favored the construction of small houses, a type of dwelling which has remained predominant in England despite the advantages that the erection of mass tenements might have offered. The well-to-do classes of the population also held resolutely to the small house, purchasing it as their own property.

On the continent, where the industrial revolution set in some decades later, the development of housing took a different turn. Here the small house was displaced by the multifamily house, the former type persisting to an appreciable extent only in Belgium and the Netherlands. Some idea of the prevalence in various European cities of the two major types of housing, as measured by the number of occupants per house, may be gained from Table I, which covers the period following 1860-70.

TABLE I

NUMBER OF OCCUPANTS PER HOUSE IN SELECTED  
EUROPEAN CITIES

|                                      |      |
|--------------------------------------|------|
| Sheffield, Birmingham and Manchester | 4.8  |
| London (inner districts)             | 7.9  |
| The Hague                            | 6.5  |
| Amsterdam                            | 13.4 |
| Zurich                               | 17.2 |
| Geneva                               | 23.4 |
| Copenhagen                           | 26.6 |
| Christiania                          | 29.2 |
| Stockholm                            | 32.0 |
| Paris                                | 38.0 |
| Prague                               | 40.0 |
| Budapest                             | 41.3 |
| Vienna                               | 50.7 |
| Hamburg                              | 38.7 |
| Berlin                               | 75.9 |

Source: Eberstadt, R., *Handbuch des Wohnungswesens und der Wohnungsfrage* (4th ed. Jena, 1926) p. 6.

Even within the multifamily house the well-to-do household had at its disposal a spacious apartment of many rooms. The typical working class family, on the other hand, could not afford a dwelling of more than two or three rooms. In many regions of central Europe the worker was almost inevitably condemned to live in a crowded tenement house. The tenement was designed for the most intensive exploitation of the available dwelling area. Therefore as many stories were piled on one another as were allowed by construction technique and considerations of building safety; even cellar and attic were used for dwelling purposes. Plots were completely utilized; the structure was divided into front and rear sections and only the meagerest space allotted to the small courtyards. The tenements were strung together in extensive blocks.

In England, where the small house maintained its position as the outstanding type of dwelling, there was always a shortage of houses for the poorer classes because their income was too low to afford a rent which would meet the costs of new building. Moreover the construction of small houses required the continuous enlargement of the city area and the extension of the urban traffic network, which created difficult technical problems. Yet the wealth of the country made it comparatively easy to secure capital for building purposes, and the construction of privately owned dwellings was aided considerably by the creation of building and loan associations (*q.v.*). Since their origin in the eighteenth century building societies have extended the scope of their activity over the entire country, obtaining their loan capital partly by the issue of shares and partly by accumulation of savings, and were more than any other single factor responsible for the extension of home ownership in England.

The financing of housing construction on the continent presented much greater difficulties, as land had to be bought outright and the mass tenement was the prevailing form of housing, especially in the large cities. Generally speaking the price of land depends upon its scarcity and upon the rent paying ability of those in need of housing. Where the purchasing power of the residents is limited, land is intensively exploited by a system of mass tenements, and the price of land rises as a result of the growing percentage of rent accruing to the land. Such an increase in the value of urban land occurred in all parts of Europe as industrialization progressed. In this process the ups and downs of the business cycle played an important part.

In periods of prosperity with their greater requirements for labor the attraction of the industrial centers increased and the demand for housing grew enormously; at the same time housing construction could not keep pace with demand, declining rather than increasing because of the competition of industrial construction and other forms of capital investment. Wages did not rise as rapidly as building costs and interest charges, so that rents could not be increased sufficiently to make new construction profitable. Thus prosperity was regularly accompanied by a growing housing shortage, which led to increased overcrowding of the available dwellings; often working families took in lodgers in order better to meet the rising rents. In periods of depression, however, rents by no means decreased as rapidly as the costs of building and the interest rate.

Such a decline took place usually only where the population was stationary, as in many districts of France, or in localities from which important branches of industry had migrated. Since lower building costs during depressions were not reflected in a proportionate decline of rent, an extra profit was obtained from the exploitation of the tenement; and land values were raised correspondingly. The increase in land values frequently accrued to the benefit of land speculators, who although not responsible for the rise in rents timed the transfer of land from agricultural to residential uses so as to profit most from the discrepancy between rents and building costs. Thus rents and with them the price of land manifested an unmistakable tendency to rise in cities with an increasing industrial population—rents rising in the periods of prosperity and land values in the periods of depression.

In addition to a continuous rise in land values and attendant land speculation the development of continental housing was characterized by the fact that building was carried on as a rule by men with limited capital, who confined themselves to the erection of comparatively few houses. This situation favored the development of a complicated credit system with comparatively high costs; it included banking institutions, private individuals and real estate speculators as well as building contractors and building trades workers. Nor was the mortgage financing of completed new buildings adequately organized. The long term credits which mortgage banks, savings banks and insurance companies granted at a comparatively low rate of interest did not suffice to raise all the capital required for housing construction, especially since loans by these institutions were subject to a legal maximum—50 to 60 percent of the estimated value of the building (*see* LAND MORTGAGE CREDIT, URBAN). The builders did not usually retain permanent possession of the houses but sold them quickly and at the highest price obtainable. Thus the ownership of urban tenements was distributed among numerous persons who possessed only small capital of their own for which they were seeking the safest and most profitable investment. Their function was to squeeze as much income from their meager investment as possible; the rent laws of most countries insured this group of owners extraordinary superiority over economically weak tenants.

This system of housing construction satisfied the requirements of the well to do classes, although in time the private home was displaced

by the apartment house. For the large masses of the working population, however, there were only cheerless small flats in the slums of the modern industrial cities, in which it was difficult for a family to develop a decent home life. Misery and disease prevailed in these wretched areas and infant mortality was very high; as poverty compelled the letting of space to boarders, the requirements of hygiene and of morality were more and more neglected. The housing of certain groups of unskilled workers, casual laborers and families with many children was even worse; they were forced to inhabit damp, dark and airless rooms, cellars, garrets and structures not originally intended for residences. For workers in rural districts conditions were not much better, especially where the system of seasonal work was common; the temporarily employed laborers were very often sheltered in provisional dwellings without regard to sex.

A working class family had to expend a relatively large proportion of its income for rent—a percentage indeed which was inversely proportional to the size of its income. According to the available figures, which are not strictly comparable, the percentage of the average worker's income expended for rent before the World War was about 18 percent in Germany, Poland and Hungary, 16 percent in Great Britain, 12 to 15 percent in the Scandinavian countries, 15 percent in Austria, 12 percent in France, 11 percent in Italy and 10 percent in Switzerland. On the other hand, bourgeois families were much less burdened by rent (8 to 9 percent at most).

It was a comparatively long time before people became convinced that the development of large cities and the housing of the poorer classes could not be left entirely to the interplay of free competition. The first endeavors at administrative intervention were motivated by considerations of public health, since epidemics found a favorable breeding spot in the overpopulated districts of the large cities. Public authorities concentrated upon the three requirements of municipal hygiene—centralized water supply, sewage and paved street systems. Later appeared the idea, which had been slow to develop, that it was necessary to separate the business and industrial zones from the residential districts in accordance with a methodical city plan and to prepare for the growth of the urban area by plotting in advance the extension of municipal services. This resulted in the further requirement that all building plans be made dependent upon administrative approval. In England such legisla-

tive activity began with the Shaftesbury Act of 1851, which was followed by numerous legislative measures extending down to the Housing and Town Planning Act of 1909. The local authorities were entrusted with the duty of providing for proper sanitation, regulating the maximum height of buildings and the density of construction, preventing overcrowding of dwellings, forbidding the use of unlivable quarters and the like. They were empowered even to undertake the construction of houses if this expedient was deemed necessary to clean up the slums. The problems of city construction and of public health were followed attentively from the end of the nineteenth century on in Germany and Austria, where the action taken by public authorities paralleled the English development. Since the 1870's a number of German states have regulated in great detail such things as requirements of building and fire safety, height of buildings in various city sections, relation of occupied area to entire plot, exposure to sunlight and ventilation and height of ceilings.

Little thought, however, was given to the increase in building costs (and therefore rents) which such regulations involved. Although public bodies almost everywhere refused as a matter of principle to take care of the construction of the required housing themselves, far sighted municipal governments—particularly in Germany during the decades preceding the World War—endeavored by the systematic purchase of land in the vicinity of the city to meet the requirements for park areas and for the planned development of residential districts. Some municipalities also extended financial assistance to all organized effort in the cause of housing reform. Such activity was generally confined to private philanthropic associations, although not without occasional participation by employers interested in the welfare of their workers.

In the years immediately preceding the war national associations for housing reform and international congresses faced three leading problems. The first was the question of the reduction of land prices, for these were often blamed for the rise in rents. The proposals made in this regard varied from the comparatively conservative suggestion that at least a portion of the unearned increment be insured for the public by means of taxation to the radical demand made by the advocates of land reform that all municipal real estate be declared public property. Other supporters of housing reform regarded building costs as the determining factor in the progressive

rise of rents; therefore elaborate investigations were made of the feasibility of reducing building costs by the employment of cheaper building material, the introduction of new and simplified types of housing construction and so on. The question was also raised as to the feasibility of substituting the Anglo-Saxon system of small houses surrounded by gardens for the mass tenement so widespread on the continent without increasing the expenditures required for meeting housing needs. This problem was often discussed in the light of the relative merits of home ownership, which, it was argued, hampered the mobility of labor. Moreover detailed comparative inquiries seemed to show that the construction costs per unit of built up area in the case of mass tenements were smaller than those for private homes and that private home building as a general plan called for heavier expenditures for general transportation facilities, paving, lighting and sewage disposal. The defenders of mass tenements also pointed out that many of the evils associated with this form of housing could be eradicated by higher standards of sanitation and ventilation and by provision for common garden courts and playgrounds. Finally, a third group of housing reformers considered the system of financing to be the most important hindrance to an improvement of housing conditions. The proposals of this group dealt principally with a suitable change in credit organization.

Since experience in almost all countries had shown that the system of free competition was unable to produce a sufficient number of dwellings, well constructed and at reasonable rents, to meet the requirements of the working class, an endeavor was successfully made in many countries to solve the problem by other methods. In many cases industrial concerns were led to erect large non-profit making housing settlements which fulfilled all social and hygienic requirements. In this connection the rise of mutual building societies in many countries after 1900 is of particular importance. These were formed largely by persons suffering from the housing shortage (workers, clerical employees, civil service employees and the like) and were aided in increasing degree by many municipalities, by state legislation and at times by the managements of large factories. In central and southern Europe they assumed most commonly the form of a building cooperative, which often retained the title in the houses built by it and whose membership carried a double liability. Special difficulties, however, centering in financing, manage-



ment and the like, hampered the movement so that its progress up to the beginning of the war was rather disappointing. Among the building societies there was a special group which came to be influenced by the ideas of the land reformers. Its purpose was the establishment of garden cities patterned after those laid out in England, where the title to the land, garden plots and other communal facilities rested in the association or the municipality while the homes were privately owned. Garden cities, however, continued as isolated phenomena both in England and on the continent.

Although the efforts of the housing reformers succeeded only to a limited degree in eliminating housing shortage and housing poverty, it is to their credit that by the creation of new types of dwellings and model housing projects they paved the way for noteworthy progress in raising the standard of housing. As long, however, as housing construction was left largely to private initiative, a lasting and thorough improvement of conditions could be expected only from the progressive increase in the labor income of the masses.

*The War and the Post-War Period.* The World War introduced a radical change in the housing situation in virtually all European countries. Measures for the protection of tenants and for limitation of rents were adopted as emergency devices in all belligerent as well as in many neutral states. In France a moratorium on house rents affecting numerous groups was decreed at the very beginning of the war; this was followed by the prohibition of rent increases and limitations on the right of eviction. Similar steps were taken in Great Britain in 1915; in Denmark, Norway and Hungary in 1916; in Austria, Italy, Holland, Switzerland, Sweden and Germany in 1917. It was inevitable that such measures should bring about a complete stoppage of housing construction; in fact residential building was entirely forbidden in many countries during the war.

Even after the end of the war the prohibition of the adjustment of rents to the changed value of money was not repealed in most European countries, for it was feared that a sudden and very considerable rise in rents in accordance with the increased demand for housing might result in grave disturbances of income and more particularly of wage conditions. The results of this system of tenant protection differed according to the degree of currency depreciation which ensued in various countries during the post-war years. Where currencies were stabilized on a gold

basis within a short time, as in Great Britain and most of the neutral states, the percentage of family income allotted for rent was not reduced very appreciably; in Great Britain, for instance, it dropped from 16 percent to 11 percent. In these countries it was not very difficult to pave the way for a return to the free housing market by a gradual increase in the rents for older dwellings. In others, where the currency was stabilized often only after a long period of depreciation and at a level much below the pre-war rate, the percentage of income expended for rent dropped much lower (from 3 to 5 percent in Italy and from 3 to 7 percent in France, while conditions in Belgium, Czechoslovakia and Finland were similar). In Germany, Austria and Hungary, where inflation led to a complete depreciation of money and where rent ordinances were rigidly enforced, the proportion of family income spent on rent dropped to a tiny fraction. In these countries no interest was earned by capital invested in housing and the capital was consumed without any provision for its replacement. Losses to house owners and mortgage holders were given little consideration, since other investment values had also been reduced to very small fractions of their former worth. But the reduction of the rent percentage of income produced the desired result of preventing too great a drop in the standard of living and too large an increase in wages, which would jeopardize the competitive position of the domestic industries in the world market. The virtual elimination of rent made it possible for the members of the middle class, who had lost most or all of their income as a result of currency depreciation, to maintain their housing standards. In many cases they subleased the extra rooms of their comparatively large flats and received a much greater sum for the rent of individual rooms than was paid as rent for the entire dwelling. Under these circumstances private building was out of the question; the prices of building materials had followed the general trend of prices and in many cases had risen even more rapidly, and the increase in the interest rate due to the shortage of capital also added to building costs.

As a result of rent restrictions and the stoppage of building housing conditions remained fixed at the point which they had reached during the war. Anyone who had a dwelling kept it even though it no longer satisfied his needs, for rent played but a negligible role in the household budget. The housing market lost its ability to adapt supply to demand. At the same time the

demand for housing became unusually urgent in many regions: industry revived during the period of post-war prosperity, the number of marriages increased and there was considerable migration induced by the territorial changes following the war. The result was a most acute housing shortage and so far reaching an impairment in the mobility of labor that many needed industrial readjustments were greatly impeded. While on the average housing density declined in some countries, partly as the result of a changed age composition of the population, many dwellings were overcrowded as never before. Thus in 1919 the government estimated the most urgent housing needs in Great Britain to be 500,000 dwellings; in Germany, following a housing census in 1925, an official estimate put the shortage at 800,000 dwellings. In France, which also had a shortage of several hundred thousand dwellings, the chief problem was the reconstruction of the regions devastated by the war. The shortage of dwellings was also severely felt in Belgium, Czechoslovakia, Austria, Hungary, Italy and Poland. The estimates of private individuals, particularly those of the housing reformers, were of course considerably greater because they were based on higher housing standards. A rough outline of the extent of overcrowding in the post-war period is presented in an International Labour Office study. If the standard of overcrowding be an occupancy of more than two persons per room, then the figures for overcrowding in large city flats containing one to four rooms are:

|                   |            |
|-------------------|------------|
| France            | 6 percent  |
| Germany           | 7 percent  |
| Belgium           | 8 percent  |
| England and Wales | 12 percent |
| Denmark           | 14 percent |
| Sweden            | 18 percent |
| Norway            | 19 percent |
| Austria           | 24 percent |
| Czechoslovakia    | 32 percent |
| Finland           | 44 percent |
| Poland            | 49 percent |

It is obvious that housing conditions in eastern Europe were alarming; similar conditions doubtless prevailed in southern Europe (Italy and the Balkans). It must be noted that the figures presented above do not allow of strict comparison as they do not refer to the same year and as the term room is variously defined.

As the housing shortage continued and new construction was suspended, public authority was compelled to allocate available house space by a series of extraordinary devices. These com-

pulsory measures differed widely in the several countries, depending upon the intensity of the housing shortage and the degree of authority wielded by the government. The most common forms of distribution of dwelling space employed in central Europe were compulsory registration of vacant dwellings, prohibition of the use of dwellings for other than living purposes and allocation of available dwelling space to those needing housing by means of administrative permits issued only to persons proving the special urgency of their needs. These measures were repealed only gradually with the progressive diminution in the housing shortage.

In many central European countries, where the ideas of planned economy and of socialization were widespread after the war, the demand was put forward that the production and distribution of housing be governed by entirely new principles. Point was given to this demand by the fact that in the field of housing construction private enterprise had been virtually eliminated and that the house owner had been practically reduced to the status of a superintendent. Among the proposals most commonly advanced (especially in Germany from 1919 to 1921) was the transfer of ownership in houses to municipalities, public service corporations or tenants' associations, the last to be charged also with the construction of new buildings. All of these suggestions failed, however, to furnish an adequate solution of the problem of the permanent provision of housing and before very long they were largely abandoned.

Parallel to this movement but radically different from it in purpose developed another, which aimed at replacing the private builder by organizations of building workers. It was expected that the organization of workers into building guilds would raise their productivity and allow them to share in the profits. In Germany this movement achieved some success. In 1928 there were 130 guilds which had built or were building some 65,000 small houses, but they lacked the necessary capital and thus failed to fulfil the expectations of their founders. Similar attempts were made in other countries—France, Italy, Sweden and Austria—with but slight success. In Great Britain, where in the years 1920 and 1921 the government generously financed building, such guilds were able to function unhampered by lack of capital. In later years, however, with the cessation of government aid the guilds suffered heavily from the competition of private builders.

Apart from Soviet Russia: the idea of the socialization of housing met with some success in only one European country.—Austria. The municipal government of Vienna, controlled by the Social Democratic party, allowed rents to rise only to the extent necessary to cover cost of current maintenance. Since this caused a marked depreciation in house and real estate values in Vienna, it was easy for the municipality to increase its ownership of real estate, so that by the end of 1928 it owned about 15,800 acres. In addition it took over the provision of housing, the cost of new construction being covered in part by a special steeply graduated tax on the rents of the older houses. After 1923 the municipality succeeded in carrying out an extensive building program, the total cost of which was more than \$93,000,000. Until 1930 accommodations for about 38,000 families were erected in the form of large apartment houses containing chiefly two to three-room flats; these houses were for the most part united into blocks, laid out according to model plans and equipped with the necessary hygienic improvements. Moreover settlements totaling about 5000 small houses were built on the outskirts of the city. This construction program made up only in part, however, for the shortage of small dwellings. The rent of all dwellings erected by the city was set at a level to cover merely the costs of maintenance and management. Beginning in 1929 rents were raised gradually, so that by 1931 they reached about one third of pre-war rents. At the same time a special tax on rentals was introduced to provide funds to promote building activity throughout the country.

In Soviet Russia the changes in housing policy were much more radical. With the abolition of private property land and buildings became the possession of the republic. Private construction was forbidden and the obligation of paying rent abolished. For a while housing construction ceased entirely, and the available houses and dwellings fell into disrepair. No less than 20 per cent of all dwellings were unusable in Moscow at the beginning of 1924. Local organs were authorized to distribute the available housing space as they saw fit, the members of the proletariat of course receiving preference. The dwelling area allotted to a worker was set at 8 square meters; actually, however, even this small space was not generally available in the cities. In the metropolitan cities it became usual for all large flats to be occupied by several households. On the average there were 168 families for every 100

dwellings; the ratio was less favorable in Moscow, Leningrad and Kharkov.

The problems of housing policy, discussed so much before the war, reappeared in the reconstruction period in a much more intensified form. True, the problem of providing land at reasonable prices lost its former importance, since real estate values had dropped sharply with the fall in rental income. So much larger, however, loomed the rise in the prices of the two other component elements—building materials and capital funds. Except during the periods of unrestricted inflation, building costs practically everywhere were continually above the general price level. A comparison of building costs with an index of wholesale prices for two post-war years is presented in Table II; where figures for

TABLE II

INDEX FIGURES OF WHOLESALE PRICES AND BUILDING COSTS ON A PRE-WAR BASIS, 1921-29

| COUNTRY        | YEAR | WHOLESALE PRICES | PRICES OF BUILDING MATERIALS | HOURLY WAGE OF SKILLED BUILDING WORKERS | BUILDING COSTS |
|----------------|------|------------------|------------------------------|---|----------------|
| Great Britain  | 1921 | 197              | 268                          | 247                                     | 627-714        |
|                | 1928 | 140              | 248                          | 199                                     | 354-424        |
| Netherlands    | 1921 | 182              | 256                          | 285                                     | 256            |
|                | 1927 | 148              | 144                          | 236                                     | 160            |
| Sweden         | 1921 | 211              | 243                          | 358                                     | 290            |
|                | 1929 | 134              | 176                          | 259                                     | 209            |
| Norway         | 1922 | 220              | 251                          | 262                                     | —              |
|                | 1928 | 150              | 157                          | 234                                     | —              |
| Finland        | 1922 | 1219             | 1184                         | 1214                                    | —              |
|                | 1929 | 1063             | 1262                         | 1714                                    | —              |
| France (Paris) | 1921 | 332              | —                            | —                                       | 374            |
|                | 1929 | 623              | —                            | —                                       | 696            |
| Belgium        | 1923 | 484              | 447                          | 694                                     | —              |
|                | 1929 | 848              | 863                          | 1570                                    | —              |
| Italy          | 1924 | 537              | 548                          | 463                                     | —              |
|                | 1929 | 480              | 543                          | 507                                     | —              |
| Germany        | 1924 | 137              | 146                          | 104                                     | 133            |
|                | 1929 | 137              | 158                          | 187                                     | 175            |
| Czechoslovakia | 1922 | 1334             | 1168                         | 928                                     | —              |
|                | 1929 | 881              | 856                          | 942                                     | 981            |
| Poland         | 1924 | 101              | 71                           | 135                                     | —              |
|                | 1929 | 194              | 150                          | 239                                     | 260            |

Source: Compiled from International Labour Office, *Studies and Reports*, ser. G, no. 3 (Geneva 1930).

building costs are not given, the index for prices of building materials and the hourly wages of building workers may be used. The figures for the various countries are computed on different bases and are therefore not comparable; nor are they perfectly accurate for each country by itself. Still they show clearly certain general tendencies: in a number of countries—Finland, Italy, Germany and Czechoslovakia—building costs and especially wages rose at the time when wholesale prices dropped or remained stationary; while in certain other countries, such as Belgium, they rose faster than the wholesale prices; in Sweden and Norway they declined more slowly than wholesale prices; while in Great Britain and the Netherlands although reduced much more than the general price level they still represent a larger increase over pre-war figures than general wholesale prices. A partial but probable explanation of this remarkable phenomenon is the fact that in so far as construction was aided by public subsidies no rigid profit and loss calculation was followed, which weakened the pressure upon the prices of building materials and particularly upon the wages of building workers. In certain instances the sudden launching of building projects generously financed from public funds actually raised the prices of building materials and wages. This was the case in Great Britain during 1920-21, where it led to extensive investigations and to the appointment of special commissions to control prices and to regulate the supply of building materials (1923 and 1925). It is also important that where credit out of the public treasury played a significant part in financing construction, residential building did not slacken in periods of prosperity, as it would under normal conditions, but continued to compete with industrial construction for materials and labor.

With the introduction of the New Economic Policy measures were taken to encourage the construction of new dwellings. In 1921 small houses with a value up to 10,000 rubles were returned to their owners and private individuals were again allowed to construct new small dwellings, being guaranteed the right of ownership of the building for a period of from forty-five to sixty-five years. Payments of water and light rates and of rent were reintroduced; rent was kept low, however, and scaled according to the earnings and social status of the tenant. Nevertheless, the housing shortage became ever more acute, largely on account of the rise in the urban population. In 1925 the government de-

cided upon an increase in rents for the purpose of insuring the maintenance of the existing houses, and rents were again raised in the two following years; in 1928 the expenditure for rent averaged 8 percent of the working man's budget. As the houses administered by the municipalities were particularly neglected, the formation of tenants' cooperatives to take over the house leases was favored after 1924. At the beginning of 1931 there were about 6,000,000 persons in these cooperatives, occupying about 35,000,000 square meters of housing area.

According to a census taken in 1927-28, 17.8 percent of houses used as dwellings were owned by the state; 81.8 percent (mostly primitive one-family houses of the urban and rural laboring population) were owned by private individuals; while 0.4 percent were owned by cooperatives. But almost all large buildings, containing no less than 46 percent of the total dwelling area, were the property of the state. The construction of new dwellings was controlled largely by the state authorities and by the building cooperatives (also financed by the state), which came into existence in 1924 and to which in 1931 some 400,000 families containing 1,500,000 individuals belonged. In 1929 of all the capital invested in new housing 52 percent was for state construction, 25.3 percent was for construction by cooperatives and 22.6 percent was for construction by private enterprise. The achievements of the cooperatives although slight so far have been on the increase. The expenditures for public housing construction rose from 419,000,000 rubles in 1928 to 582,000,000 rubles in 1930. On the other hand, the investment of private capital fell from 149,000,000 to 50,000,000 rubles. If the cost of a dwelling be estimated at 8000 rubles, there were only some 80,000 dwellings provided in the Soviet Union during 1930.

Among the buildings erected the two and multistory houses are increasing at the expense of the one-story type. As a rule the flats in the new buildings consist of from two to four rooms. A new type is the "house of collective living," designed for at least 400 persons and occasionally for as many as 800. While each occupant is provided with an area of 6 to 9 square meters for individual use, a great deal of space is allotted to communal activities, such as dining rooms, club-rooms, kindergartens, lecture rooms and solaria. Family life in such houses is supposed to be virtually eliminated and the position of the woman, thus emancipated from all household duties, is radically changed. According to recent programs,

after 1931 at least 50 percent of all dwellings to be erected will have no private kitchens.

Despite the ambitious plans for new building and for the laying out of model cities at the new centers of production the housing shortage has apparently increased during the past few years. At the beginning of 1931 the available dwelling area in 1920 cities was 171,000,000 square meters for a total population of 31,000,000, or a per capita area of only 5.7 square meters. Housing construction was hampered not only by lack of capital and by inefficiency of organization but also by the shortage of skilled labor and building materials and by inadequate transportation. It will doubtless be long before the general housing standard in Russia reaches the level considered adequate in western Europe.

Other countries which rejected socialist or semisocialist programs of housing construction could do no more than prepare for a return to the system of competitive building. After the currency was stabilized the rents of the old dwellings had to be raised gradually to the level approximating the cost of production of new houses. Some indication of the adjustment of the prevailing rents for old houses to the general price level is given in Table III, in which the rent index number is presented as a percentage of the corresponding index of retail food prices.

TABLE III

RENT INDEX NUMBERS ON A RETAIL FOOD PRICE BASE,  
1921-29

|                                    |     | 1923  | 1925  | 1927 | 1929 |
|------------------------------------|-----|-------|-------|------|------|
| Great Britain (630 municipalities) | 67  | 91-94 | 89    | 98   | 104  |
| Germany (72 municipalities)        |     | 3.2   | 48-58 | 72   | 78   |
| Sweden (49 municipalities)         |     | 102   | 111   | 129  | 133  |
| Norway (31 municipalities)         | 54  | 81    | 63    | 105  | 111  |
| Denmark (100 municipalities)       | 60  | 85    | 85    | 124  | 132  |
| Finland (21 municipalities)        | 45  | 95    | 115   | 132  | 134  |
| Amsterdam                          | 58  | 93    | 102   | 109  | 111  |
| Milan                              | 27  | 42    | 66    | 118  | 75   |
| Paris                              | 34  | 58    | 49    | 47   | 51   |
| Prague                             | —   | 25    | 28    | 30   | 39   |
| Vienne                             | 3.9 | 3.5   | 8.4   | 11   | 12   |
| Warsaw                             | 7.9 | 6.5   | 32    | 39   | 42   |

It is to be observed that by 1929 the average rent in Great Britain attained the level of retail food prices but remained below the level of building

costs. In Germany the rentals in old houses were raised by degrees to the general price level of consumption goods without, however, reaching the level necessary to insure a profit from private construction. At the same time a tax was imposed on rentals which appropriates to the municipalities and *Länder* a part of the increase, the remainder being sufficient to cover the cost of maintenance and management, to provide for interest and amortization on the revalorized mortgage indebtedness and to yield a fair return on the owner's equity. A part of the proceeds of this tax is used in extending financial support to new residential construction. In several other countries the permitted increase in rent is allocated in a similar fashion.

The attempts to combat high building costs were on the whole unsuccessful. England and many other countries endeavored during the period of inflation to regulate prices of building materials, but such efforts were soon abandoned. At times, however, municipalities or associations of cities took over plants in which they produced their own building materials or established agencies to purchase them. The endeavors to reduce the cost of construction by the use of new materials (e.g. steel, wooden bricks), by improvements in the methods of building (mass production of standardized parts), by the relaxation of building regulations and by the layout of large settlements consisting of standardized dwellings and houses were of greater importance. In certain countries, notably England and Germany, special commissions were created to study the rationalization of house building.

The provision of the necessary capital was even more of a stumblingblock than building costs, particularly in countries suffering from a general capital shortage, where the long term loans required for housing construction involved a comparatively high interest rate. The difficulties of this situation were increased by the disinclination, general among capitalists of the post-war period, to make long term investments. Thus public subsidies often proved an insufficient stimulus to private building, particularly in central Europe; states were sometimes compelled to supply part of the capital on easy terms.

Under such circumstances governments found it necessary to encourage new construction, which involved a number of decisions on matters of policy, such as that of raising housing standards or of housing in rural districts. The latter question was closely connected with the general problem of urbanization and of the balance be-

tween agriculture and industry. Since most countries suffered during this period from an agricultural depression, rural housing was generally neglected while governments concentrated on encouraging building in large cities and industrial centers. Although the methods employed in promoting residential building differed in the various countries, practically everywhere—in Great Britain as well as on the continent—local authorities embarked shortly after the end of the war upon a program of erecting small dwellings, in which they were frequently aided by the central government. Such direct participation in building gradually ceased; public bodies came in time to confine themselves to grants of financial aid to public service housing societies and to private builders. In Great Britain, the Netherlands, Scandinavia, Czechoslovakia and Germany the process was particularly marked. Single municipalities and their associations came to be concerned primarily with ascertaining the housing requirements of their localities, determining the type of housing needed, mapping out building programs in accordance with the available capital and labor, providing directly or mediating in the provision of financial aid and adopting measures for the maintenance of public health standards.

In Great Britain assistance provided by the local authorities soon enabled private builders to handle a considerable percentage of construction. In central Europe and the Scandinavian countries, however, public service societies, especially building cooperatives, played a more important role. Where such societies were not in existence before the war they were often estab-

lished after the war at the initiative of the municipal administrations. Large industrial concerns also frequently made use of such associations to provide housing for their employees. In France, Belgium, Italy and Spain, on the other hand, the task of promoting residential building was entrusted to administrative bureaus or commissions, often of pre-war origin. These authorities acted as intermediaries between the state, which furnished the funds for subsidy and credit grants, and the private builders. In France, for example, the central organization is the Conseil Supérieur des Habitations à Bon Marché, which acts through local offices attached in the form of departments to provincial, local and municipal administrations. In Belgium the central organization is a government owned corporation organized in 1919 and known as the Société Nationale des Habitations à Bon Marché. Local and regional activities are in the hands of other corporations, with shares distributed among the state, the provinces, municipalities, welfare institutions and private groups. Such local corporations, with the participation of the central and local governments, credit institutions and public service societies, have also been organized in Germany in recent years.

Table IV, based in part upon estimates, shows that in the post-war period non-private building was responsible for fully one fourth of all new construction. It must also be borne in mind that private enterprise in many countries was able to undertake building projects only because it received subsidies from public funds; this was the case wherever an adjustment of rentals in old buildings to the general price level was perma-

TABLE IV  
POST-WAR BUILDING ACTIVITY BY VARIOUS BODIES IN EUROPE

| COUNTRY           | AREA COVERED              | PERIOD COVERED | PERCENTAGE OF DWELLINGS ERECTED BY |                          |                  |
|-------------------|---------------------------|----------------|------------------------------------|--------------------------|------------------|
|                   |                           |                | PUBLIC AUTHORITIES                 | PUBLIC SERVICE SOCIETIES | PRIVATE BUILDERS |
| England and Wales | Whole country             | 1919-29        | 30                                 | —                        | 64*              |
| Netherlands†      | Whole country             | 1921-29        | 11                                 | 18                       | 71               |
| Sweden‡           | All towns                 | 1919-28        | 10                                 | 13                       | 77               |
| Denmark           | All towns                 | 1920-29        | 16                                 | 31                       | 53               |
| Norway            | Five most important towns | 1914-28        | 47                                 | 29                       | 24               |
| Finland           | All towns                 | 1924-28        | 2                                  | 23                       | 77               |
| Germany           | Whole country             | 1927-29        | 11                                 | 31                       | 58               |
| Czechoslovakia    | Towns over 10,000         | 1928-29        | 10                                 | 16                       | 74               |
| Austria           | Whole country             | 1914-28        | 73                                 | 9                        | 18               |
| Poland            | Warsaw                    | 1922-29        | 5                                  | 15                       | 80               |

\* Includes construction by public service societies.

† Includes rebuilt dwellings.

‡ Includes rebuilt dwellings for the years 1921 to 1925.

Source: International Labour Office, *Studies and Reports*, ser. G, no. 3 (Geneva 1930) p. 45.

nently prevented. Nor would unaided private building of small dwellings have been possible even without the continuation of rent restrictions in those countries where the shortage of capital was reflected in an extraordinary rise of interest rates. In pre-war Germany, for example, the cost of erecting a worker's dwelling was some 6000 marks; the annual rent amounted to 400 marks, which yielded 5 percent on the invested capital and left about 100 marks for maintenance and management. But in the post-war period following the stabilization of the currency the capital cost of a similar dwelling amounted to about 10,500 marks, while the interest rate averaged 10 percent; the rent called for was thus about 1200 marks, including maintenance and management, which was obviously far beyond the worker's budget.

The problem of obtaining public funds to finance building was solved differently in the various countries. In Great Britain, for example, such funds were provided out of the current budget. In some countries special taxes were introduced, levied in many cases on the permitted increase in rentals in old houses. In others public loans were floated either by the state itself or, as in Belgium, by a government owned corporation. In this way most countries succeeded in providing large sums of money for housing construction. The manner in which these public funds were actually made available differed. The simplest method involved the erection of dwellings by a public body, usually a municipality. This course was commonly followed only at the beginning of the post-war period to meet the most urgent needs, as experience has shown it lacks safeguards against the uneconomic use of capital. In Russia and in the city of Vienna this procedure was employed as a matter of principle. Somewhat related to this system was that of giving lump sum subsidies to private builders to cover that portion of the invested capital which could not earn interest and be amortized on the basis of the expected rental income of the house; the amount of subsidy was regulated according to the cost of construction or the type of dwelling. This method was used in England, Germany and elsewhere during the first post-war years but was usually abandoned because it led to the wasting of public funds. A variant of this system was employed in Belgium, where building cooperatives erecting one-family houses were given grants to facilitate the disposal of such houses. Another form of subsidy was the guaranty to builders of annual payments for more or

less lengthy periods in order to cover deficiencies in rental incomes. This type of grant was used chiefly in England during the first period of housing aid from 1919 to 1921 and in modified form in the legislation of 1923 and 1924. The effectiveness of such assistance depends upon a careful adjustment of grants and upon the availability of funds in the private capital market for building purposes. Elsewhere, particularly in France and Belgium, the state borrowed in the market for the purpose of providing private builders and public service societies with funds on reasonable terms; this was calculated to insure a permanent reduction in rents. In Czechoslovakia and Austria (outside of Vienna) the provision of loan funds on advantageous terms was assured by a state guaranty of the amortization and interest charges on loans made to private builders; such guaranty was secured by a portion of the rental income. Finally, where the private capital market was not strong enough to supply the necessary funds, it devolved upon the state to do so directly; since the terms on which such public loans were granted were more favorable than those ordinarily obtained from private sources, the differential amounted in practise to a subsidy. In many countries on the continent, notably Germany and Austria, the interest charge on such subsidy loans was much lower (1 to 2 percent) than the prevailing rate on prime mortgage loans (8 to 10 percent).

The task of furnishing large amounts of capital for housing construction was also assumed by special institutions, such as the building societies in Great Britain and the so-called building savings banks (*Bausparkassen*) first instituted in Germany after 1924. The credit societies found in the Latin countries also played a significant role; they obtained capital for building loans in some cases out of public funds and in others by their own bond issues. Still a third type is represented by the housing banks in the northern countries (Norway, Sweden, Finland); their loans are guaranteed by the state and at times they obtain direct financial assistance from the government.

Other financial measures intended to encourage residential building involved the grant of tax exemptions; those ordinarily allowed to the public service societies were exceptionally liberal. In the Latin countries, where the grant of direct aid was usually reserved for such groups alone, tax exemptions constituted the most important aid to the private builders.

In central Europe (Germany, Austria and

Czechoslovakia) and partly also in the Netherlands and Great Britain the public authorities sought to encourage building by providing house sites under very advantageous conditions. A German survey covering 173 municipalities shows that in 92 cities about two thirds of the total land used for housing construction during the period from 1919 to 1926 was furnished by the municipal administrations, as a rule to public service societies. To prevent the misuse of such lands for speculative purposes the public authorities forbade their resale or reserved the right of repurchase or consented to allocate them to builders only under a lease. In the Latin countries the state and the municipalities pursued this policy of land grants only on a small scale.

In most countries strict regulation and supervision of construction went hand in hand with public aid. Careful supervision was necessary to assure the economical employment of the public funds, the maintenance of adequate health and sanitation standards and finally the occupancy of these subsidized dwellings by the working classes for whom they were intended. In many cases therefore the maximum allowable costs for construction were fixed in advance, as were the maximum number of rooms, the maximum volume per room and the maximum proportion of area to be covered by the building. As a rule rent was also fixed and the contracts were so framed as to prevent unjustifiable profits upon the sale of the house. Real advances in physical comforts were thus achieved: toilets, bathing facilities, modern lighting and heating equipment and scientifically planned kitchen layouts became increasingly common in the European dwelling even of the cheapest kind. On the other hand, the number of rooms to a flat was reduced. Private construction was profoundly affected by this evolution; in many countries large flats built before the war remain unoccupied. Although the process is not yet completed, it is apparent that real changes have taken place in city and neighborhood layouts and in the grouping of houses as well as in the principles governing their design and equipment.

The effectiveness of the attempts to overcome the housing shortage in the post-war period differed considerably from country to country. In Great Britain in the first decade of the century no more than 130,000 dwellings were erected annually even in the years of the greatest building activity; in the years immediately preceding the war the total was only about 60,000 annually. Yet during the period from 1919 to 1929 the

number of dwellings constructed annually averaged almost 150,000; in the years 1926, 1927 and 1929 it reached more than 200,000; thus almost 1,600,000 dwellings were erected in the entire period, among them 600,000 by local authorities and 425,000 by subsidized private enterprise. This policy of subsidies effected a permanent annual burden on the Treasury alone, amounting in 1928 to £3,800,000. On March 31, 1930, the loans floated by the local authorities for the financing of their own building schemes totaled £400,000,000. After the most acute phase of the housing shortage had been dealt with British housing policy concentrated upon eliminating slums in industrial cities and raising standards in rural districts.

The Netherlands succeeded to a large extent in overcoming its housing shortage; building from 1921 to 1929 resulted in an estimated excess of 93,000 dwellings over the number required by population growth. This construction was largely the work of private enterprise. Following the restriction of the policy of public aid houses erected exclusively with private funds required a greater rent expenditure than the average worker's budget could afford.

In Switzerland there was never a serious housing shortage. Up to 1926, when the tenant protection ordinances were repealed, the republic had contributed, particularly to public service societies, about 32,500,000 francs to subsidize building, while 11,200,000 francs were provided as loans. In addition similar amounts were provided by the several cantons.

In Sweden also the housing shortage was adequately overcome. After 1920 there was employed a system of public credit grants, the extent of which diminished with the expansion of private enterprise. In Denmark public and especially non-profit housing construction was much more important than in Sweden in this small country 64,000 dwellings were erected in a few years (up to 1927), more than half with the aid of the state and the municipalities. In Norway conditions were much worse despite the promotion of building by the state and by municipalities. Building by private enterprise has been comparatively small; because of the high building costs it has been impossible to erect dwellings to rent at a sum within the means of the average worker.

In Italy it was only after the stabilization of the lira that housing construction revived sufficiently to take care of current needs. Non-profit building was guaranteed the necessary



credits at easy terms. Compared with the pre-war period considerable progress was made in the size and sanitary equipment of small dwellings, but the complaint was frequently voiced that the rents were so high even in the houses constructed with government aid as to require about 23 percent of the worker's income.

France had to meet not only the problem of general housing but the task of organizing the construction of new dwellings in the regions devastated by the war. In the war zones almost 1,500,000 dwellings, some of them well planned and modern in design, were erected between 1920 and 1928. The campaign against the general housing shortage began, however, only after the stabilization of the currency. It was carried on with the aid of public credits and direct subsidies by the communes and by the public service corporations. Since statistical data are not available it cannot be determined how far the estimated deficit of 500,000 dwellings has been eliminated. Belgium had not succeeded in overcoming its housing shortage even as late as 1931. Only about 76,000 dwellings, erected between 1919 and 1929 with the aid of public funds, were available for the poorer classes, while their requirements actually called for about 130,000 new dwellings.

In Germany following the stabilization of the currency in 1924 the achievements in housing construction were quite extraordinary. Of the dwellings built in 1928 and 1929 in cities with more than 50,000 inhabitants 78 percent had been made possible by some form of state aid. During the years 1924 to 1930 no less than 16,700,000 marks was invested in housing construction. Approximately half this sum came from public funds, largely from the special house rent tax (*Hauszinssteuer*), and was advanced to builders in the form of mortgage loans at low interest rates. Building increased rapidly following 1924, the net increase totaling some 1,400,000 dwellings. More than 300,000 dwellings were erected annually after 1927, while the housing requirement for the natural increase of population was officially estimated at 225,000 dwellings. An endeavor was made to avoid the multistory mass tenement by the selection of new types; and compared to the pre-war period extraordinary improvements were achieved in the sanitary standards of the new dwellings.

Despite the subsidies from public funds the rentals required in new houses were extremely high. A typical worker's flat in Berlin, the average cost of which was 10,000 marks (including

land) in 1929, may serve as an example. The normal cost of financing, allowing for a cheap municipal mortgage and two mortgages from private sources at interest rates from 10 to 13 percent, amounts to about 640 marks per annum. To this is to be added a return on the owner's equity and an allowance for maintenance and management cost. For this reason the monthly rent in Berlin in 1930 for a newly erected two-room dwelling was 60 to 65 marks and for three-room flats 84 marks, while the average monthly wage of the skilled worker was 226 marks and of the unskilled worker 175 marks. Although the worker occupying an old dwelling spent but 12 percent of his income for rent, the occupant of a new dwelling—which, it is true, was much better equipped—was called upon to make an expenditure of 34 to 36 percent. Because the new dwellings were really not suited to the purchasing power of those classes of the population for whom they were intended, builders were compelled to resort to much cheaper types of flats as well as to alter the system of financing. This development was interrupted by the onset of the crisis in 1930 before slums had been eliminated in the big cities, evil housing conditions of the rural workers abolished or the problem of housing large families solved.

In Czechoslovakia political conflicts retarded the formulation of a governmental housing policy. Some 140,000 dwellings were constructed during the years 1920 to 1929 in cities with more than 10,000 inhabitants, but a survey of these cities made at the end of 1929 indicated a shortage of more than 64,700 dwellings. The need for housing was still therefore very great; no less than 17 percent of all families in the five larger cities took in boarders.

Housing conditions were very deplorable in Poland. In 1927 it was officially estimated that for the entire country there was a shortage of about 1,000,000 dwellings (as compared with existing totals of 1,300,000 in the cities and 3,500,000 in the rural districts). Almost half of all urban living quarters were overcrowded. Because of lack of funds several building cooperatives have been compelled recently to construct flats for workers containing merely a living room, kitchen and a side room with no window. The situation was not much better in the cities of Hungary or in those of the Balkan countries.

In the years 1930 and 1931 the depression brought about a serious interruption in building and in the development of housing policies.

Construction stopped almost everywhere, especially where it depended upon public aid; thus residential building failed to function as a stabilizing agency which would smooth out the cyclical fluctuations in business and contribute toward a revival of general economic activity. In many countries doubts were cast upon the effectiveness of the housing policy followed during the post-war decade. It was pointed out that the retention of rent restrictions for old dwellings resulted in an economically irrational distribution of tenants and created a false impression of housing needs. In some quarters it was insisted that it had been unwise to extend vigorous support to housing construction in a period of relatively high building costs, especially since the rents required by the new houses were too high for the worker's budget. It was also demanded that much cheaper and simpler types of housing be selected and that elaborate improvements in housing standards be dispensed with temporarily. The validity of all these objections, however, cannot at present be gauged effectively.

The future of housing policies must depend necessarily upon conditions of business, shifts in income distribution and population trends. Yet there can be no doubt that as a result of post-war developments the provision of adequate hygienically equipped dwellings for the poorer classes has become a permanent object of government and municipal policy in most European countries. Rent laws and the organization of building enterprise have undergone such profound changes that the ruthless exploitation of poorer tenants by builders and house owners has, it seems, become a thing of the past. The new types of settlement, the technical improvements, the innovations in housing construction and in the character of dwellings and materials—all that is implied in the phrase rationalization of housing—represent progress of a very real sort, the full benefits of which will become apparent only after the present crisis has passed.

KARL PRIBRAM

UNITED STATES. Differences between housing conditions in Europe and the United States are superficial. Differences between European and American methods of dealing with them are profound. Some of these differences are due to constitutional limitations on the functions of the American national government, others to prevailing social and economic theories.

The distinction between restrictive and constructive measures to improve housing may be

said to sum up the contrasting points of view prevalent in the United States and in Europe. The first is the predominant characteristic of American policy. Restrictive or regulatory measures, involving an exercise of the police power in the interests of public health, morals, safety or welfare and calling for adequate provisions for light, ventilation, repairs, cleanliness and protection against fire, are to be found in the ordinances of most cities and in the statutes of a number of states. Europe does not deviate markedly from this practise except that in most European countries legislation and administration are on a national basis as opposed to America's federalistic one. On the other hand, constructive measures for the purpose of bridging the economic gap between small incomes and the cost of adequate housing are a distinctly European development. In Europe housing for the masses of the population has come to be regarded as a public utility, as much the same sort of community responsibility as provisions for adequate water supply, sewage systems and street paving. Dwellings are necessities of modern life which are quite beyond the effective control of the average working class family.

Consonant with this attitude there have evolved in Europe the following public housing policies: the granting of state credits at low interest rates to individuals, public utility societies or municipalities; state or municipal building of houses for sale or for rent; tax exemption of new low rent houses for a limited term; and in the post-war period the granting of outright subsidies to non-profit building groups. Most Americans, on the other hand, cling to their pioneer philosophy as far as housing policy is concerned, believing that every self-supporting family can and should be housed as it is clothed and fed by its own unaided efforts. Whether this will prove to be a permanent attitude or only a passing stage in the social and economic evolution remains to be seen. It is important to note that in the United States the only measure of constructive housing which has been accorded any degree of recognition is that of granting tax exemptions to limited dividend housing companies which are renouncing a speculative profit.

The essential unity of the world wide housing problem is striking. Neither in the United States nor elsewhere does private enterprise unaided provide a satisfactory standard of housing for all or for even a majority of the people. In the United States new residential building is carried on for a comparatively small proportion of the

population. The remainder of the country's urban dwellers are compelled to fall back on the older, shabbier and inconveniently located houses formerly occupied by the well to do or to reside in slum areas. Here are located the oldest and worst houses, many of which are unfit for human habitation. Numerous housing surveys made during both the pre-war and the post-war periods show that nearly every community has its area of bad housing. In these districts overcrowding is the rule, rooms are dark or inadequately lighted, water and sanitary conveniences are lacking and dilapidation, excessive fire risks, basement and cellar dwellings are common.

A set of simple calculations may be set down to prove that only a small part—perhaps not more than one third—of American families have incomes large enough to permit the financing of new building or the occupation of new constructions. Fully one third of American families have incomes not in excess of \$1200 annually; a second third have incomes between \$1200 and \$2000; only the top third have incomes in excess of \$2000. In 1929 the average building cost (exclusive of land, promotion and financing costs) of one-family dwellings in 257 American cities was \$4915. But even if by eliminating all speculative profits the selling price could be fixed at \$4500, the purchase of such a house with the aid of a \$3000 first mortgage from a building and loan association would still require an outlay of \$585 annually for interest, amortization, taxes and the like. The rental of such a house with profit to the owner would not be appreciably less. It is plain that such an expenditure is above the proper limit of a family with an income of \$2000 or less.

Bad housing moreover is by no means limited to urban communities. Farm homes commonly lack conveniences. In a study of white farm families in eleven states made by the Department of Agriculture in 1926 it was indicated that 75 percent of the homes had no modern improvements whatever and that only 5 percent were completely modern. Federal Children's Bureau studies of rural housing in many parts of the United States have shown that an appalling proportion of white as well as Negro farm families live in one and two-room cabins, often with no sanitary conveniences of even the most primitive kind and sometimes without glass in the windows.

The basic circumstances determining housing standards in any nation are the size of family income, the proportion of income at various levels

that can be devoted to housing and the cost of residential building. Actual figures are relatively unimportant; the ratios existing among these three factors are the important considerations. It has already been noted that low income levels compel the greater part of the American population to live in old or slum houses. As for rent, it has been accepted in the United States that 20 percent of income is a normal proportion to devote to this purpose. At the health and decency level this is true. But where income is particularly low or the size of the family large, the proportion that must be spent for food increases at the expense first of savings and then of rent. For a considerable fraction of the population rent cannot in fact exceed 10 to 15 percent of income. In different sections of the country there are wide variations in building costs, but where the general level of wages and salaries and the cost of living are high building costs are also high. The general stability of the relationships between the cost of housing (both building cost and rent), cost of living and average labor income during the post-war period is shown in Table 1.

TABLE I

INDEX NUMBERS OF BUILDING COST, RENT, COST OF LIVING AND LABOR INCOME IN THE UNITED STATES, 1918-30

| YEAR | AVERAGE BUILDING COST OF NEW DWELLING PER FAMILY | RENT  | COST OF LIVING | AVERAGE WAGE AND SALARY INCOME PER EMPLOYEE |
|------|--|-------|----------------|---|
| 1918 |  | 100.2 | 174.4          | 152   |
| 1919 |  | 125.3 | 199.3          | 168   |
| 1920 |  | 151.1 | 200.4          | 203   |
| 1921 | 100.0  | 161.4 | 174.3          | 160   |
| 1922 | 101.5  | 161.9 | 169.5          | 175   |
| 1923 | 104.6  | 166.5 | 173.2          | 192   |
| 1924 | 110.3  | 168.2 | 172.5          | 193   |
| 1925 | 113.1  | 167.1 | 177.9          | 199   |
| 1926 | 112.0  | 164.2 | 175.6          | 205*  |
| 1927 | 112.7  | 160.2 | 172.0          | 208*  |
| 1928 | 111.7  | 155.9 | 171.3          |   |
| 1929 | 115.7  | 151.9 | 171.4          |   |
| 1930 | 111.1  | 146.5 | 160.7          |   |

\* Preliminary figures.

Source: The average building cost index number, with 1921 as a base, is taken from *Monthly Labor Review*, vol. xxxii (1931) 944. The rent and general cost of living index numbers are those compiled by the United States Bureau of Labor Statistics with 1914 as a base. They are published in every issue of the *Monthly Labor Review*; those given here are for December of the corresponding years. The average wage and salary income index, with 1913 as a base, is taken from Conference on Unemployment, 1921, *Recent Economic Changes in the United States*, 2 vols. (New York 1929) vol. II, p. 771.

While there was doubtless much inadequate and insanitary housing in colonial times, consciousness of the problem is barely a century old.

The first mention of bad housing as a cause of epidemics is found in a sanitary report written by Gerritt Forbes for New York City in 1834; and the second, which was more detailed and insistent, in a report of Dr. John H. Griscom, also for New York, in 1842. As in Europe, the growth of the housing problem came with the development of the factory system, which drew the workers to the towns, where no suitable housing accommodations awaited them. In American cities the steady stream of European immigration added to the crowding and pressure.

A series of investigations and reports followed Dr. Griscom's, but it was not until 1866 that the first tangible results appeared in New York with the creation of the city Health Department, followed in 1867 by the first tenement house law. This statute forbade cellar dwellings unless the ceiling was at least a foot above ground. It required also a water closet or privy vault for every twenty persons, city water in every house or yard and authorized the Health Department to enforce repairs. In new tenements there was to be a rear yard at least ten feet deep. It was not until 1879 that the building of rooms without windows was prohibited; from this requirement emerged the so-called dumb-bell tenement with its cheerless interior court.

A radical upward revision of the tenement house law occurred in 1901, following an elaborate investigation made by the Tenement House Commission appointed by the governor in 1900, of which Robert De Forest and Lawrence Veiller were respectively president and secretary. The revised law provided for a fairly high minimum standard in structure and sanitation for buildings to be erected or altered in the future, a much lower standard for buildings already in existence and a uniform standard of maintenance (cleanliness and repairs) for both old law and new law tenements. In new tenements the law banished the foul air shafts and required adequate open spaces in courts and rear yards, light and ventilation for each room and proper safeguards against fire. At the same time an amendment to the city charter created in New York City a Tenement House Department to administer the Tenement House Law.

That this statute, although a model law in its day, was merely restrictive and had no effect in speeding the demolition of existing obsolete structures is demonstrated by the following figures. According to the first report of the Tenement House Department there were 82,000 old law tenement houses in New York City when the

new law went into effect on January 1, 1902. The tenth report of the department shows that there were still 68,619 on January 1, 1930. A demolition of 13,381 houses in 28 years gives an average of less than 500 annually. At that rate it will still take more than 140 years for the last of them to go.

Here and there model tenements were built by philanthropists, notably those erected in Brooklyn between 1878 and 1890 by Alfred T. White. Other efforts were those of limited dividend companies, the chief examples of which were the Boston Cooperative Building Company organized in 1871, the City and Suburban Homes Company of New York in 1896 and the Washington Sanitary Improvement Company in 1897. The Octavia Hill Association of Philadelphia, whose work lay chiefly in the repair and management of old houses, was founded in 1896.

The period between the passage of the New York Tenement House Law in 1901 and the entrance of the United States into the World War was marked first by the enactment of tenement house laws in various parts of the country based on New York's statute and later by the adoption of broader codes known as housing laws, which dealt with all classes of dwellings. Typical examples of the earlier stage were the Pennsylvania tenement house law for second class cities (Pittsburgh and Scranton, 1903) and the New Jersey tenement house law of 1904. The best examples of the later period include the housing code of Minneapolis (1917) and the state laws of Michigan (1917) and Iowa (1919). Lawrence Veiller of New York furnished the leadership during this period and his model act served generally as a guide for progressive state legislation. It is interesting to note that during the 1920's not a single new restrictive housing law, state or local, was enacted in the United States. Yet this type of legislation had been the heart of the housing program of reformers in the preceding twenty years.

In 1918 the federal government found itself obliged to undertake the construction of houses and sometimes of whole new communities as part of its war industries program. The housing work of the Ordnance Department, which put up temporary structures, was unimportant. The Housing Division of the Shipping Board had an appropriation of \$75,000,000, and the United States Housing Corporation organized under the Department of Labor had \$100,000,000. Both employed excellent architects and town planners and built permanent modern dwellings

in well planned communities or subdivisions. The Armistice cut short their work, but the Shipping Board completed 8049 single family houses and 1119 flats in 23 communities at a cost of more than \$66,000,000. The Housing Corporation finished 5606 single family houses in 28 developments, which were ultimately sold to individual home seekers at an average price of \$3165 per house. Preference was given to occupying tenants and the terms were 10 percent cash and the balance by monthly instalments at 6 percent interest. While the government's entry into housing construction was purely a war measure indicating no change for peacetime policy, it had an important nation wide influence in setting higher standards for small house design and community layout than had previously prevailed. The experience also demonstrated that government housing could be produced and administered in the United States without scandal or extravagance.

On the other hand, government restrictions, high building costs and the appearance of new fields for capitalistic enterprise suspended private building during the war years 1917 and 1918 and kept it below normal during the three years following the Armistice. By 1921 there existed an acute housing shortage in the United States, which was conservatively estimated at 1,250,000 dwellings. With the close of 1922, however, the volume of residential building was already reaching the pre-war level (400,000 new dwellings annually); by 1928 the shortage had been wiped out in a numerical sense. Post-war building records (see Table II) show an important deviation from the pre-war emphasis on

one-family dwellings. During the 1920's apartment house construction was becoming increasingly significant until in 1928 it furnished more than one half of the new dwellings provided. During 1929 and 1930, however, the drift was in the opposite direction. The average building cost of new dwellings did not vary markedly from class to class or from year to year except for one-family houses, for which a tendency toward rising cost is apparent. Thus the average building cost for one-family houses was \$3972 in 1921, \$4134 in 1922, \$4915 in 1929 and \$4993 in 1930. The average cost for multifamily dwellings in the same years was \$4019, \$3880, \$4402 and \$3857.

While it lasted the post-war housing shortage resulted in congestion, the doubling up of families, occupancy of dwellings unfit for habitation and a general relaxation in standards of repair on the part of landlords and in law enforcement on the part of city authorities. Houses, however bad, could not be ordered vacated when there was literally nowhere for the tenants to go. The shortage also had the effect of raising rents and multiplying evictions. As a result a few jurisdictions—Maine, Massachusetts and Wisconsin during the war years; Washington, D. C., and New York after the war—enacted measures for temporary rent control. New York, to cite a single example, passed in 1920 a group of emergency rent laws forbidding evictions if the tenant set up the defense that the rent demanded was unreasonable and the agreement under which the landlord sought to recover it was oppressive. The municipal courts were ordered to find an increase of 25 percent in rent as presumptively unreason-

TABLE II

POPULATION, EXPENDITURE FOR NEW RESIDENTIAL BUILDINGS AND FAMILIES PROVIDED FOR IN DIFFERENT TYPES OF DWELLINGS IN 257 IDENTICAL CITIES WITH A POPULATION OF 25,000 AND OVER, 1921-30

| YEAR | POPULATION AS ESTIMATED BY THE CENSUS BUREAU | ESTIMATED EXPENDITURE FOR NEW RESIDENTIAL BUILDING (IN \$1000) | TOTAL NUMBER OF FAMILIES PROVIDED FOR | PERCENTAGE OF FAMILIES PROVIDED FOR IN |                       |                        |
|------|--|--|---------------------------------------|--|-----------------------|------------------------|
|      |  |  |                                       | ONE-FAMILY DWELLINGS                   | TWO-FAMILY DWELLINGS* | MULTIFAMILY DWELLINGS† |
| 1921 | 36,575,118                                   | 937,353  | 224,545                               | 58.3                                   | 17.3                  | 24.4                   |
| 1922 | 37,511,516                                   | 1,612,353  | 377,305                               | 47.5                                   | 21.3                  | 31.2                   |
| 1923 | 38,447,913                                   | 2,000,987  | 453,673                               | 45.8                                   | 21.2                  | 33.0                   |
| 1924 | 39,384,311                                   | 2,070,277  | 442,919                               | 47.6                                   | 21.5                  | 30.9                   |
| 1925 | 40,320,708                                   | 2,461,546  | 491,222                               | 46.0                                   | 17.5                  | 36.4                   |
| 1926 | 41,257,106                                   | 2,255,095  | 462,214                               | 40.7                                   | 13.9                  | 45.4                   |
| 1927 | 42,058,897                                   | 1,906,003  | 406,095                               | 38.3                                   | 13.4                  | 48.3                   |
| 1928 | 42,767,125                                   | 1,859,430  | 338,678                               | 35.2                                   | 11.1                  | 53.7                   |
| 1929 | 43,665,235                                   | 1,433,112  | 244,394                               | 40.2                                   | 11.4                  | 48.5                   |
| 1930 | 44,850,467‡                                  | 601,270  | 125,322                               | 45.7                                   | 12.1                  | 42.2                   |

\* Includes one-family and two-family dwellings with stores.

† Includes multifamily dwellings with stores.

‡ Actual enumeration.

Source: *Monthly Labor Review*, vol. xxxii (1931) 943, 945.

able; the courts were empowered in a dispossession proceeding to fix the rents for a one-year term on the basis of a fair return on the whole value of the property. These laws were reenacted with modifications several times during the decade of the twenties and in their final form applied only to dwellings renting at \$10 a room per month or less in New York City. In 1929 the state legislature permitted the rent laws to lapse.

In an effort to stimulate new building tax exemption was resorted to in a few jurisdictions, the most important of which was New York City. Under an enabling act of 1920 adopted by the city in 1921 New York granted tax exemption until 1932 to a limit of \$5000 of building cost per one-family house, \$10,000 per two-family house and \$1000 per room in apartments, with a maximum of \$5000 per family unit, this to apply to all residential construction except hotels started before April, 1922 (later extended to 1924), and completed within two years. No control of rental or sales price was attempted nor were standards imposed beyond the requirements of the existing tenement house law and building code. This negative subsidy cost the taxpayers of New York City over the ten-year period close to \$200,000,000—a sum substantially exceeding the total capital expenditure for post-war housing (by public building or grants to private builders) of the London County Council. It is true that the device of tax exemption was an important factor in eliminating New York City's numerical housing shortage, for over the decade 1920-29 there was a net increase of 616,328 dwellings. But the new construction could be acquired or rented only by the top economic third of the population; this costly program of indirect subsidy in no way benefited the health and standards of living of the average working class family.

The progress in city planning achieved in recent years should have a favorable effect on the housing of the future. The part of the city plan most directly related to housing is zoning, which not only conserves residential neighborhoods from intrusions by business and industry but limits the height of buildings and requires open spaces about them in the interest of light and air. The phenomenal growth of zoning in the United States since 1916, when New York City's zoning ordinance was adopted, has taken place unfortunately at the expense of further development of restrictive housing legislation. While their fields overlap in the matter of light and air requirements, each does many things outside of

the other's sphere, and adequate protection would call for both. To January 1, 1931, there were 981 zoned communities in the United States, having an aggregate population of 46,000,000.

Suburban residence has increased with the use of automobile as well as rail and bus facilities. But if the lessons of regional planning are heeded, this tendency will be checked in the future by the systematic removal of industries and their workers from the crowded cities to new satellite towns planned from the start for healthful and convenient living. A rational distribution of population would lessen rather than increase the amount of daily going and coming between work place and home, which involves so much waste of time, money and vitality. Slum clearance, also logically a part of the city plan, is a familiar municipal function in Great Britain and the Netherlands and to a lesser extent in other European countries. It has been increasingly talked of in the United States in recent years but has thus far not been put into practise here.

Efforts to reduce the cost of housing in the interest of the lower income groups might be directed to any or all of the elements entering into the purchase price of a home. When a family buys a home, approximately half of the purchase price represents the house itself fairly evenly divided between materials and labor. Where land values are normal, about 20 percent represents the lot on an improved street and 30 percent goes for financing, sales cost and entrepreneur's profit. There has been much talk about doing for the working man's home through standardization of parts and quantity production what Henry Ford did for his models T and A; but the movement, as far as housing is concerned, has been so conspicuously lacking in result as to suggest that there is something faulty with the analogy.

In those European countries where cooperative housing is extensively practised by lower income groups it is made possible by long term, low interest bearing loans from government sources. In the United States cooperative housing has made its appearance, but because it has not the advantage of similar benefits it can offer no great advantages. Only in such cases as the small cooperative project in Milwaukee and the three cooperative companies which operate under the New York State Housing Law has any government aid been given cooperative housing in this country.

The experiences of European nations suggest that the part of the cost of a house concerned

with financing and profit is the one most susceptible of reduction. Because they successfully attack it at this point two recent American experiments stand out as promising most for future progress. One is an activity of the state of California, the other of the state of New York.

In the post-war period the general impulse of the states to express their gratitude to former service men followed the path of least resistance and expressed itself largely in the voting of small cash bonuses. California alone found a way to confer a more substantial benefit on her veterans by helping them to achieve home ownership and that without any expense to the taxpayers. California is one of the states whose constitution forbids the lending of its credit to any private individual or corporation. It cannot therefore finance the veteran in the purchase of his home, but it can and does buy the home for cash and sell it to him on a twenty-year payment plan requiring only a 5 percent down payment. The interest rate charged is also 5 percent. The monthly payment on a \$5000 home is \$33.10, covering principal and interest. At the date of the 1930 report of the Veteran's Welfare Board (established in 1921), 35,520 applications had been received for the purchase of homes or farms, of which 15,455 had been approved, including 7503 already built or in the process of building (by December 1, 1931, this figure had increased to 10,201). Up to that time bond issues to an aggregate amount of \$50,000,000 had been authorized by the California voters. But it is the veterans whose monthly instalments pay the interest on the bonds and redeem them at maturity. The average cost of homes purchased to 1930 was \$4742 and their quality is very high.

New York state, like California, has a constitutional bar against state housing loans. It has, however, been able to offer substantial encouragement to construction erected by limited dividend companies. In 1926 the legislature created the State Board of Housing with power to pass on the plans of limited dividend housing corporations. Those which receive its approval are exempted from state mortgage and franchise taxes. In the case of New York City, however, the only community so far to adopt the optional provisions of the act, buildings erected by an approved company prior to 1937 will be exempt from taxation for twenty years. This is the equivalent of a substantial subsidy; but because it is granted only to buildings complying with the very high standards required by the board (only 50 percent coverage of site, for instance, instead

of the 70 percent permitted by law) and because the rentals charged and profits made are strictly controlled, the results are socially useful and the volume of exempted building is not likely to become an appreciable burden to the taxpayers. Approved companies must furnish one third of the necessary capital and limit their return to 6 percent, the balance to be secured on first mortgage at 5 percent. Rents charged are not to exceed an average of \$12.50 per month per room (including heat) on Manhattan Island or \$11 elsewhere. For the public type of limited dividend companies the State Board may exercise the power of eminent domain to acquire a site. A member of the State Board serves on the directorate of every approved company. This insures careful business management and saves inexperienced groups from errors of judgment.

Three of the six companies so far approved under the law are cooperative organizations, one is a civic group and two are commercial corporations. These companies have built nine projects, representing an investment of \$9,000,000 and providing dwellings for 1700 families. Members of the Amalgamated Clothing Workers of America, who have been building cooperative projects in the Bronx since 1927, have demonstrated the usefulness of the law for workers with incomes of from \$30 to \$50 per week. This development has large sunny rooms looking out on beautiful gardens with fountains, pools and flower beds and is modern in every respect. The Amalgamated Dwellings on Grand Street built in 1930 show that equally fine apartments with almost equally beautiful gardens can be built on the lower East Side. The third cooperative group, the Farband, made up of members of the Jewish National Workers' Alliance was in 1928 the first to demonstrate that automatic elevator are an economic possibility in such houses if six stories high. Brooklyn Garden Apartments, Inc., has built on two sites which necessitated the clearance of shabby and definitely had housing. The commercial developments are presumably a product of the financial depression. It is not likely that a proposal involving limited profits as well as regulated rents can interest commercial builders in periods of prosperity.

In conclusion it may be said that the progress inaugurated by the federal government's high standards in war housing has not been continued in the post-war decade. Most of the old houses which were below standard at the beginning of the decade were still in existence at the end and in a much worse state of repair. There was new

construction and the numerical housing shortage was eliminated. But only the top economic third of the country's population has benefited from the advances made by builders in the furnishing of added comforts and conveniences. So far as the greater proportion of the population is concerned and when its situation is compared with other working class groups throughout the world, the United States has lost ground. If Europe was a generation ahead of the United States in her attitude toward the housing problem in 1914, the distance is even greater at present.

EDITH ELMER WOOD

See: URBANIZATION; INDUSTRIAL REVOLUTION; COM-  
MUNAL HOUSING; CITY; SLUMS; PUBLIC HEALTH; SANI-  
TATION; FIRE PROTECTION; BUILDING REGULATIONS;  
CITY AND TOWN PLANNING; REGIONAL PLANNING;  
GARDEN CITIES; SUBURBS; CONSTRUCTION INDUSTRY;  
ARCHITECTURE; RENT REGULATION; HOME OWNERSHIP;  
LAND MORTGAGE CREDIT; URBAN; BUILDING  
AND LOAN ASSOCIATIONS; HOUSING, COOPERATIVE;  
HOUSE AND BUILDING TAXES; TAX EXEMPTION; LAND-  
LORD AND TENANT; STANDARDS OF LIVING; SOCIALI-  
ZATION; GOVERNMENT OWNERSHIP; WAR ECONOMICS.

Consult: FOR EUROPE: *Handbuecherbuch des Wohnungswesens*, ed. by G. Albrecht and others (Jena 1930); Eberstadt, R., *Handbuch des Wohnungswesens und der Wohnungsfrage* (4th ed. Jena 1920); International Labour Office, "European Housing Problems since the War, 1914-1923," and "Housing Policy in Europe: Cheap Home Building," *Studies and Reports*, ser. G, nos. 1 and 3 (Geneva 1924 and 1930); Henderson, Arthur, and Maddock, Leslie, *Henderson and Maddock's Housing Acts, 1925 and 1930* (London 1930); Barnes, Harry, *Housing: the Facts and the Future* (London 1923); Simon, E. D., *How to Abolish the Slums* (London 1929); Germany, Ausschuss zur Untersuchung der Erzeugungs- und Absatzbedingungen der deutschen Wirtschaft, Unterausschuss III, *Der deutsche Wohnungsbau* (Berlin 1931); Verein für Sozialpolitik, "Beiträge zur städtischen Wohn- und Siedelwirtschaft," *Schriften*, vol. clxxxvii (Munich 1930); International Federation for Housing and Town Planning, *Reports of the Various Countries*, 13th International Congress, Publications, vol. II (Frankfurt 1931); Pöhlmann, Robert von, *Die Überdölkerung der antiken Grossstädte* (Leipzig 1884); Pöhl, L., *Die Wohnungsfrage*, 2 vols. (2nd ed. Berlin 1920); Yugoff, A., *Die Volkswirtschaft der Sowjet-Union und ihre Probleme*, tr. from Russian ms. by A. Gurland (Dresden 1929), tr. by E. and C. Paul as *Economic Trends in Soviet Russia* (London 1930) ch. xiv; Grinko, G. F., *The Five-Year Plan of the Soviet Union*, tr. from Russian ms. (New York 1930) ch. ix; Harris, Ernest L., "Workingmen's Housing in Vienna" in *Monthly Labor Review*, vol. xxxii (1931) 1038-48; Social Service Council of Canada, Committee on Research, *Housing in Europe*, by J. W. S. McCullough (Toronto 1928).

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HOUSING, COOPERATIVE. Cooperative housing means the organization of persons into a cooperative association and the creation and maintenance of domiciles by the association for the use of its members. In cooperative housing societies the members are shareholders; but title to the dwellings is owned by the group or association, which in turn rents the apartments or dwellings to the members. This rental is usually on a long term lease (commonly for ninety-nine years) and guarantees perpetuity of domicile to and control of the dwellings by the tenant members or their heirs. The making of profit either by sale of shares or by subletting is foreign to the purposes of the movement and in no true example of cooperative housing is the practise to be found.

In some associations the tenants do not constitute the whole of the owning organization. In Europe particularly housing societies are made up of persons desiring cooperative dwellings, but frequently such associations have more members than there are available flats or houses. Thus there always exists a spur to further housing expansion in the interests of the unaccommodated membership.

A cooperative housing society incorporates preferably under a cooperative law. The method of organization provides that each member shall have one vote and no more and that the enterprise shall not yield financial profits. A board of directors elected by the members is charged with the duty of administering the common business, such as the appointment of superintendents,



engineers, gardeners and other experts, the handling of finances and the like. The members of a housing society also often create committees to supervise such activities as education, recreation, playgrounds and gardens and in many cases to operate a bakery, restaurant, central kitchen, laundry, refrigerating plant, garage, hospital, clinic, dispensary, nursery or kindergarten. Not infrequently housing societies make joint arrangements for part time service of maids, cleaners, seamstresses and nurses.

It is customary practise to provide a reserve fund to be used for the purchase at par of shares of members who wish to resign, for all genuine cooperative housing societies permit the release of their members. In some societies the funds for the purchase of shares come from those members who are on the waiting list for dwellings. Societies in Germany allow the transfer of a member from one society to another, when circumstances compel him to move to another town.

There are certain minor and inessential deviations from the standards of cooperative organization already mentioned. A tenant member is sometimes under reasonable circumstances permitted to sublet his dwelling for a short period to a non-member tenant, but the approval of the board of directors is required. Such subletting may be at a profit to the renter member, especially when his furniture is also rented. In some associations, however, the member's profit is limited, usually to 5 or 6 percent, and all moneys in excess accrue to the treasury of the association.

The lease which a member receives from a cooperative housing society obligates him to pay a definite sum each month toward the meeting of fixed expenses. These are made up of two sets of items; namely, current running charges and capital charges. In the first are customarily to be found interest on share capital, bonds, mortgages and notes; taxes; fire and liability insurance; light and fuel; wages; repairs and supplies. In the second are to be found payments on the principal, amortization of mortgages and the building up of a depreciation fund. As the indebtedness of the society is paid off, the interest and amortization charges decrease with the result that the monthly "rentals" grow smaller.

Capital for the construction or purchase of cooperative housing is obtained by the sale of shares of the corporation to the members. The member pays in cash a sum equal to the cost of the dwelling to be occupied by him less the proportionate amount of money secured on

mortgage loan. If a dwelling house or apartment is to cost \$2500, the member subscribes for \$2500 of stock. But in the beginning he need pay in cash only the amount not supplied by the mortgage loan. Thus, if the mortgage is on the basis of 50 percent of the total cost, the subscribing member pays \$1250; if mortgages and loans covering 75 percent of the property are secured, the member's original payment is \$625. Members often borrow this money by putting up their stock as collateral. Some societies raise money by first, second and even third mortgages. A callable bond issue sold to members and friends is another method of securing capital, while preferred stock issues are sometimes resorted to in place of bonds.

The chief difficulty facing the cooperative housing movement is the raising of the initial capital. In this respect housing societies have fared best in Germany. Municipalities, states and the Reich have made twenty-year loans (without interest) to cooperative housing societies through the enactment of legislation applicable to "house construction for residence purposes only and not for sale or profit-making rental." Also land grants have been made to housing cooperatives with the stipulation that ownership of such lands is to rest in the society if at the end of twenty years the property has been used for residence purposes by the owners only.

In addition to the activities of the simple housing society, which concerns itself purely with housing and which is financed and administered by the tenant members, there is to be found a growing practise on the part of European consumers' cooperative societies to engage also in housing. For example, the Konsum-, Bau- und Sparverein of Hamburg, Germany, which has a membership of 150,000 persons, in addition to operating a bakery, a meat packing plant, canning works, a mineral water bottling establishment and food, furniture and tin ware factories as well as banking and insurance enterprises, owns ninety-one building sites containing over 1480 flats. These dwellings are rented to its members, the society acting as landlord. As landlord, however, the society's properties are controlled not only by the members who occupy its apartments but also by the 148,800 who live elsewhere. In this respect such a society differs materially from the pure housing association. The distributing function developed first; the housing function followed and was financed by the surplus savings accumulated in the other enter-

prises. It is to be noted that the tenant members are organized into a housing department for the local control and administration of the dwellings which they occupy.

In the United States not many purely cooperative commodity distributing societies are to be found. On the other hand, some cooperative housing societies have met with real success. In due time some of these have learned that it is possible to engage effectively in the distribution of commodities, once the housing venture has been successfully launched. The Amalgamated Cooperative Apartments of New York City is an excellent example of this form of development. Beginning with the operation of nearly two city blocks of buildings, containing 503 apartments, the members of this group turned to the distribution of commodities and before long were maintaining their own grocery stores, supplying their own milk and conducting a furniture department, dental and medical clinics, a library, a forum and a farm.

Most cooperative housing is developed by cooperative housing societies. In Germany, where this type of cooperative has flourished, the number of societies has increased from 1342 in 1914 to 4128 in 1927. Receiving subsidies and credit assistance from governmental sources the housing cooperatives, because they were called upon to raise but a small proportion of the needed funds themselves, have been able to embark on extensive building projects. Thus by 1927 the societies of the *Hauptverband Deutscher Baugenossenschaften*, a federation of 2525 societies with a membership of 633,629 and a share capital of 214,000,000 marks, were responsible for the erection of 273,236 dwellings, or accommodations for approximately 40 percent of their combined membership.

In the suburbs of most German cities are to be found extensive cooperative housing developments. The apartment houses at Neukölln in Berlin are fine examples of pure cooperative housing. Britz, another suburb, has some three hundred charming stucco covered, tile roofed houses with gardens and playgrounds, all occupied by working people. Nuremberg offers particularly attractive examples of cooperative houses, which far surpass in beauty, conveniences and size workers' dwellings of other industrial countries. Garten Stadt Nürnberg is a cooperative village of some three hundred detached houses, where each dwelling has a flower garden in front and a vegetable garden in the rear; the whole development is laid out in compliance

with modern town planning and landscape gardening.

In Denmark one out of every five persons in the population lives in a house erected by the municipalities or the cooperatives. Copenhagen possesses excellent examples of cooperative apartment houses, each built around a court, each one occupying a city block and housing approximately 215 families. The *Kooperative Bauvereinigung der Arbeiter* of Copenhagen has over six thousand members and has built over four thousand apartments in eighteen different groups of buildings. Priestfields, a suburb of Copenhagen, is a cooperative village which has on the colony grounds stores for groceries, meats, hardware and house furnishings. The Danish cooperative housing societies are federated to form a central organization and operate factories and plants for the production of windows and doors, pipe, tile, brick, paint and cement. Switzerland has highly successful cooperative housing developments. The village of Freidorf near Basel is an example of a completely cooperative community, in which the society owns not only the houses and land but the streets, park and central community buildings. Cooperative housing is well developed also in Austria, Switzerland, Norway and Sweden and national federations of societies are found in these countries.

Although the modern housing reform movement may be said to have had its beginning in England, cooperative housing has not been responsible for much construction here. It is to be noted, however, that evidences of progress in the post-war decade are not wanting. The number of cooperative housing societies increased from 246 in 1920 to 283 in 1928 and the membership from 11,021 to 25,030 persons. Similarly the share capital of these societies grew from £615,369 to £1,051,785 and the total value of rents from £336,715 to £677,367.

The first cooperative houses in the United States were built in Brooklyn, New York, in 1916, by Finnish cooperators. The movement has shown no great progress, in 1929 there being only forty-five cooperative housing societies in the country. Twenty-five societies reporting to the federal Bureau of Labor Statistics controlled, in all, property valued at \$8,000,000 and provided dwellings for 2300 families and 650 single persons. It was apparent that among these American societies there was marked deviation from sound cooperative practice. Of the twenty-five societies reporting twelve permitted sub-

letting and fourteen permitted their members to sell their apartments at a profit. Six societies were even allowing members to vote by shares instead of following the regular cooperative procedure of a single vote per member. Not more than nine of the societies were maintaining a policy of true cooperative housing.

Since the World War there have appeared in many American cities large scale projects called cooperative apartments which have nothing in common with the cooperative movement. These houses, the products of real estate and building exploitation and speculation, have been erected not for dwelling but for commercial purposes. Each apartment is in due time sold to an owner, who may or may not elect to be a tenant. Ownership is represented by possession of shares of stock in the whole house owning corporation and by lease of an apartment; but the sale of the stock and the transfer of the lease are permitted. Under these circumstances an apartment is on the market for sale, lease and transfer very much like any privately owned dwelling.

Some of these pseudo-cooperative houses place restrictions upon transfers, requiring either the approval of a board of directors or demanding that an apartment for sale or rent first be offered to the corporation holding title to the house. Indeed some corporations actually own a certain number of apartments in the house; these are rented at a figure above the cost price. In some instances the house has twice as many apartments as there are tenant owners and these constituting the corporation rent half of the apartments to non-stockholders. It is not uncommon for this type of exploitation of tenants to reach such proportions that the tenant owners are able to obtain their rents free.

JAMES PETER WARBASSE

See: COOPERATION; CONSUMERS' COOPERATION; HOUSING.

Consult: Warbasse, J. P., *What Is Cooperation?* (New York 1927) p. 37-49, and *Cooperative Democracy through Voluntary Association of the People as Consumers* (2nd ed. New York 1927) p. 69-73; Warbasse, A. D., *A B C of Co-operative Housing* (New York 1924); United States, Bureau of Labor Statistics, "Cooperative Movement in the United States in 1925 (other than Agricultural)" by F. E. Parker, *Bulletin*, no. 437 (1927) ch. v; International Labour Office, "The Housing Situation in the United States," and "Housing Policy in Europe. Cheap Home Building," *Studies and Reports*, ser. G, nos. 2, 3 (Geneva 1925-30); Kampffmeyer, Hans, "Les coopératives de construction sur le continent" in *Revue des études coopératives*, vol. vii (1927-28) 392-423, and vol. viii (1928-29) 73-81; Wood, E. E., *Recent Trends in American Housing* (New York 1931) ch. x.

HOUSSAYE, HENRY (1848-1911), French historian. Houssaye, who before turning to historical writing had gained a reputation as a brilliant, sophisticated essayist, as a student of antiquity and as a literary and art critic, is remembered primarily for his studies in praise of Napoleon. His four-volume series, *1814, 1815, Waterloo, la seconde abdication* (Paris 1888-1905), achieved by reason of its scholarly as well as literary merits unusual success. Having carefully combed in the preparation of this work contemporary memoirs, newspapers, police reports and writings of travelers, Houssaye was able to depict with a wealth of illustration the currents of popular feeling and agitation and to clarify the social atmosphere which enveloped the political actions of Napoleon and his ministers. The ardent patriotism of the author, who had served as an officer during the Franco-Prussian War, is reflected in the intensely emotional accounts of the defeats of 1814 and 1815 and in the unqualified sympathy with which he championed Napoleon's cause against his adversaries. Because of this strong prejudice in favor of Napoleon, Houssaye has been charged with being indifferent to the exhausted condition of France and to its great need for peace and liberty. But the historical value of the work as a whole is beyond question. It contributed greatly to the revival of the Napoleonic cult, which manifested itself so strongly in France between 1890 and 1900 but which shortly died out again.

GEORGES WEILL

Consult: Sonolet, L., *Henry Houssaye* (Paris 1905); *Discours de réception à l'Académie française de M. le général Lyauté* (Paris 1920).

HOWARD, GEORGE ELLIOTT (1849-1928), American historian and sociologist. Through his studies in history, political science and Roman law in Munich and Paris Howard became interested in social history, particularly in institutional history. In 1879 he became the first professor of history in the University of Nebraska. In spite of meager facilities he wrote his *An Introduction to the Local Constitutional History of the United States* (Baltimore 1889) and his "On the Development of the King's Peace" (in University of Nebraska, *Studies*, vol. i, no. 3, 1888-92, p. 235-99), works which led to his appointment to the faculty of the new Stanford University, where for ten years he did notable work in fostering creative research in institutional history. His devotion to the principle of academic freedom led him at great personal sac-

rice to resign his professorship there as a protest against the dismissal of his colleague Edward A. Ross. He then devoted himself to his classic work, *A History of Matrimonial Institutions* (3 vols., Chicago 1904), which is an encyclopaedic record of the diversified forms, laws and practices of marriage existing among primitive and civilized peoples. Upon his return to the University of Nebraska as professor of international history and head of the department of political science and sociology he made many contributions to periodicals in the fields of modern English history and biography, social psychology and sociology. He believed education to be the most efficient instrument of social control and agency of democracy and internationalism, taught the potential equality of the sexes and races and decried race prejudice. He was a genuine liberal, lent encouragement to social welfare measures, publicly championed such causes as woman suffrage, prohibition and international peace and demonstrated that social theory need not atrophy the scholar's humanity or sense of concrete social reality.

ARTHUR J. TODD

*Consult:* Vincent, Melvin J., "George Elliott Howard: Social Scientist" and "George Elliott Howard: Social Psychologist," and Williams, Hattie P., "Social Philosophy of George Elliott Howard" in *Sociology and Social Research*, vol. xiii (1928-29) 11-17, 108-18, and 229-33; Todd, A. J., in *American Journal of Sociology*, vol. xxxiv (1929) 693-99.

HOWARD, JOHN (1726-90), English social reformer. Howard was born in Hackney, London. He was the son of a wealthy upholstery and carpet merchant, and although he was educated in several private schools he always complained of the inadequacy of his training. His marked humanitarian interests were motivated by his religious outlook, which produced a stern, almost ascetic, reaction to life. He encouraged the institution of public sanitary measures, the erection of model dwellings and the improvement of educational methods. His most important work, however, was in prison reform. In 1773 as sheriff of Bedfordshire he was horrified by the abominable conditions prevailing in the jails, especially the filth, disease and jail fever. He was particularly shocked to find that many of the sufferers were obviously innocent men who had never been prosecuted or convicted but who could not pay the jail fee necessary to secure release. He made further investigations of British jails and prisons and as a result initiated and personally advocated the legislation

passed by the House of Commons in 1774, providing for the abolition of the fee system, the payment of a fixed salary to the jailer and the improvement of sanitary conditions in jails. Howard then devoted himself to a study of prison conditions abroad, made a more thorough study of English prisons and jails and published *The State of the Prisons in England and Wales, with Preliminary Observations and an Account of Some Foreign Prisons* (Warrington 1777; 4th ed. by John Aikin, 1792), which was much discussed by students of public affairs, criminal law and penal administration. He added two substantial appendices to the book after studying prison construction throughout Europe between 1778 and 1783. Howard next investigated the prison hulks and the hospital and quarantine ships, fruitful sources for the spread of the plague, and at the risk of his life traveled on a quarantine ship in the Mediterranean. He published the results of these inspections in *An Account of the Principal Lazarettos in Europe* (Warrington 1789). While in Russia studying prison conditions he contracted fever and died at Kherson.

Howard's works had a demonstrable influence upon the improvement of prisons in Europe and America. They inspired the model British prison erected at Wymondham in Norfolk by Sir Thomas Beevor in 1784 and the activities of the Philadelphia Society for Alleviating the Miseries of Public Prisons, the germinal source of prison reform in the United States.

HARRY E. BARNES

*Consult:* Aikin, John, *A View of the Character and Public Services of the Late John Howard* (London, 1792); Gibson, E. C. S., *John Howard* (London 1901); Field, John, *Correspondence of John Howard* (London, 1855); Brown, J. B., *Memoirs of the Public and Private Life of John Howard* (2nd ed. London 1823); Stoughton, John, *John Howard the Philanthropist, and His Friends* (London 1884); Lecky, W. E. H., *A History of England in the Eighteenth Century*, 7 vols. (new ed. New York 1892-93) vol. vii, p. 327-35; Dixon, W. H., *John Howard and the Prison-World of Europe* (3rd ed. London 1850); Gardner, A. R. L., *The Place of John Howard in Penal Reform*, Howard League Pamphlets, n.s., no. ix (London 1926); Barnes, H. E., *The Evolution of Penology in Pennsylvania* (Indianapolis 1927) p. 77-78, 92-93.

HOWE, JOSEPH (1804-73), Canadian statesman. Howe first established a reputation as a Nova Scotian journalist and publisher who fostered an interest in native culture, native literature, local resources and political reform and vindicated the freedom of the press. In 1836 he

entered public life as a member of the Nova Scotian assembly and became the leading figure of the popular party. He gained public enthusiasm for the movement in behalf of responsible colonial government in the Maritime Provinces which coincided with a similar agitation in the Canadas. By his pamphlets and articles, which circulated in both the colonies and Great Britain, by his correspondence with influential persons and by his political tactics he contributed materially to the winning of the concessions from the home government which resulted in the establishment of the first responsible party government in the British colonies in Nova Scotia in 1848, without the bloodshed of the Canadian rebellions of 1837. During the struggle he provided a contribution to political philosophy not unworthy to stand by Durham's report in his four-letter reply (published in pamphlet form as *Responsible Government*, Halifax 1839; reprinted in Kennedy, W. P. M., *Documents of the Canadian Constitution*, Oxford 1918, p. 480-514) to Lord John Russell's speech of June 3, 1839, in which the latter conceded that the feelings of the colonials with respect to their affairs must be consulted but refused with hair-splitting dialectic to grant responsible government. Howe shattered Russell's position with penetrating logic and realism. He exposed the failures of the old colonial system; and while he proposed to leave to the imperial Parliament the control of foreign affairs, naval and military forces and colonial trade with Great Britain and general supervision analogous to that over an incorporated town, he demanded for the colonies full control over their local affairs as a guaranty of majority rule and imperial unity. In a period of discouragement he was an ardent defender of imperial as well as of greater colonial unity. On behalf of these ideals he labored with some success in the field of transportation. Nevertheless, he was opposed for a time to the federation of 1867. On the offer of better financial terms for Nova Scotia he entered the federal cabinet in 1869, but secession sentiment persisted in the province for a generation.

W. P. M. KENNEDY

*Consult: The Speeches and Public Letters of the Hon. Joseph Howe*, ed. by William Annand, 2 vols. (Boston 1858; 2nd rev. ed. by J. A. Chisholm, Halifax 1909); Burpee, Lawrence J., "Joseph Howe and the Anti-Confederation League" in Royal Society of Canada, *Transactions*, 3rd ser., vol. x (1917) 409-73; Longley, J. W., *Joseph Howe* (Toronto 1904); Grant, W. L., *The Tribune of Nova Scotia* (Toronto 1915); Baker, Ray P., *A History of English-Canadian Literature to the Confederation* (Cambridge, Mass. 1920) ch. v.

HOWE, JULIA WARD (1819-1910), American writer, social reformer and feminist. Mrs. Howe mirrored to an extraordinary degree in the course of her long life the evolution of bourgeois culture in the United States. The scope of her interests progressed from the maintenance of the union, which her forbears, the Wards and the Greenses, the Cutlers and the Marions, had shared in building, to the organization of women for an extension of citizen equalities; from inherited military traditions, stimulated by the second American revolution, to the possibilities of a peaceful arbitrament of disputes, causing her after writing the celebrated martial paean for the army of the northern industrialists—*The Battle Hymn of the Republic*—to summon the women of the world to an antimilitarist crusade at the outbreak of the Franco-Prussian War; from piety to philosophic speculation; from self-improvement associated with the arts, languages and letters to self-expression in many fields, including poetry, drama, travel tales, biography, treatise, tract and memoir.

From New York society of an exclusive sort, as the daughter of Samuel Ward—opponent of Jackson and the planters, proud of his private art gallery, library and poetic wife, Julia Rush Cutler—Julia Ward moved to Boston following her marriage to Dr. Samuel Gridley Howe, an internationally known humanitarian, and became one of the circle of New England intellectuals for which the middle period of the nineteenth century was famous. She allied herself with the Unitarians, tried to popularize metaphysics, discovered certain social realities, wrote *Passion Flowers* (Boston 1854) and *Words for the Hour* (Boston 1857) in response to the fateful European upheavals of the late 1840's and the impending domestic civil conflict, came into contact with social work through her husband's activities, mothered five children and was a popular *salonnière*. Her widowhood of thirty-four years was spent largely in association with women, organizing clubs, advocating woman suffrage and appealing to mothers to stop the child sacrifice caused by warfare.

MARY R. BEARD

*Important works:* The most complete collection of her poems is entitled *From Sunset Ridge, Poems Old and New* (Boston 1868). Selections from her speeches and essays are found in *Julia Ward Howe and the Woman Suffrage Movement*, ed. by F. H. Hall (Boston 1913); and selections from her journals in *The Walk with God*, ed. by L. E. Richards (New York 1919). Her biographical writing comprised sketches of her husband, *Memoir of Dr. Samuel Gridley Howe* (Boston

1876), *Margaret Fuller* (Boston 1883), and *Sketches of Representative Women of New England* (Boston 1904). See also her *Reminiscences 1819-1899* (Boston 1899). Consult: Richards, Laura E., Elliot, Maude H., and Hall, Florence H., *Julia Ward Howe*, 2 vols. (Boston 1915); Adams E. C., and Forster, W. D., *Heroines of Modern Progress* (New York 1913) p. 178-214; Harvey, L. A., in *Stratford Journal*, vol. iv (1919) 300-11; Townsend, H. A., *Reminiscences of Famous Women* (Buffalo 1916) p. 15-22; Mead, Edwin Doak, *Julia Ward Howe's Peace Crusade* (pamphlet, Boston 1910).

HOWE, SAMUEL GRIDLEY (1801-76), social welfare pioneer. Howe was one of the group of distinguished social pioneers in Boston before the Civil War. On graduating from Harvard Medical School he fought for Greece during its war for independence, became surgeon general of the Greek fleet and organized relief work until 1830. At the suggestion of his friend Dr. Fisher after study abroad he established in 1832 one of the first American schools for the blind, the Perkins Institution and Massachusetts School for the Blind, of which his annual reports (Boston 1833-75) form a valuable record. His success with Laura Bridgman, a blind, deaf and dumb child of seven, served as a precedent for the education of Helen Keller. His work, including improvements in printing, attracted national attention and he visited seventeen state legislatures, urging provision for the education of the blind. He advocated the use of the method of articulation in schools for the deaf at a time when only the finger alphabet and sign language were in use in the United States. He undertook the education of the feeble-minded and prepared the first American state paper on this subject (*Report Made to the Legislature of Massachusetts, upon Idiocy*, Boston 1848), which led to the establishment of the Massachusetts School for the Feeble-minded. He worked for the better care of the insane and as a member of the Massachusetts legislature presented the first legislative memorial of Dorothea Dix in 1843. He advocated prison reform and new methods of dealing with juvenile delinquents. The first state board of charities was organized in Massachusetts in 1863 as a result of his suggestions to the governor; at the close of the war he became chairman of the board. His annual reports are valuable state documents. He was one of the founders of the science of public welfare administration.

Dr. Howe actively opposed slavery. With his wife, Julia Ward Howe, he edited the *Commonwealth*. He ran for Congress in 1845 as a "conscience Whig," was chairman of the Vigilance Committee organized in 1846, went out to

"bleeding Kansas" with supplies in 1856 and was a supporter of John Brown. During the Civil War he was a member of the Sanitary Commission and he served as chairman of the United States Freedmen's Inquiry Commission. His later activities included trips to Crete in 1867 to direct relief during the rebellion and to Santa Domingo, where he advised annexation and organized a land reform company.

EDITH ABBOTT

*Other works:* *An Historical Sketch of the Greek Revolution* (New York 1828, 2nd ed. 1828); *An Essay on Separate and Congregate Systems of Prison Discipline* (Boston 1846).

*Consult:* *Letters and Journals of Samuel Gridley Howe*, edited by his daughter, Laura E. Richards, 2 vols. (Boston 1906-09); Sanborn, F. B., *Dr. S. G. Howe, the Philanthropist* (New York 1891); Howe, J. W., *Memoir of Dr. Samuel Gridley Howe* (Boston 1876).

HOWELL, GEORGE (1833-1910), British trade union leader. Howell began working on a farm at the age of eight. He became a bricklayer and while still young joined the Chartist movement. He first achieved prominence in the great London strike for a nine-hour day in the building trades in 1859. Although the strike failed, the new trade unionism, seeking practical and attainable ends, was strengthened. Among the more important results of the strike were the formation of the London Trades Council, of which Howell was for a time secretary, and the transformation of the paid agitator into the trained official. A group of such officials, known as the Junta, with Howell as a prominent member, directed trade union affairs and succeeded in strengthening the foundations of the unions and removing the worst of the legal disabilities that hampered their full development.

With the passage of the second Reform Act in 1867 Howell endeavored to enter Parliament. After three unsuccessful attempts he was elected in 1886 as a Liberal for Bethnal Green, a London working class constituency, and retained his seat until 1895. He strenuously opposed the formation of an independent labor party, thus incurring the bitter hostility of the younger trade union leaders. In Parliament, however, Howell championed every cause for the extension of liberty and the welfare of the workers. He had a ready pen, had read widely and wrote and spoke with authority on all labor questions.

A. WEINER

*Works:* *A Handy Book of the Labour Laws* (London 1876, 3rd ed. 1895); *Conflicts of Capital and Labour* (London 1878, 2nd ed. 1890); *National Industrial In-*

*urance* (London 1880); *Trade Unionism, New and Old* (London 1891, 4th ed. 1907); *Trade Union Law and Cases* (London 1901), written in collaboration with Herman Cohen; *Labour Legislation, Labour Movements and Labour Leaders* (London 1902; 2nd ed., 2 vols., 1905).

**HOWITT, ALFRED WILLIAM** (1830-1908), Australian anthropologist. Howitt was born in Nottingham, England, the son of William and Mary Howitt, both of whom were popular English authors. After studying in Germany and at University College, London, he went to Australia in 1853. He became interested in native life about 1863, when he was appointed warden of the gold fields in Gippsland, southeast Victoria. His first systematic work was begun in 1873 when Lorimer Fison, seeking information on kinship terms for Lewis Henry Morgan, appealed through the press for information concerning the Australian aborigines. With Fison he published the important book *Kamilaroi and Kurnai* (Melbourne 1880), to which he contributed the chapters on the Kurnai. His theoretical conclusions supported Morgan in the acrimonious controversies with McLennan and Lubbock, attacking their contentions that the kinship terms were merely terms of address and that exogamy arose because of female infanticide and marriage by capture. He conceived as Morgan did that exogamy arose from the deliberate intention of the natives to avoid marriage of close relatives, although actually exogamy regulations do not perform this function effectively. He also criticized the theory of degeneration as an explanation of primitive culture. Characteristic of his period, he formulated an evolutionary scheme in which he held that Australian aborigines had progressed from an "undivided commune," in which more or less promiscuous cohabitation existed, through a "segmented commune," consisting of two or more exogamous intermarrying groups, to individual marriage, in which traces of communal rights still survived.

Howitt persisted in this theoretical position in many contributions to periodicals, some of which were published jointly with Fison, and in his classic work *Native Tribes of South-east Australia* (London 1904), in which he embodied the vast materials derived from his lifelong ethnological researches. In it he also suggested a positive correlation between the progress of the culture of the different Australian tribes and the degree of rainfall in the regions in which they lived and expressed agreement with Spencer,

Gillen and Frazer that the primary function of totemistic groups was to insure a food supply by magical ceremonies.

BERNHARD J. STERN

*Consult:* Stern, Bernhard J., "Selections from the Letters of Lorimer Fison and A. W. Howitt to Lewis Henry Morgan" in *American Anthropologist*, n.s., vol. xxxii (1930) 257-79, 419-53, and *Lewis Henry Morgan, Social Evolutionist* (Chicago 1931); Frazer, J. G., "Howitt and Fison" in *Folk-lore*, vol. xx (1909) 144-80; Lang, A., in *Man*, vol. viii (1908) 85-86.

**HIOXIE, ROBERT FRANKLIN** (1868-1916), American economist. The greater part of Hoxie's study and the second of his two decades of teaching were done at the University of Chicago. Influenced in turn by the economic doctrines of Laughlin and Fetter and still more powerfully by those of Veblen, and by the work of C. H. Cooley and G. H. Mead in allied fields, Hoxie attempted revisions of economic theory that would do greater justice to the complexity and endless changes of industrial life (see especially "On the Empirical Method of Economic Instruction" in *Journal of Political Economy*, vol. ix, 1901, p. 481-526). It was in the study of American trade unionism, however, that he found the major opportunity to use the genetic method toward which his thought had turned. True to his early description of economic forces as "not only manifold but kaleidoscopic," he insisted that unionism was not unitary but diverse in character. The resulting analysis of unions into "functional types" (*Trade Unionism in the United States*, ed. by L. B. Hoxie and Nathan Fine, New York 1917, 2nd ed. 1923) and the demonstration that scientific management and "business unionism" were incompatible as then conducted (*Scientific Management and Labor*, New York 1915) are among the more important contributions in his studies of labor. They are marked by a "toughmindedness" unusual in the field and by an unremitting attempt to penetrate to the causes of fundamental differences in preconceptions and prejudices.

Hoxie's publications measure neither his full powers nor his influence. Throughout his life he was handicapped by ill health and a habit of merciless self-criticism. His labor studies, although they showed results that could not have been secured without innumerable hours of field investigation, give little picture of the processes by which he drew inferences from the unconscious admissions of the employers and unionists he knew so well. A very large part of his best and most influential work, moreover, found only oral

expression in what must have been very nearly the most realistic of American classrooms. Yet enough remains to make clear that Hoxie possessed the keenest and most rigorous mind that has ever worked upon the problems of American labor organization.

## CARTER GOODRICH

*Consult:* Hamilton, W. H., "The Development of Hoxie's Economics" in *Journal of Political Economy*, vol. xxiv (1916) 855-83; Downey, E. H., Introduction to *Hoxie's Trade Unionism in the United States* (2nd ed. New York 1923) p. xiii-xxxiii; "A Tentative Bibliography of . . . Hoxie's Published Works" in *Journal of Political Economy*, vol. xxiv (1916) 894-96; Johnson, Alvin, in *New Republic*, vol. vii (1916) 248-49.

HUBE, ROMUALD (1803-90), Polish jurist. Hube was professor of law at first in Warsaw and later at St. Petersburg. In 1833 he was made a member of Speransky's commission for the revision of the laws of the Russian part of Poland. For it he prepared a draft of the criminal code and in 1835 a draft of the code of criminal procedure. He was co-author of the Russian criminal code of 1845, which was extended with some modifications to Poland in 1847. From 1856 to 1861 he was chairman of the codification commission for Russian Poland.

The German historical school, predominant at that time, influenced Hube in many directions. Thus he felt that for the dogmatic treatment of existing law legal history was indispensable. Likewise in the spirit of Savigny was his attitude toward Roman law as a living law; also toward the derogatory force of customary law and toward the relation between theory and practise. Nevertheless, he expressed himself decisively against regarding custom as the single source of law. Hube rightly estimated highly for every period in history the significance of a conscious legislative activity, and thus his own was not inconsistent with his premises. Indeed he was justified in all his departures from the doctrines of Savigny. In his conception of the criminal law Hube was entirely in favor of unconditional retributive punishment in the spirit of Hegel. In conformity with this point of view was his insistence upon the unconditional subsumption of each criminal act under the criminal law. This view of law as unconditional norm was in direct contradiction to his position on Roman law; he valued it highly as a historically conditioned and therefore relative living law.

Hube's legal historical researches stand in close relation to his concepts of legal theory. They have as their subject old Polish, former

Slavic and western European law. Almost all are basic, original researches whose methods have been followed in the study of Polish history. They still retain their value.

WŁADISŁAW MALINIAK

*Works:* *Pisma Romualda Hubeo*, with a biographical-critical sketch by K. Dunin, 2 vols. (Warsaw 1905).

*Consult:* Doreste, Rodolphe, in *Nouvelle revue historique de droit français et étranger*, 3rd ser., vol. xiv (1890) 941-42.

HUBER, EUGEN (1849-1923). Swiss jurist. Huber studied law at the universities of Zurich and Berlin, continued his studies in Italy, France and England and received the degree of doctor juris in 1872. In 1873 he became *Privatdozent* at Berne and later editor in chief of the *Neue Züricher Zeitung*. He was forced to resign his editorship in 1877 because of political controversies. In 1880 he was appointed a professor of civil law and legal history at Basel University. Subsequently he taught at Halle and finally at Berne, where he remained until his death. From 1903 to 1911 he was a member of the Swiss National Council.

Huber was the author of scholarly works on mediaeval German law, especially on its dotal system, its law of inheritance and its law of possession. On the last subject he wrote his excellent study *Die Bedeutung der Gewere im deutschen Sachenrecht* (Berne 1894). Influenced by his friendship with the legal philosopher Rudolf Stammler, he wrote toward the end of his life several books on the philosophy of law, which are excellent in their combination of dogma and practicality. His chief work in this field is *Recht und Rechtsverwirklichung* (Basel 1920).

He is best known, however, as the author of the famous Swiss civil code, which the government authorized him to draw up in 1892 (*Schweizerisches Zivilgesetzbuch vom 10. Dezember 1907*, Berne 1908; tr. by I. Williams, Oxford 1925). An excellent preparation for this notable task was the research which he did for his *System und Geschichte des schweizerischen Privatrechts* (4 vols., Basel 1886-93). The first three volumes of this standard work are a clear and systematic presentation of the civil law of the twenty-five Swiss cantons, while the fourth volume contains the history of Swiss private law from the time of the *Lex alemannorum* and the *Lex burgundiorum*. In 1900 he presented the first plan for the civil code; in 1904 he finished the official draft, which was adopted by the National Council



and the Council of the States in 1907 and put into effect in 1912. Before that date only the law of obligations had been codified. Huber's code was entirely his own work. It gave more weight to old German institutions and less to Roman law than did the German civil code of 1900; and it was not a mere unification of the laws of the cantons but rather a practical amalgamation of historical, social and ethical elements. Particular emphasis was given to the concept of the sanctity of the family. The Swiss code became a model for the Turkish civil code. After finishing the civil code Huber prepared to revise the Code of Obligations, a task which he was unable to complete and which was brought to an end by others.

EDUARD HIS

*Consult:* Mutzner, Paul, in *Zeitschrift für schweizerisches Recht*, vol. xlii (1924) 1-44, with bibliography of Huber's works; Stutz, Ulrich, in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung*, vol. xlv (1924) xl-xxix.

HUBER, ULRICUS (1636-94), Dutch publicist and jurist. Huber became professor of history and elocution in 1657 and in 1665 professor of law at the University of Franeker. His reputation as a jurist and orator was such that he attracted to the university students not only from the various provinces of Holland but also from Germany, England, Scotland and elsewhere. In 1679 he became a member of the Provincial Court at Leeuwarden.

Among the Dutch writers of the seventeenth century Huber occupies a preeminent place. He was a prolific writer on historical, theological and philosophical subjects as well as on law and engaged on various occasions in polemics with theologians and fellow jurists. As a jurist he was equally eminent in Roman, public and Frisian law. Of his works on Roman law the most important are *Praelectiones juris civilis* (3 vols., Franeker 1689-1701; new ed. by Judocus Le Plat, Louvain 1766), *Digressiones justinianae* (Franeker 1671; 3rd ed. by Zacharias Huber, 1696) and *Ennomia romana* (ed. by Zacharias Huber, Franeker 1700; 2nd ed. Amsterdam 1724). His principal work on public law is his *De jure civitatis*, in which he developed general principles of public law as distinct from politics. From this Rousseau derived part of his fundamental theory for his *Contrat social*. The work by which he is best known today in his native country is his *Hedendaegse rechtsgeleertheit, soo elders, als in Frieslandt gebruyckelijc* (Leeuwarden 1686; 4th ed. by Zacharias Huber

Amsterdam 1742), in which he set forth in the light of the decisions of the courts the private, constitutional, procedural and criminal law of ancient and modern Friesland.

In the United States and England Huber is known as the author of "De conflictu legum diversarum in diversis imperiis," which appeared in his *Praelectiones* (vol. ii, p. 24-30). In this brief treatise Huber reduced the basic principles of the science of private international law to a few axioms, which Story and Anglo-American courts in general readily accepted. Together with Paulus and Johannes Voet, Huber became a founder of the Dutch school, which school proclaimed "comity" to be the foundation upon which the rules of the conflict of laws were based.

ERNEST G. LORENZEN

*Consult:* Boeles, W. B. S., *Friesland's hogeschool en het rijks-atheneum te Franeker*, 2 vols. (Leeuwarden 1878-89) vol. ii, p. 217-26; Sijlting, J. P., *Die statuten-theorie in Nederland gedurende de XVIII de eeuw* (Bois-le-Duc 1893) p. 88-114.

HUBER, VICTOR AIMÉ (1800-69), German social reformer. Huber was a professor of modern languages and history at the universities of Rostock, Marburg and Berlin. In the struggles over the Prussian constitution between 1840 and 1848 he represented a strong Christian and conservative point of view; he attacked the constitutional ideal and urged the creation of an advisory parliament representing the organized social classes or orders. This reform presupposed raising the industrial workers to the status of a full fledged social order with its own corporative organization and improving their economic condition; these changes he considered necessary also for moral and religious reasons. While most of the conservatives were exclusively agrarian, Huber recognized the necessity of industrial development in Germany; he wished, however, to safeguard society from an uncontrolled capitalist development. Inspired by English experience he became the champion of the cooperative idea in Germany. At the time when Raiffeisen was organizing cooperatives among the peasants and Schulze-Delitzsch among the artisans Huber spread propaganda for building and consumers' cooperatives among the industrial workers. He proposed the building of cooperative settlements of workers' homes, which were to be financed by the state, the church and the propertied classes. The settlements were to meet the household needs of the workers through cooperative wholesale buying and eventually through cooperative

production of many commodities. An important function of the settlements was to preserve the home and family life. He demanded the promotion of his reforms by the upper classes, to whose social conscience he made a forceful appeal. When this appeal was rejected, he came to rely on the more democratic self-help of the workers and favored the organization of trade unions, which arose in Germany after 1860. He sharply attacked, however, the socialist labor movement, in which he saw nothing but atheism, communism and anarchy.

Huber played an important part in linking up the cooperative idea with the Christian-conservative political philosophy which regards the state as a spiritual organism. Although many of his proposals were formally adopted, he had no direct influence on the development of consumers' cooperation in Germany.

INGWER PAULSEN

*Works:* *V. A. Hubers ausgewählte Schriften über Social-reform und Genossenschaftswesen* (Berlin 1894); *Die englischen Universitäten*, 2 vols. (Cassel 1839-40), abridged translation by J. P. Simpson (London 1843). *Consult:* Elvers, R., *Victor Aimé Huber*, 2 vols. (Bremen 1872-74); Paulsen, Ingwer, *Victor Aimé Huber als Sozialpolitiker* (Leipzig 1931).

HUBERT, HENRI (1872-1927), French sociologist and historian. Hubert was professor of the history of European primitive religion at the École des Hautes Études, assistant curator of the Musée des Antiquités Nationales and from 1902 until his death professor at the École du Louvre. He published numerous treatises and reports in the fields of archaeology and prehistory but was particularly interested in the history of religions and of civilizations. He was among the first to attach himself to Durkheim, whose fervent and yet independent disciple he became. In the articles "Essai sur la nature et la fonction du sacrifice" and "Esquisse d'une théorie générale de la magie" (in *Année sociologique*, vol. ii, 1897-98, p. 29-138, and vol. vii, 1902-03, p. 1-146) published in collaboration with Marcel Mauss, he sought to demonstrate the part played by society in religious and magical activity. He contended that the sacrifice was a complicated means of communicating with things and beings defined as sacred by society and that magic despite its technical appearance comprises a system of collective ideas common to magic and religion, which he called *mana*. It was through an extension of these researches that Hubert with Durkheim and Mauss encountered the problem of the collective origins of

reason, a question which he discussed in his important treatise, *Étude sommaire de la représentation du temps dans la religion et la magie* (Paris 1905). He also dealt with the collective origins of mythology in his article on the "Culte des héros," which served as an introduction to Czarnowski's *Le culte des héros et ses conditions sociales: Saint Patrick, héros national de l'Irlande* (Paris 1919).

MARCEL MAUSS

*Works:* *Mélanges d'histoire des religions*, in collaboration with M. Mauss (Paris 1909).

*Consult:* Boule, M., in *Anthropologie*, vol. xxxvii (1927) 595-96; Reinach, S., in *Revue archéologique*, vol. xxvi (1927) 176-78, with bibliography.

HÜBNER, MARTIN (1723-95), Danish publicist and statesman. Hübner was one of the eighteenth century writers who participated in the conflict of ideas as to the legal status of neutral commercial vessels in naval warfare. In his chief work, *Traité de la saisie des bâtiments neutres* (2 vols., The Hague 1759), Hübner took a position representing the extreme backward swing of the pendulum from the contemporary political policy which conceived of naval warfare solely as an aggressive, imperialistic means for establishing a nation's naval supremacy. Against the prevailing practise of ruthless treatment of neutrals he consistently advocated the preservation of the sovereignty and equality of neutral states according to international law, with respect to the safeguarding of neutral merchantmen at sea in times of war. To give effect to this basic concept he invented the fiction that every neutral merchantman is a part of the national territory of the neutral state to which it belongs and so shares in its inviolate character. It followed that a belligerent had no more right to seize enemies' goods and contraband of war from neutral vessels at sea than to invade neutral territory; the rule should be "free ship, free goods." Furthermore the right of visit and search could be exercised only to ascertain the national character of a vessel. Nor did a belligerent have the right of prize court jurisdiction. In place of this Hübner proposed as a maximum of both the neutral's compliance and the belligerent's power an international prize court composed of judges appointed by both states, thus avoiding a situation in which the belligerent, a directly interested party, would be both prosecutor and judge in the same case. In advocating the strict construction of the principle of sovereignty, however, Hübner and others who followed his

doctrine, for example Galiani, came into sharp conflict with another principle, which had prevailed in international law since Grotius; namely, that of the freedom of the high seas.

ROLF KNUBBEN

*Consult:* Wheaton, Henry, *History of the Law of Nations in Europe and America* (New York 1845) p. 219-20; Cauchy, E., *Le droit maritime international*, 2 vols. (Paris 1862) vol. ii, p. 82-91; Butler, G., and Mac-coby, S., *Development of International Law* (London 1928) p. 262-63.

HÜBNER, NIKOLAY PETROVICH (1858-1919), Russian cooperator. Hübner studied at the Military Academy of St. Petersburg and was judicial officer attached to the military court of Moscow. He was one of the first to appreciate the full significance of the cooperative idea for the economic progress of the Russian people and he also welcomed cooperation as providing an opportunity to translate into practise the ideals of Christianity. Hübner started his career as co-operator by organizing a cooperative store for the army officers in Moscow; it grew into a large and well organized business and during the World War rendered enormous services to the army. In 1896, when the cooperative section of the All Russian Congress of Trade and Industry decided to establish the Moscow Union of Consumers' Societies, Hübner was chiefly responsible for securing the permission of the government, a considerable achievement at the time. He aided materially in the establishment of the union and remained its leader until 1905. During the World War the union was reorganized into the All Russian Central Union of Consumers' Societies, universally known as the *Centrosoyuz*. Of equal importance was his role in the foundation of the Moscow People's Bank, the central cooperative bank, in 1912. Both in the preliminary work and later as the first president of the bank's council Hübner proved one of the most ardent workers in the cause. Hübner's literary legacy is slight; he contributed frequently to *Soyuz potrebiteley* (Union of consumers), a magazine founded by him in 1903; and he is the author of an admirable, informative book, *Sistema kooperatsii* ('The system of cooperation, Moscow 1911).

A. N. ANTSEFEROV

HUDSON, GEORGE (1800-71), English railway promoter. Hudson, an apprentice and then partner in a drapery business in York, successfully established the York Banking Company in 1833 and four years later became lord mayor of

that city. He took up railway promotion at a time when the new means of transportation had overcome opposition and promised to pay good dividends. He became chairman of the York and North Midland Railway in 1837 and quickly rose to power in the railway world. In 1843-44 he formed the Midland Railway Company by an amalgamation of two end-on systems with a competing line. Within a few years as chairman of the Midland company and half a dozen others Hudson dominated 1016 miles of railways. He personified amalgamation and gave a powerful impulse to the movement; he also personified the railway boom of the mid-forties. Hudson was now known as the railway king; he became a member of Parliament and leader of the "railway" party there and participated in numerous speculative projects. The crash came in 1848-49. Hudson was found to have misappropriated large sums of money and was forced to resign his chairmanships. His career was ended, although he made partial restitution and continued to sit in the House of Commons until 1859.

Hudson was the outstanding figure in the consolidation of English railways; he was essentially the leader needed to follow up the work of the engineers who had built the early railways. Besides establishing the principle of combination he adapted the organization of his railways to provide for expansion and systematized the staff arrangements. The Midland Railway, his central achievement, was always a pioneer compelled by its position between the North Western and the Great Northern to fight for traffic. In improving and popularizing third class traffic (previously neglected), introducing sleeping and dining cars and speeding up its time table the Midland was always stimulating that competition in facilities which, rather than competition in rates, is a marked feature of English railway history.

EDWARD CLEVELAND-STEVENS

*Consult:* Stretton, C. E., *The History of the Midland Railway* (London 1901); Cleveland-Stevens, E., *English Railways* (London 1915) ch. vii; Tomlinson, W. W., *The North Eastern Railway* (Newcastle 1914) chs. ix-x, xv and xvii. See also articles in *Fraser's Magazine* vol. xxxix (1849) 607-18, and vol. xl (1849) 106-20.

HUÉ, OTTO (1868-1922), German labor leader. Hué was one of the outstanding organizers of the miners' union, in which he played a leading role for many years. At twenty-five he began his activity in the labor movement, contributing frequently to the journal of the union of miners and smelters. He became editor of the journal in 1894 and later president of the union.

Huë had espoused socialism and strongly favored cooperation with the Social Democratic party. In addition to the regular trade union work for higher wages and shorter hours he developed an active campaign for the introduction of safety devices and social insurance among the miners and smelters. He was particularly interested in workers' education, which he considered an important aspect of unionism. Huë was influential in Social Democratic politics; he was a member of the Reichstag from 1903 to 1911 and of the Prussian Landtag from 1903 to 1918, where he fought especially for the interests of the miners. During the World War he accepted the majority Social Democratic position—defense of the nation but no annexations. When the republic was established in 1918, Huë was appointed to a number of government positions, among them that of commissioner of mining for Westphalia. In 1920 he was again elected to the Reichstag and urged socialization of the mining industry. Huë was keenly interested in the history of mining and in the international problems of the industry, interests which appear brilliantly in his work *Die Bergarbeiter* (2 vols., Stuttgart 1910-13). After the war his international point of view expressed itself in endeavors to revive the International Federation of Miners. The first post-war congress in 1920 expressed its appreciation of Huë's work.

## G. BRIEFS

*Consult:* Lamberitz, H., in *Das internationale Handwörterbuch des Gewerkschaftswesens*, pts. i-v (Berlin 1930-) pt. iv, p. 779-80; Osterroth, N., *Otto Huë, ein Lebensbild für seine Freunde* (Bochum 1922).

HUFELAND, GOTTLIEB (1760-1817), German economist and jurist. Hufeland was one of the outstanding representatives of Smithian economics in Germany. In accord with his training in law and Kantian philosophy he sought to provide liberalism with a philosophical basis in natural law, particularly in the principle that security is the primary function of the state. While his penetrating analysis of some of Smith's concepts had a far reaching influence upon subsequent economic thought in Germany, Hufeland can hardly be credited with many original contributions. Indeed it was not difficult for Roscher to point out the theoretical confusion which marked Hufeland's main work (*Neue Grundlegung der Staatswirtschaftskunst* . . . , 2 vols., Gießen 1807-13; 2nd ed. of vol. ii as *Die Lehre vom Gelde und Geldumlaufe*, Gießen

1819). The book contains, however, an early version of the subjective theory of value and elements of a productivity theory of distribution based not merely on the physical productivity of the individual factors but on their value productivity as expressed in the process of price formation. It is likely that these views influenced Hermann as well as Thünen. Hufeland's most lasting contribution was his theory of profit. He viewed profit as an independent income category coordinate with wages, interest and rent and constituting in part a payment for risk and in part "rent of ability." He also stimulated monetary theory by emphasizing the role of velocity of circulation of money during inflation. Following J. B. Say he opposed the legalistic theory which was widely held at the time, according to which the circulatory power of money depends upon government fiat.

## M. PALYI

*Consult:* Roscher, Wilhelm, *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) p. 654-62; Gross, Gustav, *Die Lehre vom Unternehmergewinn* (Leipzig 1884) p. 75-77.

HUGHES, THOMAS (1822-96), English lawyer, writer and pioneer in cooperative and educational movements. He was educated at Rugby under Thomas Arnold and at Oriel College, Oxford; in 1848 he was called to the bar and in the same year was introduced by F. D. Maurice, then chaplain of Lincoln's Inn, to the small group of Christian Socialists who were at that time beginning their work. Hughes threw himself with ardor into the experiments in cooperative production in which his friends J. M. Ludlow and Charles Kingsley were the pioneers; with E. V. Neale he linked this movement with that for cooperative distribution initiated at Rochdale and already spreading in the north of England. In 1852 he helped to secure an act of Parliament giving legal protection to cooperative societies. He participated enthusiastically in the formation of the Working Men's College in 1854 and was principal from Maurice's death in 1872 to 1883. From 1865 to 1874 he was in Parliament and although he did not distinguish himself he remained actively interested in legislation for the laboring classes.

Hughes was bitterly opposed to slavery and on that issue he championed the North in the American Civil War. He visited the United States in 1870 and returned in 1880 as president of the Board of Aid to Land Ownership, a colonization venture to facilitate the migration of

upper middle class Englishmen. The site chosen was a tract of land—later named Rugby—in the hills of Tennessee, and it was hoped to make it a complete realization of "Christian communism." Hughes had great faith in its success and spent on it almost his entire fortune, but the scheme proved a complete failure.

Hughes is best known as the author of *Tom Brown's School Days* (1857) and of its rather less sensational sequel, *Tom Brown at Oxford* (3 vols., 1861). The former is a glorification of Arnold as schoolmaster and of the rugged virtues for which its author found so satisfactory a creed in Kingsley's "muscular Christianity." The book's influence on thousands of schoolboy readers was probably of equal significance with Hughes' more direct activities for social reform.

CHARLES E. RAVEN

*Consult:* "Fragments of Autobiography," ed. by H. C. Shelley, in *Cornhill Magazine*, n.s., vol. lviii (1925) 280-89, 472-78, 563-72; Ludlow, J. M., "Thomas Hughes and Septimus Hansard" in *Economic Review*, vol. vi (1896) 297-316; Park, Joseph H., "Thomas Hughes and Slavery" in *Journal of Negro History*, vol. xii (1927) 590-605; Hamer, M. B., "Thomas Hughes and His American Rugby" in *North Carolina Historical Review*, vol. v (1928) 390-412.

HUGO, GUSTAV (1764-1844), German jurist. The son of a conservative high official in Baden, Hugo attended a *Gymnasium* in the neighboring French town of Mömpelgart. He studied at the University of Göttingen, where he associated closely with the Romanist Pütter, the philosopher Feder and the historian Ludwig Timotheus Spittler, the latter influencing him particularly. He subsequently became professor at Göttingen, where he spent the greater part of his life.

Hugo's significance lies in two directions, marking the turning point and the beginning of a new era in the history of jurisprudence. He led the way to the development of the historical jurisprudence which is now accepted as a matter of course and into the glaring confusion of the *usus modernus pandectarum* he brought clarity and order as to fundamental principles. He separated the Roman, that is the Justinian, elements from the customary law elements which had been added by German theory and practise. He also took up the struggle against the fantasies of natural law, whether derived from the nature of things or the nature of reason.

Behind both of his tenets, which he developed with sharp and unreserved criticism even against his teachers, there is the intellectual merit of his application of the methods of natural science to

the methods of jurisprudence, which was the result of his own trend toward empiricism, strengthened by the study of Kantian philosophy. It was that which on the one side led him in a historical direction. From the beginning of his activities as a teacher he saw his problem as one of departing from the usual treatment of Roman law as a finished legal product in order to disclose the historical development behind single texts, in the sphere not only of private but of public law, especially constitutional law. He zealously went to the pre-Justinian sources. Hugo was really the founder of what is now known as the historical discipline of Roman law. This, however, does not make him the founder of the historical school. Although he gladly welcomed and sponsored it and its chief representative, Savigny, Hugo did not, according to his own declaration, consider himself one of its adherents. He never accepted its romantic imponderables; for instance, the theory of the importance of the folk spirit.

In his resistance to the current of natural law Hugo was again guided by his strong empiricism and rationalism. It was neither juridical nor logical to want every maxim of positive law to follow a supreme thesis assumed a priori. Principles and consequences were never absolute. The variety of systems of natural law showed that it was possible to prove every legal institution right or wrong with the help of natural law speculations. The conception of justice changed with the historical changes in social conditions. An economic order without the institution of private property was conceivable. He thus developed fundamental pacifist and socialist ideas unreservedly on the basis of pure rationalism. The apex of his ideas was the concept of a world state. His thought expressed the change in thinking from absolutist narrowness to relativist variety and in breadth and independence was far in advance of his time.

JOHANNES BÄRMANN

*Important works:* *Beiträge zur civilistischen Bücher-erkennungis der letzten vierzig Jahre*, 3 vols. (Berlin 1828-44); *Naturrecht als Philosophie des positiven Rechts* (Berlin 1799, 4th ed. 1819).

*Consult:* Mejer, Otto, in *Preussische Jahrbücher*, vol. xlv (1870) 457-89; Savigny, F. C. von, "Der zehnte Mai 1788" in *Zeitschrift für geschichtliche Rechtswissenschaft*, vol. ix (1838) 421-32; *Kritische Jahrbücher für deutsche Rechtswissenschaft*, vol. iii (1838) 481-84, and vol. iv (1838) 657-58; Singer, H., in *Zeitschrift für das Privat- und öffentliche Recht der Gegenwart*, vol. xvi (1889) 273-319; Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880-1910) vol. iii, pt. ii, p. 1-48;

Stoll, Adolf, *Der junge Savigny* (Berlin 1927); Zwillg-meyer, Franz, *Die Rechtslehre Savignys*, *Leipziger rechtswissenschaftliche Studien*, vol. xxxvii (Leipzig 1929) p. 4-10; Hippel, F. von, *Gustav Hugos juristischer Arbeitsplan* (Berlin 1931).

HUGO, VICTOR-MARIE (1802-85), French writer. Hugo was a fervent apostle of the ideals of modern democracy. Although he was at first a royalist, his sympathies gradually grew more liberal and during the reign of Louis-Philippe his political ideal became pragmatically "a republic in fact, and a monarchy in word." He was still a conservative republican when he was elected to the Constituent Assembly after the overthrow of Louis-Philippe in 1848, but in the following year after his election to the legislative assembly under Louis-Napoleon he became suddenly an extreme radical. After the coup d'état of 1851 he was forced into exile, which he spent successively in Brussels, Jersey and Guernsey. In 1870 after hearing of the fall of the empire he returned to Paris and in 1871 was elected to the popular assembly (Bordeaux) convened to consider whether France should continue the war with Germany. Annoyed with the opposition he resigned and went out of France, first to Brussels, and then, because of his too frank partisanship for the defeated Commune, to Luxemburg and, in 1872, back to Guernsey. In 1876 he was elected to the Senate but his significance in practical politics was ended.

Hugo's *Napoleon le petit* (1852), *Les châtiments* (1853) and *Histoire d'un crime* (1877-78) were the products of his exile and his furious hatred of the empire. Less passionate although perhaps equally polemic was his earlier work, *Le Rhin* (1842), in which he embodied his conviction of the essentially Gallic nature of the left bank of the Rhine and his belief in a desirable and feasible United States of Europe. Hugo's ideal of democracy and his belief in continuous "progress" became more and more mystic and brought him finally to his testamental *Fin de Satan* (1886), in which, all social and religious questions being explained in terms of a universal system, the Principle of Evil is pardoned and the world set free.

Liberty was a catchword for Hugo, but it implied for him no distinct counterpart of responsibilities. It meant, first, opposition to censorship and revolt against the "rules" of post-classicism; then, dislike of whatever appeared as oppression by church or state; last, to a large extent hatred of any encroachment on personality. Young France hailed more and more, in

1830, 1848 and 1875, this social gospel embodied in magnificent books of verse and prose without noticing that Hugo's creed, Napoleonic in its secret aspirations, often lacked social conscience and due respect for the real needs of the times.

There is much of Rousseau in Hugo's social philosophy—his belief in instinct and the goodness of man, his adoration of children, his scorn of hierarchies and dogmas. Perhaps the most complete expression of his social ideals is *Les misérables* (1862). The people are the true depositories of divine wisdom, with instinctive views resting on a principle of goodness and justice which has been stored away in the hearts of mankind while society has forgotten its meaning. Thus "education" (which is deciphering a hidden knowledge in instinctive minds), universal suffrage (which makes distinct the *vox populi*), suppression of the death penalty and rehabilitation of the convict and the fallen woman are of equal importance with his concrete schemes concerning the development of modern cities and the welfare of masses. How is Gavroche, the small city boy, not corrupt but ignorant, to be made a responsible member of the community without the help of the family and of the catechism? This is in a way the main issue of the novel and it may be said to be the chief problem in Hugo's sociology.

FERNAND BALDENSPIERGER

*Works: Oeuvres complètes*, 48 vols. (Paris 1880-85), and *Oeuvres inédites*, 14 vols. (Paris 1886-1902).

*Consult:* Marzials, Frank T., *Life of Victor Hugo* (London 1888); Pelletan, C., *Victor Hugo, homme politique* (Paris 1907); Lacretelle, P. de, *Vie politique de Victor Hugo* (Paris 1928); Leblond, Marius-Ary, "La conscience politique de Victor Hugo" in *Grande revue*, vol. xx (1902) pt. i, 643-81; Seillière, Ernest, *Du quietisme au socialisme romantique* (Paris 1925) p. 79-264; Renouvier, C. B., *Victor Hugo le philosophe* (Paris 1900); Souriau, M., *Les idées morales de Victor Hugo* (Paris 1908); and, with contradictory views worth confrontation: Saurat, D., *La religion de Victor Hugo* (Paris 1929); Heugle, J., *Essai sur la philosophie de Victor Hugo* (Paris 1930); Viatte, A., "Les Swedensborgiens en France de 1820 à 1830" in *Revue de littérature comparée*, vol. xi (1931) 416-50.

HUGOLINUS. *See* FOUR DOCTORS.

HUMAN ECOLOGY. *See* ECOLOGY, HUMAN.

HUMAN GEOGRAPHY. *See* GEOGRAPHY.

HUMAN NATURE. The significance of the idea of human nature for the social sciences gathers about three questions: (1) Are contempo-

rary political and economic institutions necessary products of human nature? Or, more generally, does the very constitution of human nature show that certain social arrangements are likely to be successful while others are doomed to failure? Is war, for example, inevitable because of facts of human nature? Is self-interest so ingrained in human nature that the attempt to base industry on anything except a competitive struggle for private gain is sure to fail? (2) How far is human nature modifiable by deliberate effort? Or, in other words, which is more important, nature or nurture? Or, in still another form, how are heredity and environment related to one another? Which is more potent in the determination of behavior? (3) How great and how fixed is the range of variations in human nature between individuals and between groups? Are some racial or social groups by nature definitely inferior to others because of causes which cannot be altered? The same question is asked concerning individuals within each group.

These questions are bound up with controversies involving intense feeling. They largely condition the differences between conservatives and liberals, between aristocrats and democrats, between nationalists and internationalists. They are associated with emotions of complacency, pride and egoism. It is therefore extremely difficult to attain impartiality with respect to them, and discussions are often apologetics for some position already assumed on partisan grounds. There is, however, one incontrovertible fact about human nature—that the term has been used in a variety of senses and that in the history of thought there has been some correspondence between the interpretation of the concept and the general institutional and intellectual character of the time.

Four principal conceptions of the term may be mentioned: (1) The term is used to designate an alleged original and native constitution; that which is instinctive instead of acquired. There is a possible ambiguity here unless it is made clear whether the native constitution is taken to be common to all normal human beings or is one peculiar to particular individuals. (2) Human nature is defined in terms of alleged psychological powers or faculties, the "psychological" being placed in antithesis to both the physical and the social. Every normal human being is said to have certain powers, like perception, judgment, memory, desire. These powers are formal; they are to be distinguished from what is perceived, remembered, thought about, wanted. The ma-

terial content is held to come from sources outside of human nature, from either physical nature or social life. This assumed dualism between human nature and other nature has been so widely prevalent that it often affects discussions without being avowed: to many persons it is a direct product of "common sense." It has behind it a long intellectual history: formulated by John Locke, it was taken up by the British liberal school and became the basis of a distinction, on one side, between intrinsic "natural" law and "natural" rights (which are fixed and universal in the formal structure of human nature) and, on the other side, between artificial civil and political rights, which vary with conditions. (3) Human nature is in itself empty and formless and is therefore capable of being molded by external influences. Locke himself had declared that the mind is a piece of blank paper as far as any particular ideas and beliefs are concerned, although he had endowed it with certain formal faculties or powers. His French successors, like Condillac and particularly Helvétius, thought they were rendering him logically consistent when they held that "faculties" also were impressed on the mind by experience, mind being nothing but susceptibility to impressions from without. In this view education and the influence of the environment are all powerful. If men are corrupt and prejudiced, seeking only their private power and profit, it is only because institutions have formed them in their own likeness. (4) Human nature cannot be properly conceived or defined in terms of the constitution of individuals either native or acquired. Human nature can be known only through its great institutional products—language, religion, law and the state, the arts. As displayed in individuals it is merely potential; it develops into reality under the influence of cultural institutions, which form the content of objective mind and will. This theory drew some of its support from the teachings of Aristotle, especially in applying the distinction of "potential" and "actual" to human nature. But it was formulated especially by the school of institutional idealists headed by Hegel. Aside from any metaphysical formulation it influenced for a generation or more German students of comparative language, religion and law and was a great factor in producing the conception of a social mind which was made the basis of an entire school of social psychology.

It is obviously hopeless to look for agreement as to the modifiability of human nature or its relation to society, where the very content of the

term is so variously conceived. The last named conception, for example, expressly denies that the facts of original, or native, structure and instinct which the first conception treats as constituting human nature are anything more than crude and undeveloped potentialities, so inchoate in themselves that we could not even give them names were it not for knowledge of what they are capable of becoming, a knowledge which is had only by noting the institutional forms of a mature culture. We have here an instance of the controversy as old as Aristotle as to whether "nature" is to be defined in terms of origin or of complete development, i.e. of "ends." At first sight it might seem as if the difference could be explained away as merely one in verbal definition, one school using the word for one set of facts and the other school for another. If this were all there might be disagreement about the application of a word and yet agreement about the things to which different names are applied. Such, however, is not the case. The supposition that there is such a thing as a purely native original constitution of man which can be distinguished from everything acquired and learned cannot be justified by appeal to the facts. It is a view which holds good only when a static cross section is taken; when, that is to say, growth is ignored. The theory takes, as it were, a snapshot of man at, for example, birth, ignoring past history in the uterus and future history when the supposedly fixed and ready made structures will change as they interact with surroundings. Biologically all growth is modification and all organs have to be treated and understood as developments out of something else and as pointing forward to still something else. The conception of a fixed and enumerable equipment of tendencies which constitutes human nature thus represents at the best but a convenient intellectual device, a bench mark useful for studying some particular period of development. Taking a long enough time span, it is fruitless to try to distinguish between the native and the acquired, the original and the derived. The acquired may moreover become so deeply ingrained as to be for all intents and purposes native, a fact recognized in the common saying that "habit is second nature." And, on the other hand, taking a long biological evolution into account, that which is now given and original is the outcome of long processes of past growth.

Practically, however, with reference to the possibility of control the distinction between the native and the acquired is important. Barring

some future possible development of eugenics, our practical control of growth begins at birth; in controlling future developments we must start with what exists at that time. Existing organs, impulses, instinctive tendencies, form the resources and the capital on which future development must build. Included in this native stock is, however, the tendency to learn and to acquire. That the tendency to learn and hence to modify and be modified is itself part of the native (and hereditary) structure may appear too much of a truism to need statement. Nevertheless, this must be borne in mind, since it is decisive in showing how impossible it is to make any hard and fast distinction between the natural and the acquired, the native and cultural. The capacity for modification is part of the natural make up of every human tendency; it belongs to an unlearned equipment (as that is defined at a particular time) for learning, in which process it is itself changed. Recognition of this fact will save us from devoting energy to unreal questions and lead to concentration upon the important ones: What are the limits to modification through learning? How does the modification concretely proceed? How is it controllable?

On this question—in fact, on all issues concerned with human nature—men have entertained historically a variety of views. Classic Greek thought is based upon belief in the natural and inherent inequality of men. The most widely known expression of this point of view is Aristotle's statement that some men are slaves "by nature" and hence are to be ranked with tools and domestic cattle as means of production. The entire class of mechanics even if legally freemen belongs in this category, being by nature shut out from the truly free or liberal life, that of the mind. Retail shopkeepers are means also of serving material purposes and do not belong to the realm of ends. While this view was to some extent a rationalization of social prejudices which had been incorporated into the Athenian system it was also something more—a systematically thought out interpretation of human nature. In this interpretation the reason given for holding that some men are slaves by nature—even more important than the view itself—was that they possess an inherent deficiency in rational insight. Reason is the governing power in man; it is a condition of self-government and participation in civic government. Impulses and passions must be kept in subjection to rational aims unless there is to be social and moral chaos. Hence it is intrinsically proper that some persons should be



the animate instruments of others. The mass of non-Athenians who were not citizens and also not slaves but classed as mechanics (i.e. tools) by nature were said to occupy a lower status morally than slaves, since the latter, living in a certain intimacy of communication with their masters in the household, attained a kind of reflected rationality. Women were also ranked as constitutionally inferior and hence as properly subject to fathers and husbands; so also were the barbarians as compared with the Greeks, although the northern races, in whom spirited impulses are strong, were ranked higher than Asiatics, in whom appetites for ease, possession and passive enjoyment were dominant.

After the decay of Athenian culture at the time when the stoics were the ruling school of thought it was assumed as axiomatic that men are equal by nature and that differences among them are differences of status due to convention, to political organization and to economic relations, which are instituted rather than natural. So complete a revolution in thought in a few centuries is difficult to account for, but among the influences may be discerned the fact that the cynic precursors of the stoics were drawn largely from a proletariat class having no citizenship. The decay of the city-state with its intimate organization of loyalties, the growth of the impersonal Roman Empire, the weakening of local ties and the development of cosmopolitan sentiment were among the objective forces at work.

The doctrine in its original form did not have radical implications regarding existing institutions. The conception that political and economic inequality was based not on nature but on institution carried with it no attack on the latter. The stoic idea was favorable to the spread of a moral sentiment of confraternity among individuals as individuals, but in general it called for loyal acceptance of one's status in the existing social order. When the Christian church proclaimed the same doctrine of natural equality, it was also interpreted in a religious and moral sense free from political implications. Doctrines, however, outlive their original context, and at later times the stoic and Christian idea of natural equality was given a revolutionary interpretation.

The blend of Greek thought and oriental culture known as Hellenistic and centering at Alexandria took another turn, adverse to attaching value to nature in any form, physical or human. Because of what Gilbert Murray has termed "failure of nerve" the age centered its intellectual and emotional interest on the super-

natural and on the special means by which favorable relations with it were to be established. Little value was attached to social institutions of any kind in comparison with the method by which redemption of the soul was to be effected. The depreciatory view of nature which was instilled became associated with religion in the degree in which the latter lost the definite civic form it had in classic antiquity.

The main direction of thought in the mediaeval period represents a synthesis of ideas derived from different sources. There was the idea of the natural equality of men, an idea especially cherished during the earlier period in which the membership of the Christian churches was composed mainly of the disinherited. Morally speaking, a strongly democratic sentiment was inculcated. There was also, however, the tradition of the insignificant value of the natural in comparison with the spiritual interests represented by a superworldly kingdom. In fact, because of the corruption of nature due to the fall of man complete subjection of the natural man to the discipline and sacraments of the church was required, since the church was the divinely instituted and supported guardian of spiritual truth. The ascetic influences which prevailed in monastic circles accentuated the depreciatory view taken of the natural. At the same time, as the church became established as the supreme European institution and its doctrine took shape in scholastic philosophy, its official theory grew far from hostile to the conception of nature. On the contrary, under the influence of revived Aristotelianism it gave nature a place and validity of its own within definite limits; namely, as subordinate to revelation wherever the latter had spoken authoritatively. Moreover, as the struggle for authority between church and empire became acute, the doctrine of the conventional and instituted or positive character of political authority took a form distinctly hostile to the claims of the latter, so that the teachings of the church theorists helped to furnish later revolutionaries with weapons of attack upon the authority of autocratic governments.

It is a commonplace that what is called the modern period was marked by a new interest in and by a new respect for nature. This extended to human nature. There were explicit attempts to free moral and political theory from ecclesiastical and indeed from all institutional influence. The positive side of this movement found the authority needed for the new morals and politics in human nature. But a cleavage showed itself

almost at once with respect to the constitution of human nature in a controversy as to what element is dominant "naturally" and must therefore according to the theory be considered the support of political theory and practise. One school foreshadowed by Grotius and developed by his continental successors in the natural law tradition emphasized "reason" as the important factor. This, however, had little but the name in common with the classic Greek conception, although somewhat more kinship with the stoic conception. Reason was the universal element; the universal was the common, and the common was the bond of union among all men. It was the social tie which holds all human beings together in society even apart from and prior to the formation of a political state. Its social nature is expressed in the natural, or moral, laws which underlie political organization, and to which the latter must conform if it is to be just. A series of jurists and philosophers deduced the state with its basic laws and its systems of civil rights from this element in human nature.

English thought took a different turn in the seventeenth century, in which it was followed upon the whole by influential French thought in the eighteenth century. Continental thought was meant to justify law and authority by showing their accord with rationality as the reigning element in human nature. English thought was concerned to protect individuals from the encroachments of governmental action and, when necessary, to justify revolt. Psychologically it started from desire and emotion instead of reason and ended in a theory of rights instead of obligations. The writings of Thomas Hobbes, the real founder of British theory, are important in this connection even though outwardly he employed his doctrine to substantiate the claims of a powerful centralized state. In so doing he was actuated by hostility to the claims of churchmen—Presbyterians, Independents, Church of England adherents as well as Catholics—and he appealed directly to the affective side of human nature as primary. Moved by the civil wars and disintegration of his time, he appealed especially to fear and the need of security. English political thought after Hobbes consistently interpreted human nature in terms of the primacy of non-rational factors, pointing out that these employed reason as a means of obtaining satisfaction for themselves.

With the rise of the new industry and commerce, however, an important variation was introduced. The economists who set out to give

intellectual expression to the rising industrialism started from the affective side of human nature in accordance with prevailing English doctrine. They developed, however, a much more systematic theory than had ever been developed of the nature and operation of wants, out of which came a new conception of natural law. Economic activity, on this view, is basic; from it are derived the natural, in the sense of non-artificial, laws of human conduct. Society is the product of the efforts of human beings to satisfy their wants, since division of labor, exchange and permanent property are involved in this satisfaction. Government and political action exist in a secondary way in order to give security to the free play of economic forces. In its early stage the theory was thoroughly optimistic in its anticipations of the future of society when freed from the artificial regulations of political action. The conception of natural harmony was implicit or explicit. The land and rent theory of Ricardo and the population theory of Malthus introduced factors of inevitable disharmony and conflict which later gave a pessimistic turn to the view entertained of the workings of human nature.

It would thus appear that during the greater part of the history of European thought conceptions of human nature have been framed not with scientific objectiveness but on the basis of what was needed to give intellectual formulation and support to practical social movements. There is a reason for this beyond the ordinary tendency to use ideas to further practical activities. A new social movement brings into play factors in human nature which were hitherto dormant or concealed; in thus evoking them into action it also presents them to the notice of organized thought. A striking example of this fact is the reversal by most recent theory of the place attributed to wants in classic Greek speculation. In Greek thought wants were a sign of defect; they were to be kept under strict control inasmuch as they were the chief causes of social and moral disorder. Since the industrial revolution theory has generally held that wants are the motors of social progress, the dynamic force in creation of initiative, invention, the production of wealth and new forms of satisfaction.

The factors which have of late operated to put the question of the constitution of human nature on a more objective basis are the rise of a psychology with biological foundations and the development of anthropology. The psychological factor has made it clear that if definitive results are to be reached regarding the native or original

equipment of man they must be sought from physiological study correlated with structural studies of human behavior at various stages of growth, especially intra-uterine and immediately postnatal. The native equipment is, roughly speaking, identical with the biological equipment; recognition of this fact will in time take the theories of the matter out of the area of speculation into that of observable fact. Anthropology, on the other hand, has made it clear that the varieties of cultural and institutional forms which have existed are not to be traced to anything which can be called original unmodified human nature but are the products of interaction with the social environment; they are functions, in the mathematical sense, of institutional organization and cultural traditions as these operate to shape raw biological material into definitively human shape. If we except the extreme partisan stand, it may be regarded as now generally accepted that the immense diversities of culture which have existed and which still exist cannot possibly be derived directly from any stock of original powers and impulses; that the problem is one of explaining in its own terms the diversification of the culture milieus which act upon original human nature. As this fact gains recognition, the problem of modifiability is being placed upon the same level as the persistence of custom or tradition; it is wholly a matter of empirical determination, not of a priori theorizing. It cannot be doubted that there are some limits to modifiability of human nature and to institutional change, but these limits have to be arrived at by experimental observation. At present there are no adequate experimental data on which pronouncements may be based. Moreover when such limits are found it will be important to discover whether they are intrinsic and absolute or whether they are to some extent due to limitations of our technique for effecting change. Certainly some of the limits existing at any particular time will recede, exactly as have the earlier limits in control of the energies of physical nature, with increased knowledge of causal factors. At the present time, for example, we can predict to some extent on a statistical basis the effects of educational measures. But the effect of education upon the development of a particular individual is, as far as foresight is concerned, still largely a matter of guesswork. It would be hard to find a fact by which to illustrate more forcibly the limitations of our present technique in effecting modification of human nature. Although schools abound, education as a controlled process of

modification of disposition is hardly even in its infancy.

The present controversies between those who assert the essential fixity of human nature and those who believe in a great measure of modifiability center chiefly around the future of war and the future of a competitive economic system motivated by private profit. It is justifiable to say without dogmatism that both anthropology and history give support to those who wish to change these institutions. It is demonstrable that many of the obstacles to change which have been attributed to human nature are in fact due to the inertia of institutions and to the voluntary desire of powerful classes to maintain the existing status. With regard to the possibility of economic reconstruction history demonstrates the comparative youth of the present regime; and revolutionary societies may be regarded as social laboratories in which is being tested the possibility of securing economic advance by means of other incentives than those which operate in capitalistic countries. For the immediate present all that can reasonably be hoped for with reference to the general issue of human nature are: a willingness to substitute special concrete plans of modification for wholesale claims and denials; the growth of a scientific attitude which will weaken the force of ideas and battle cries coming from the past; willingness to see social experiments tried without interference by outside force; and the use of educational means that are regulated by intelligent foresight and planning instead of by routine and tradition.

JOHN DEWEY

See: MAN; INSTINCT; HABIT; CONTINUITY, SOCIAL; CHANGE, SOCIAL; CONFLICT, SOCIAL; INSTITUTION; RACE; CULTURE; ENVIRONMENTALISM; HEREDITY; ECONOMIC INCENTIVES; ALTRUISM AND EGOISM; EQUALITY; SOCIAL REFORM.

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## HUMANISM

**HISTORICAL ASPECTS.** A movement which represented an extensive change--almost in the nature of a mutation--in art, literature and thought took place in western Europe at the close of the Middle Ages and in early modern times. More than any other series of events it embodied the transition from mediaeval to modern times. On its literary and intellectual side this movement has been called humanism. Underlying it were the phases of a commercial revolution--an increase of trade, of wealth, of banking, of accumulation by rich individuals and taxation by governments. That humanism should first arise in Italy was but a reflex of the fact that it was there that a wealthy commercial life in cities and at luxurious courts first appeared. Only in a consumers' civilization such as the Italian, founded on wealth and leisure, could such a movement take place. The early humanists were the secretaries, librarians, teachers, sometimes the courtiers and officials, sometimes themselves the princes and prelates and great merchants of the cities and courts. Some sixty or eighty Italian writers obtained enough fame in the later decades of the fourteenth century and during the fifteenth to exert a wide influence on their own time, and they have remained objects of literary and intellectual interest ever since. Many thousand pages of Latin and Italian prose and verse remain to testify to the scholarship, the taste and the industry of these and the lesser writers of their time. To the great majority of readers and students of later time it is the writing and the interests of these men that constitute humanism.

Humanism gathered largely about an increased interest in the Greek and Latin classics. The almost boundless variety of content, the perfection of form and the freedom of thought of the ancient writers provided admirable material for the uses of an awakened and critical but not a profound or an inventive mental activ-

ity. Moreover the Italians lived on the same soil as the writers of Roman antiquity and felt themselves their direct descendants. The language of the Romans of the classical age was the common language of mediaeval learning, law and the church. Quotation from the ancient writers was a familiar mediaeval practise, and what the ancients had known was the largest element in what the Middle Ages knew. But all this antique lore was subordinate in the Middle Ages to the doctrine, the discipline and the philosophy of the Christian church, to the scholasticism that dominated the universities, to the superstition that permeated knowledge and to the predilection of the time for religious interests. Now in a world of wider interests men studied the classics in a different spirit, with a new appreciation for their literary beauties, their variety of subject and their less inhibited outlook on life. They regarded the ancient writers as kindred spirits. Largely outside of the church and at first apart from the universities an ever increasing number of students, teachers, writers and officials immersed themselves in the study of the classics.

They were mighty hunters of manuscripts; within little more than half a century there were added to the list of classical writers known to the Middle Ages practically all those which were ever to be added. New works of Cicero, Quintilian, Nepos, Plautus, Martial, Ovid, Pliny, Varro, Tacitus and more obscure writers were discovered in old monasteries and elsewhere. The acquisition of the Greek classics soon followed. Greek teachers brought the tools of their trade with them. Guarino brought some fifty manuscripts from the East in 1408. Aurispa, a learned book dealer from Sicily, secured and brought to Venice more than two hundred in 1423, and Filelfo, secretary of the Venetian legation at Constantinople, brought home with him from that city copies of the works of at least forty Greek authors. All these were copied and recopied, edited, criticized, translated into Latin and Italian and eventually printed, and became the canon of all modern scholarship.

Study of the classics led to admiration, and admiration to imitation. Italian as a literary language, used by Dante and Petrarch in their poetry and by Boccaccio in his stories, yielded for the time to Latin; and skill and eloquence in the use of the ancient tongue rivaled discovery and scholarship in the reputation they brought. It was skill in the use of Latin for correspondence and state documents that led to the appointment of Salutati and Bruni as chancellors of Florence,

and of Aeneas Silvius, Poggio and Sadoleto as papal secretaries. Eloquence in Latin speeches of congratulation and other orations reduced hearers to tears, and mistakes of grammar or rhetoric awakened their ridicule. The pursuit of classic eloquence was for a time the most conspicuous element in humanism. Great reputations, such as those of a Bembo, Filelfo or Landino, were built up upon it.

More important than either scholarship or style was the variety of the subject matter of the writings of the humanists. This was due partly to the example of the ancients, partly to the increased alertness of mind and keenness of interest of their own age. The Middle Ages had of course their "bestiaries" and their historical and even scientific writings, but they were seldom the work of the intellectual leaders of their time. The greatest of the humanists, on the other hand, along with their editions of the classics, literary essays and letters, poems and orations, wrote geographies, like the description of ancient Italy by Biondo; histories, like those of Florence and the Italian towns by Machiavelli and Guicciardini; biographies, like those of the popes by Platina and of other famous men by Giovio, Cortesi and Vespasiano. They wrote about every conceivable human interest.

But it was, again, neither the form of the works of the humanists nor their subject that was most characteristic: it was their spirit. As compared with the piety or, at least, the ecclesiasticism of the Middle Ages, humanism was uninterested in theology. It was sometimes unregardful, at other times harshly critical of the church. In its thought it depended on no authority. Indeed so great was the departure of humanism from the Christian discipline of the Middle Ages that it was, on one of its sides, quite indistinguishable from paganism. This was also partly due to the influence of the ancient writers. It was impossible to read assiduously and receptively the writings of men who were either agnostics or whose gods were far away and unreal and retain any conviction of the existence of a personal, interested Christian deity. But the freedom of spirit of humanism was also a revolt from sacerdotalism, a layman's rebellion against the tyranny of the churchman, a declaration of independence of thought from the restrictions of ecclesiastical authority. It is true that some of the humanists were themselves ecclesiastics. They were papal secretaries, like Valla; bishops, like Bessarion and Sadoleto; cardinals, like Bembo and Accolti; even popes, like Nicholas v, Pius II and

Leo x. But these prelates were far from representative of the mediaeval church. Tolerant, secular in their interests, indifferent to religion, they were officials of the church as an institution but did not exemplify its spiritual life or insist on its spiritual authority. Wherever religion was genuinely earnest it entered into conflict with humanism, inseparably bound up as the latter was with emancipation of spirit and freedom of thought. In a later century and in more serious minded countries the religious enthusiasm of the Reformation proved to be antagonistic to the survival of the free spirit of humanism as had been the strict religious uniformity of the Middle Ages.

It may have been this pagan, non-religious element in humanism, or it may have been the general character of the times, that was responsible for the large element of lubricity in its writing. But it is apparently the mere human love of a good story that accounts for the large part that anecdotes, facetiae, witty sayings and *adagii* play in its literature.

Education was an important element in the field of humanism; men wishing to know the classics sought instruction from those who already knew them. Greeks therefore established schools in which they provided an introduction to their language; native humanists gave instruction in the language, the style and the contents of the works of the ancients. The old town schools of the city republics called humanists to their service. Enlightened princes established schools for their own children and those of other distinguished persons, and in these also men who had attained fame because of their classical knowledge were appointed teachers. Even the universities gradually began to appoint, alongside their lecturers in law, medicine and theology, men of classical learning to give lectures on "rhetoric," which was stretched to include the new literary interests. These schools and classrooms were crowded with students. The teaching consisted of lectures, exercises and discussions on the classics; the content as well as the form of the ancient writers was studied. The grammar, etymology, vocabulary and even the style of the Latin and Greek languages and literature would never have created the enthusiasm that marked the humanistic schools. The teachers lectured on geography, politics, history and even medicine and science as they met those subjects in the ancient writers. It was this varied material that gave to the classics their preferred position in all later education, even after content had become subordinate to form and even after

other subjects of educational value unknown to the humanists had been discovered.

The theory as well as the practise of humanism exerted an influence on education at that time and has continued to do so. A many sided training, a program of education that would develop all that was characteristically human in an individual, that would fit him for the broadest and most effective use and enjoyment of life, attracted many of the fifteenth century Italian writers. Their plans were largely drawn from antiquity, especially from the ideas of Quintilian, but they were also affected by a revulsion from the training given by the church and by a recognition of the needs of their own time. Castiglione, in describing an education for the ideal man who will be able to take any position at any court, fills his pages with references to the ancient heroes and makes no mention of the mediaeval saints. It is obvious, however, that such a training was more suitable for a prince, a diplomat or a courtier than for a merchant or a man of lower degree. There was a certain aristocratic tendency in all humanist education. Anyone who entered upon the various courses of training was necessarily a man of station or was expected to become so. When education in the humanities had to be adapted to the needs of a more varied class of students it was inevitable that less attention should be paid to the matter and more to the form of the classics.

The humanists could not be expected to welcome the art of printing, which appeared in the very heyday of their fame. Most of them were or had been copyists devoted to beautiful handwritten codices, or collectors of manuscripts. These trophies became less notable when numerous copies of printed books could be procured much more cheaply. A presaging mind might also have dreaded a democratizing effect of such a wide spread of the *literae humaniores*. Nevertheless, printing soon spread from its obscure first appearance at Subiaco near Rome in 1465 to Rome itself, to Florence, to Venice, Bologna, Milan and soon to more than fifty small towns where obscure presses were set up. Within seven years the Subiaco press had printed 12,475 volumes. Before 1500, Symonds calculates, 4987 separate works had been printed in Italy. Compositors became more numerous than copyists and a more popular scholarship was needed in order that good editions of the classics might be printed. The most famous of all these printers, Aldus, was himself a typical humanist, a trained scholar, a student of Greek, a tutor of

young aristocrats and a friend and protégé of Pico della Mirandola. With borrowed capital he established his press at Venice in 1494, and by 1516 had published editions of thirty-three Greek authors. He cast his own Greek type, made his own ink, hired Greeks as compositors and workmen. Best of all, he sold his books at the lowest price he could possibly afford. He took especial pleasure in issuing his editions of Aristotle, Plato and Thucydides, of whom he had made a special study. He issued also many Latin and Italian works and set a standard of excellence in printing that was of immeasurable value. Thus one of the great achievements of humanism, the discovery and dissemination of the classics in manuscript form, was by the end of the fifteenth century carried to another stage, in which the literature was popularized and made accessible to all.

This advance came none too soon, for the movement, in so far as it was an Italian literary fashion, had become decadent. The immediate successors of those who had set the standards of scholarship were often mere pedants; the name humanist temporarily became one of ridicule rather than honor and the position of the mere scholar became far from happy. Some of the clergy denounced the irreligion of the humanists as heresy. While the corruption of the church was fast reaching its zenith a new piety was preparing the counter-reformation. The French invasions beginning in 1494 and the sack of Rome in 1527 came as signal evidences of the disintegration of the Italian society which had been so favorable to humanism.

In the meantime humanism had crossed the Alps. In France, Germany, the Netherlands, Spain, England and Scotland there appeared, with characteristic national differences, essentially the same set of interests as those which had given Italy her great repute. At the councils of Constance, Basel and Florence clergymen from north of the Alps met papal secretaries like Poggio and Bruni, lawyers like Vergerio and Bartolomeo da Montepulciano, all of them humanists of the first generation, and were deeply impressed with their classical learning and eloquence. Englishmen, Frenchmen and Germans were to be found as students at the schools of Guarino and Chrysoloras and as envoys or visitors at the courts of Rome and of the princes. They took back to their own countries the love of the classics, the critical spirit and the awakened intelligence of Italy. Before the end of the sixteenth century humanism became a

recognized interest and an efficient impulse toward knowledge, in greater or less degree, in every country of Europe.

It has formed one of the main threads in the web of all modern life. It has survived in various forms—classical scholarship, education in the humanities, temperamental resistance to ecclesiastical and political authority, a certain warm conviction that man himself is the center of the universe, and a basis for certain modern schools of philosophy and religion. A long line of men of great mental powers have devoted gigantic labors to classical scholarship. Beyond the Alps the primary place in the study of antiquity was long held by France. Early in the sixteenth century Budé, encouraged by the example of the Italians and influenced by two visits to Rome, built up a body of classical knowledge and produced a series of commentaries on Roman law and antiquities that gave him the reputation of being the most learned man of his time, with the possible exception of Erasmus. The line of French scholars came down through Stephanus, Scaliger, Dolet, Ramus and the learned physician, classicist and ribald Rabelais, the essayist Montaigne and the omniscient Casaubon, making the sixteenth century in France one of the most learned phases of intellectual history. Erasmus, born at Rotterdam in 1466 (or 1467), was perhaps the greatest representative of humanism as scholarship; he combined a brilliant productiveness, a many sided interest, a cosmopolitan outlook and a unique personal attractiveness. German scholarship also, from Agricola and Melancthon to Wolf and Böckh, drew its early inspiration from Italy. Except for Bentley and Porson the scholarship of England before the nineteenth century is best illumined by a consideration of the effect of Italian humanism on education.

The imprint of humanism upon formal education has been so strong as to make the expressions *literae humaniores* and "the humanities" almost synonymous with the curricula of the leading schools and universities of Europe from the fifteenth to the nineteenth century. Much of the scholarship referred to above addressed itself to the problems of education, in lectures on the classics, in the advocacy of their introduction into the schools and in the preparation of textbooks and treatises on education. A group of Englishmen, the most notable of whom were Grocyn, Linacre and Colet, men of the "new learning" as humanism was called in England, studied in Italy in the later years of the fifteenth century and on their return to England interested

themselves in the introduction of new studies and new methods into the universities and schools. Grocyn lectured on Greek at Oxford and Linacre's lectures on medicine offer a striking instance of the unexpected interests awakened by classical studies. Colet combined his inherited wealth with his humanistic ideals in the establishment of a school for boys in London, where the classics were to be studied in the modern way. This school, St. Paul's, not only trained many influential men but was taken as a model by many of the reorganized and newly founded English schools of that century and the next. Erasmus himself lectured at Cambridge, helped produce a Latin textbook for the schools and wrote a treatise on education. In the middle of the century new professorships in the classics were established at the universities and occupied by distinguished Latinists. Sir Thomas More—a typical man of the new learning although he never studied in Italy—the Fleming Vives and other humanists living in England wrote essays on education. In Germany at the beginning of the sixteenth century the old universities began to give attention to a deeper study of the classics and three or more new universities were founded directly on a humanistic basis. Still more marked was the effect of humanism on the establishment there of Latin schools, which later became known as *Gymnasia*. The famous schoolmaster Sturm at Strasbourg exerted every effort to establish the classics as the basis of education.

It cannot be said that this devotion to the classics in schools and universities retained its full vigor and fruitfulness. Humanism as a basis of education showed an inveterate tendency to degenerate into formalism. Mental training and polish such as the study of the classics offered were obtained by a few, but it became increasingly true that the great body of students derived little profit from the classics. Humanism in education has often been a fetish rather than a living principle.

Humanism furnished two of the principal roots of the Reformation—criticism of the mediaeval church and the free study of the Scriptures. But in the main it has been antagonistic to positive and authoritative religious belief. Since the reformers, reverting to the church fathers and the Bible, taught that this world is merely a preparation for the world to come, humanism could not but set itself to oppose this otherworldly spirit. When in the seventeenth, the eighteenth and the early nineteenth century the churches had become institutionalized and

fitted to secular surroundings, humanism in its turn irradiated them with its mild glow of satisfaction with this life. To Pietism, Puritanism and Methodism, and to the devoteism of the evangelicals humanism was an alien creed. It belonged rather with deism, or at least with absence of all enthusiasm in religion and a devotion to culture on intellectual grounds. Men like John Stuart Mill and Matthew Arnold best represented the survival of humanism as a refined but non-religious outlook on life, but it was also prevalent in the established churches of England and other countries. In the field of politics humanism represented this same opposition to restrictive authority. It was felt that if men are to live their lives in fulness and freedom they must be independent of the tyranny exercised either by kings or by society. The rebellion of Rousseau against the hampering bonds of eighteenth century France may in this sense be linked with the attitude of the men of the Enlightenment not only in France and Germany but also in England and America.

Despite its humane spirit humanism struck at best merely a loose alliance with the humanitarianism beginning in the eighteenth century. Except for its early enthusiasm for the classics, humanism has not been characterized by intense emotion. Revolt against injustice, cruelty and unnecessary suffering or hardship was, to be sure, a mark of the humanistic spirit, and humanitarian reforms could count on a certain amount of sympathy from persons dominated by that spirit. But the old humanistic belief in the efficacy of education checked social reforms as much as it aided them by entrusting their accomplishment to education alone. The persistent struggles that brought about better conditions of life for the mass of the people were not carried on by persons imbued with a humanistic view of life; their interests were too aristocratic and individualistic, their eyes were turned too much toward the past and upon themselves.

Humanism as a technical term and as an intellectual or moral conception has always leaned heavily on its etymology. That which is characteristically human, not supernatural, that which belongs to man and not to external nature, that which raises man to his greatest height or gives him, as man, his greatest satisfaction, is apt to be called humanism. Humanism thus means many things. It may be the reasonable balance of life that the early humanists discovered in the Greeks; it may be merely the study of the humanities or polite letters; it may be the free-

dom from religiosity and the vivid interest in all sides of life of a Queen Elizabeth or a Benjamin Franklin; it may be the responsiveness to all human passions of a Shakespeare or a Goethe; or it may be a philosophy of which man is the center and sanction. It is in this last sense, elusive as it is, that humanism has had perhaps its greatest significance since the sixteenth century. Thinkers like Descartes and Leibniz were essentially humanists however much they were forced in their efforts to solve the problem of reality to include the existence and power of a divine mind or the apparent resistance of external nature to human control. Locke, in turning away from the problems of ultimate knowledge to a test of man's ability to reach it, is thinking as a pure humanist, a student of the mind of man. His faith in the power of human nature to solve its own problems, his *Letter concerning Toleration* and his *Essays on Civil Government* exercised a strong influence on French humanist thinkers of the eighteenth century, and through Voltaire, Diderot and Montesquien had much to do with the American and the French revolutions. Rousseau's contribution was also essentially humanistic; his conception of a law of nature was of a law of human nature and had reference to natural human conditions which, if they had once existed, might again be brought into existence by human effort. The belief in human perfectibility on which the higher reaches of the optimism and reformism of the eighteenth and nineteenth centuries were so largely built up was a humanistic belief. In Germany the amiability and enlightenment of the ideas of the romantics, the championship of the claims of nature and freedom and self-realization by Herder and Lessing, Schiller and Goethe, formed another stage in the apostolic succession of humanistic interest in the life of man. The point of departure of Kant's critical system—that the world of experience as man knows it is the product of his own understanding—represented an essentially humanistic conception from which his immediate successors did not depart. Finally, the term humanism has been rather strictly applied to a recent school of philosophy.

The principal early rival of humanism as a way of looking at the universe was the group of ideals and institutions which were motivated by the conception of supernaturalism. But the Greeks had already found still another approach to an understanding of the world, an approach which also found its echo in the fifteenth century. They perceived that nature might be looked on



as greater than man. In the seventeenth century, as a result of the suggestions of Bacon and the discoveries of Copernicus, Kepler and Galileo, the conception of naturalism took a distinctive if not a dominant position. As students have since delved more deeply into the external world, approaching its study through astronomy, physics, chemistry and biology and using the experimental method, man has tended to lose his place as the center of all things. He has become in scientific eyes, notwithstanding the claims made for his distinctive possession of consciousness, simply one of the phenomena of observable nature. Mankind in this view appears at a definite period in the history of the material world and will in time disappear from it, leaving that world still in existence. Organic life, that of man as of other organisms and that of his mind as of his body, is a casual incident in the long history of the universe. Thus naturalism has grown up as an intellectual conception incompatible with humanism, offering a satisfactory explanation of the universe and of man's place in it, asserting the desirability of making science the predominant element in education, urging the continuous study of nature as the most useful and delightful of occupations.

Humanism may therefore be conceived of in this philosophical sense as forming, with supernaturalism and naturalism, one of three rival claimants to philosophic allegiance. It has, in reality, been a persistent element in thought, playing a varying role, as men have believed that the universe, including man, is governed by some great personality, or that it is an unconscious self-existent system of which conscious man is an inconspicuous, almost a chance part. Its dominant place has been in an intellectual climate in which man is considered the measure of the universe and the architect of his own fortunes in it.

EDWARD P. CHEYNEY

**PHILOSOPHICAL ASPECTS.** That the word humanism was appropriated by a famous literary and intellectual movement of the Renaissance was more or less of a historical accident, but that it should also be applied to several philosophic movements was only natural. For it is clearly a suitable term to characterize any view of the world for which humanity is the central object of interest, and as such views are numerous it must speedily acquire a plurality of senses. Their common point of departure, however, is always the human aspect as opposed to the

superhuman or the merely natural. The most fundamental formulation of philosophic humanism is still to be found in the dictum of Protagoras that "man is the measure of all things." This formula lays the sharpest stress on the relativity of all knowledge to human capacity and calls equally in question attempts to raise human knowledge to some superhuman and absolute level and to reduce it to a merely natural process. But Protagoreanism was not called humanism, as it might have been, because it was customary to misunderstand the humanist relativity of Protagoras as a form of skepticism, although it plainly proclaimed that knowledge is possible.

It was therefore left to F. C. S. Schiller to introduce humanism as a technical term into philosophy, although before him the adjective humanist had already been applied to certain tendencies in philosophy by A. Seth Pringle-Pattison (*Man's Place in the Cosmos*, Edinburgh 1897, p. 61), W. Caldwell ("Pragmatism" in *Mind*, n.s., vol. ix, 1900, p. 433-56) and Dickinson S. Miller ("The Will to Believe" and the Duty to Doubt" in *International Journal of Ethics*, vol. ix, 1898-99, p. 169-95). Schiller had at once adhered to the philosophic movement started by William James in 1900 under the somewhat unfortunate name pragmatism, a term taken over from Charles S. Peirce, and in 1903 he proposed to James to call it humanism. But when James replied that although he recognized the merits of humanism it was too late to displace pragmatism, which had already taken root, Schiller contented himself with using humanism as the name for his own variety of pragmatism. He described it as opposed in principle to both of the great attitudes which at that time dominated the philosophic field, i.e. absolutism (the attempt to assume the standpoint of the ultimate whole in describing the real) and naturalism (the attempt to describe the real in terms of a "nature" in which man was reduced to a merely natural phenomenon), and yet as in a manner mediating between these extremes. Absolutism was accused of ignoring the problems of human knowing and of overlooking the fact that the hypothesis of the possession of absolute knowledge by absolute reality in no wise vindicated or assisted human knowing, as well as of omitting to prove that the conception of absolute reality was valid. Naturalism was charged with overlooking the presence of human activity in all cognitive operations and with the (vain) attempt to interpret the whole of nature, including

man, in terms of the lower parts of total nature, with man excluded.

Thus on its critical side humanism was essentially a protest against the dehumanizing and depersonalizing procedure which seemed to characterize both the natural sciences and absolutist metaphysics. Its primary interest was in logic and epistemology, and its polemic was specially directed against the intellectualistic assumptions of the traditional logics, which systematically ignored the psychological sides of knowing and the influence of volitions, desires, emotions, purposes, bias and personality on our processes of thought. On its recognition of these neglected factors it sought to build up a positive theory of knowledge and a new logic. Thus the axiomatic "necessities of thought" of the a priori philosophies were transformed into postulates, which were rooted in emotional demands or requirements of method, but were verified and established only by their success in promoting and attaining knowledge. Such success became the test of truth, which came to depend not on a priori "intuitions" but on observable "consequences" and on the competitive "working" of rival "truth claims." Truth thereby ceased to be necessary and coercive; it became desirable and a value, denoting the success of a thought experiment and of a cognitive enterprise, while error could be conceived as a failure; and both truth and error became relative to the unending progress of knowledge and neither could any longer be conceived as absolute. Similarly the absolute antithesis between theory and practice was broken down; and although the general attitude of humanism was radically empiricist it could refuse to represent the mind as merely passive and receptive of "impressions" from the outer world. The "activism" which distinguishes it from the older empiricism reveals its affinities with voluntarism, personalism and the individualism of Warner Fite. Indeed in his latest book, *Logic for Use* (London 1929), Schiller seems to be substituting voluntarism for humanism as his own description of his doctrine.

This, however, is presumably due to the growth of other senses of humanism: If the application of the term humanism is extended from epistemology to metaphysics and general philosophy, it is evident that humanism may be taken as intermediate not between naturalism and absolutism, but between naturalism and supernaturalism, as in the *Lectures on Humanism* (London 1907) of J. S. Mackenzie, an absolutist philosopher of the idealist type, and in Viscount

Haldane's *Philosophy of Humanism* (London 1922) written with similar intent and doctrine. This second philosophic usage of humanism clearly does not involve any antagonism to absolutism. Soon afterward in America a third philosophic sense arose out of the second, when the reference of the term was further extended to religious issues. The more radical of the American Unitarian clergy gave up theism and called their purely human doctrine humanism to indicate that they no longer considered belief in a deity vital to religion. In this sense, which is finding some favor also among British secularists, humanism comes very close to what used to be called positivism. The use of humanism for what was formerly more clumsily called anthropomorphism, which is found in George Santayana's *Realm of Matter* (London 1930, p. 201), is to be welcomed as not only justifiable but as an improvement.

Finally, there is in America a movement under the leadership of Irving Babbitt and Paul Elmer More which also marches under the banner of humanism. It represents a protest against unbridled vocationalism in education and advocates a return to the old liberal education in the classical literatures. It stands for traditionalism in literary criticism and emphasizes the necessity of order in social relations, being in these respects related to the type of French thought represented in an earlier generation by Brunetière and more recently by Julian Benda. While this movement has no connection with the philosophic uses of the term it is frequently confused with some or all of them.

The net result is that there exists at present widespread confusion in the public mind about the various sorts of humanism. This will doubtless diminish in time, but it seems unlikely that philosophy will ever again give up the use of so attractive a word or that it will be found possible to reduce the surviving philosophic senses to strict unity.

F. C. S. SCHILLER

See: RENAISSANCE; ENLIGHTENMENT; RATIONALISM; PRAGMATISM; HUMANITARIANISM; EDUCATION; ART; REFORMATION.

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**HUMANITARIANISM.** Although the word humanitarianism has had several theological meanings, the most important of which asserted that Christ was a man and not a god, its use is now wholly restricted to its social connotations. It is far from being an exact term. A humanitarian seeks to lessen suffering and increase enjoyment among all forms of sentient life. He presumably feels love or friendship toward the object of his concern; yet his strongest emotion is a kind of imaginative flinching before the

spectacle of inflicted pain. An emotional experience of direct, intense love for mankind in a mass is probably rare. Humanitarian movements have been chiefly directed toward preventing recognizable physical cruelty to men or animals or both. Where humanitarian efforts seek a positive addition to the happiness of sentient beings, it is to make the unhappy happy rather than the happy happier. Humanitarianism which appears to be leveling and democratic must not, however, be considered as synonymous with egalitarianism. It is an ingredient in many social attitudes; in the modern world it has so penetrated into diverse movements from antivivisectionism to socialism that it can hardly be said to exist in itself.

The study of humanitarianism in primitive societies can be discussed only by abandoning all notion of the word as a philosophical abstraction, as a movement, and by posing the query as to how far primitive men were cruel toward sentient beings and how far sympathetic. Savages may be very cruel and very kindly; caresses or blows depend on immediate emotion. Savages generally appear to lack the specific imaginative recoil before witnessed cruelty. When the savage acts on principle or habit he distinguishes between his own tribe and aliens. Toward the former he may feel sympathy, recognize duties of mutual forbearance and even repent cruelty inflicted in hasty passion. He regards the alien with hatred and distrust and recognizes no restrictions upon his impulses to be cruel toward alien captives in war—a rule which has notable exceptions, as in the hospitality of certain nomads. Primitive men undoubtedly achieved humanitarian reforms, although very slowly. The domestication of animals led, if only for utilitarian reasons, to solicitude for their well being. The deification of certain animals or their sacredness to some god gave them care and protection. The doctrine of the transmigration of souls, particularly when coupled with ancestor worship, also protected animals from cruel treatment. The survival of such religious beliefs in India engenders attitudes toward almost all animals incomprehensible to Europeans and has in spite of caste notions helped to keep alive a strong substratum of humanitarian feelings very useful during the present movement of passive resistance. Primitive societies employing human sacrifices came frequently to substitute animal sacrifices in their stead.

Humanitarianism emerged in the Graeco-Roman civilization as a philosophical abstrac-

tion. The Hellene distinguished sharply between himself and barbarians, slavery underlay his society as it did the Roman's and the Roman gladiatorial shows were cruel. Yet there were sporadic protests against slavery in Athens, and Seneca protested bitterly against the inhumanity of gladiatorial shows. Stoicism with its egalitarian cast and its rationalist contempt for passionate excess advanced the brotherhood of man; Marcus Aurelius urged men to love those who have offended them. Although Epicurus distrusted love he recommended and practised philanthropy—the relatively early use of the word *philanthropia* is a good indication of the development of the sentiment. Plutarch insisted on kindness to animals—not, as he was careful to state, on Pythagorean grounds of possible metempsychosis, but for its own sake as a part of the good life. In the profusion of cults in the late Roman Empire beliefs like the mysteries of Isis with their intense feeling for the union of all forms of life in death tended to mitigate the harshness of the pagan world.

The teachings of Christ as reported in the Gospels are predominantly in the direction of kindness, brotherly love and peace. Organized Christianity has from the beginning insisted on the sanctity of human life as sheltering an immortal soul and on the brotherhood of all true believers. The early church saw among its members the realization of the golden rule, a highly humanitarian aim. The church helped to keep alive the softer virtues among the cruelties of the Middle Ages and to preserve a humanitarian consciousness. Yet humanitarian writers from the eighteenth century on have been unmistakably antagonistic to Christianity, and the more extreme humanitarians have been positivistic, secularist or agnostic and not infrequently actively anticlerical. The reasons for their attitude are clear. Christianity has never wholly thrown off its early indifference to and even hatred of the flesh. In terms of Christianity suffering in this world may be a positive good; cruelty is by no means the worst of evils. Christianity denied souls to animals and therefore had little care for their welfare. The church itself early turned militant, converted unbelievers by force if necessary, refused to extend its notion of brotherhood to the heathen, tortured heretics, conducted bloody crusades. Organized Christianity has accepted—to its enemies it has seemed to promote—all sorts of social inequalities and injustices. Its temper has been resolutely pessimistic and authoritarian; it has been a stern dis-

ciplinarian, unwilling to trust men to pour themselves out in benevolence. How much of iron there is in Christianity is evident if one compares the stern Christian eschatology with the humanitarian eschatology of the cult of Isis.

Neither the Renaissance nor the Reformation concerned itself directly with lessening the total of human and animal suffering. Thomas More was genuinely moved to pity at the plight of the new poor and wished to remedy that plight by specifically humanitarian measures, and a similar impulse is evident in the work of Erasmus and other humanists. But the age was lustily or somberly passionate, neglectful of the mild and the weak.

Modern humanitarianism has its origins in the eighteenth century. The firmest believer in the guiding force of ideas can hardly refuse to see in economic and social conditions the necessary starting point of an explanation of its rise. The newly enriched middle classes largely determined the intellectual climate of the eighteenth century, although their accession to political power came somewhat later. The middle classes unlike the nobles were trained for peace and not for wars; they were not even accustomed to the blood of the hunting field. Success in trade and industry although consistent with exploitation of laborers turned ultimately on ability to cooperate with large numbers of men. Travel, which became easier and common, helped break down age old feelings of tribal exclusiveness. The middle class was so numerous that anything like a class consciousness had to rest upon a broad and general sense of the value of human life; and the necessity of attracting the support of the lower classes made an appeal to more general notions of human rights inevitable. The religious wars were over, and the national wars had not begun. Men could devote themselves to the cause of mankind, if only for lack of a more immediate cause. Under these conditions the thought of the age came to humanitarian conclusions. Utilitarianism not only found men equally capable of feeling pain and pleasure but concluded that the pleasures of benevolence were high and lasting. The rationalism of the *philosophes* found cruelty and suffering out of place in a universe as neatly ordered as the universe of Newton should be. The sentimentalism of Rousseau asked nothing better than to expend itself in pity toward the victims of an unnatural and unnecessary civilization. The most effective expressions of Christianity in the period—Pietist, Wesleyan, evangelical—sought to alleviate

suffering immediately, worked among the poor and humble and assumed functions of social service rare since the coming of the friars. The determining force in the abolition of the slave trade by England, which meant virtually world abolition, was the Tory and evangelical William Wilberforce. The fashionable and privileged world began to love or at least to feel sorry for its less fortunate fellows.

Science played a part in this development of humanitarianism. In so far as scientific progress destroyed accumulated superstitions it destroyed one of the bases of distinction between men and therefore one of the bases of domination and intolerance. The scientific attitude even in the eighteenth century was rarely without a touch of skepticism, which if it disarms for action also disarms for cruelty. Science contributed to the rationalist scheme of an ordered, just, untroubled world. But in the nineteenth century science was a blade that cut both for and against humanitarian principles. Medicine and surgery made incalculable progress against physical suffering. Applied science added greatly to the stock of human comforts. Yet the work of Malthus and Darwin continued to make fashionable and even effective a theory of the necessity for struggle which questioned the wisdom of almost all humanitarian policies. Biology seemed as hostile to the humanitarian cause as Newtonian physics had been friendly. Science as applied in the industrial revolution seemed but to put the lowly in a new plight, and as applied in war it multiplied the possibilities of inflicting death and suffering. Pessimists might well doubt whether the total achievement of science was any lessening of the fund of human misery.

Whether proportionately more individuals in the western world are humanitarian by temperament now than two hundred or two thousand years ago cannot be answered. It seems probable that a very large number of people in the modern world are incapable without extraordinary stimulation of voluntarily inflicting obvious suffering upon their fellows and upon animals. The soldiers of both sides in the World War had to be keyed up to their task; the attitude of the many whom the war left with a tragic sense of having shared in something inhuman was articulated by Henri Barbusse and Siegfried Sassoon.

The activities of the many groups which have grown up within the last century and a half to further specific humanitarian aims are impressive. The antislavery movement has almost completely triumphed; only among relatively remote

peoples does chattel slavery still exist, and European agencies are at present working to abolish it completely. Factory, sanitary and housing reforms, long urged by radical groups, have been adopted by most civilized governments and have achieved partial results. Prison reform and criminal law reform first promoted by the initiative of individuals like Beccaria, Howard and Bentham, then urged by organized welfare societies, have been taken over by governments. Eighteenth century English penal jurisprudence with its debtor's prison, its hanging for sheep stealing, its complicated penal code, its foul prisons, seemed already incredible to the nineteenth century. Social work, much of it carried on by voluntary associations, cares for the weak through poor relief, medical aid, care of the insane and feeble-minded, education and reform of delinquents, birth control, settlements, playgrounds, summer camps and by movements to encourage popular art and music. Pacifism is not only talked about and written about, as it was even in the eighteenth century, but has at least had itself embodied in special organized groups, the first step to political achievement in the western world. The Red Cross has grown from a small group seeking to improve sanitation and nursing in war to a complex society administering emergency relief all over the world in crisis situations which are defined as "acts of God."

Humanitarian movements have been directed to the special protection of children and animals. The Aristotelian classification of women as destined by nature for defenseless inferiority can hardly be accepted today; but in so far as nature and society together have conspired to put women in some respects in this category, modern humanitarianism seeks to protect them by such agencies as minimum wage laws, special factory legislation, aids to maternity and family allowances. Children are protected by child labor legislation and by societies for the prevention of cruelty to children; their welfare is assisted in many ways from youth movements to special symphony concerts for school children. The animal protection movement, strongest in England, extends to most western lands. In 1930 the Royal Society for the Prevention of Cruelty to Animals received and investigated 24,489 complaints, cautioned 21,325 people and obtained 2447 convictions for acts of cruelty to animals. Antivivisectionism is usually a part of the program of animal protection groups; vegetarianism is the last logical step in humanitarian thought and feeling in this direction.

Humanitarian purposes may cut across political temperaments and party allegiances. The humanitarian with a specific end in view may be a conservative or a liberal in politics; in England, for example, the antivivisectionists, settlement workers and sanitary reformers are to be found in political groups from high Tory to Labour. Humanitarians are frequently at cross purposes. The desire to save human lives from tuberculosis runs counter to the desire to protect animals from vivisection. The desire to make men comfortable conflicts with the desire to make them sober or chaste. Humanitarianism itself provides no way to solve such conflicts. The humanitarian with a single aim is not unlikely in a struggle to jettison the milder qualities that underlie the temperament; Robespierre himself was a notably humane person.

Humanitarian aims have always been put forward by definite groups, usually organized for the purpose. Some humanitarian organizations have abstained from political action and done their work as voluntary associations not directly concerned with the state. Others, like the various antislavery societies, have been organized largely to bring pressure on the state to embody their aims in legislation. Many of the latter societies have displayed skill in practical politics as propagandists, lobbyists, electioneers; some of them seem to outsiders to have been a trifle unscrupulous in their tactics. In the United States they can hardly be said always to have raised the level of political morality. Most of such societies combine political action with their own independent activities of education, promotion and surveillance. In all such organized humanitarian activities a tendency toward social humanitarianism is discernible in which emphasis is placed not on individual relief but on a social program. Social work is by way of becoming a profession in which centralization, efficiency and scientific method are watchwords; this may be eulogistically described as the rule of experts, dyslogistically as bureaucracy.

Humanitarianism has probably never been as fashionable, never as completely articulated with other tendencies of human thought, as in the latter part of the eighteenth century. Yet humanitarian movements gathered strength during the nineteenth century, and the humanitarian temperament seemed no less strong and no less well distributed. The post-war generation of the twentieth century is a little distrustful of the sentimental appeals of humanitarianism. Criticisms of the humanitarian approach to so-

cial problems must inevitably be affected by this unfavorable setting.

It is contended by a considerable number of critics that the attempt to solve by humanitarian methods such problems as those of crime, poverty and war is bound to fail because such methods are mere palliatives. They actually prevent the worst and logical consequences of the present social system from emerging into the light, since they gloss over and partially repair its worst failures. Soft hearted, well meaning people who help the poor and oppressed are really injuring them, since they prevent them from feeling the full force of social injustice and rebelling against it. The attitude that harshness is necessary for true reform, which has been characteristic of recent proletarian movements, is also to be found among other groups desiring radical change, like the monarchists in France and the Hitlerites in Germany.

There is the somewhat similar criticism—but a criticism based on an appeal to biology and usually made by supporters of the established order—that humanitarian aims are contrary to nature. Progress is said to be born of unlimited competition between organisms, including human organisms, and it is believed that in this competitive struggle the best and strongest survive and the worst and weakest die, leaving each generation better and stronger than the preceding one. Humanitarian efforts to aid the weak; to feed them when they would otherwise starve; to keep alive the feeble-minded, the crippled, the incompetent, are regarded as a shocking defiance of a natural law of the survival of the fittest, the success of which must lead to the decadence of the race, since the artificially unfit will breed unfit descendants and lower the whole level of the race. The paradox arises that social good can only come through social evil. "Pervading all Nature," wrote Herbert Spencer in a protest against poor relief, "we may see at work a stern discipline which is a little cruel that it may be very kind." This appeal to a nature which disapproves of humanitarian intervention is in its extreme as logically absurd as certain forms of humanitarian belief, such, for example, as vegetarianism. All surgery is an interference with nature. Moreover modern biology is not so sure about the ways and means of the survival of the fittest as was the nineteenth century; and modern political thought has begun to assert its right to formulate its own conclusions on such problems without wholesale borrowing from any of the physical sciences. The point of view sketched

in this criticism of humanitarianism, however, has even now great influence on both the learned and the ignorant and presents a problem by no means solved. The sterilization of the feeble-minded, shocking to humanitarian sentiments, may be an acceptable procedure—unwillingness to go further in this direction is inspired less by humanitarianism than by an uncertainty as to who are biologically fit as well as to the laws of heredity.

The ethical criticism of humanitarianism, especially associated with Irving Babbitt and the new humanists in the United States and with Seillière in France, is no doubt largely a matter of definition but is more than a logomachy. Humanitarianism, modern democracy, nationalism, imperialism and all typically modern politics and morals are traced by Babbitt to the eighteenth century and especially to Rousseau. Christianity and humanism agree that men have two natures, good and bad, human and animal; that each man is torn between these natures; and that this civil war must end in the triumph of man's better nature if he is to be a satisfactory member of society. His better nature will triumph only through discipline; only through a religious, moral and aesthetic control exercised partly at least by external authority and closely dependent on tradition. Humanitarianism, on the other hand, denies this inevitable dualism within the individual. It maintains, following the sentimentalists, that men are naturally good or, following the rationalists, that they are naturally reasonable. It encourages the individual to pour out his feelings uncontrolled, to take his desires as measures of what he can and should attain. It puts a high value on sentiment, a low value on genuinely critical thought. Babbitt declares that civilization needs discipline, which humanitarianism cannot supply, and that humanitarianism is a dangerous guide because it is optimistic. Babbitt's moral paradox, which is curiously parallel to Spencer's scientific paradox, is that happiness can be attained only through pessimistic distrust.

Humanitarianism, however, is perhaps not in quite so bad a plight as the foregoing criticisms would imply. Few of the opponents of humanitarianism as a group movement and a faith would like to see the number of individuals of humanitarian temperament seriously diminished. The scientists and moralists who defend discipline recoil from cruelty. Part of civilization is specifically a humanitarian conquest; doubts may be entertained about capital punishment but none

about the rack. Much of the opposition to humanitarianism is abstract; those who find the humanitarian approach to life too soft, colorless or unimaginative can hardly lead a ruthless free-booting existence.

The palliative element in humanitarian corporate efforts has been defended as an asset. What to the proletarian or nationalist in revolt may seem to be a sidetracking of human effort no doubt seems to the conformist, to the defender of things as they are, a useful means of social adjustment. To such people humanitarianism is often a happy prophylactic against revolution and unrest. Humanitarian societies working by propaganda, lobbying and all the other ways of political groups toward a specific end, such as the abolition of slavery or child protection, have been successful. Success arises partly because of effective organization but also because humanitarianism has in itself a high publicity value; an issue may be subtly brought home to the selfish individual if it can be made to touch him as one of all mankind. Men are curiously unable to act in concert for avowedly selfish purposes and do not commonly do so. Their ideas and expressed motives are very often of a humanitarian character which seems to contribute notably to their spread.

For some people the humanitarian attitude is capable of an emotional codification into a religion. Such was the aim of Comte in his later years, and positivism may be defined as a religion with scientific determinism as its dogmatic basis and an orderly love of mankind as its emotional basis. Although his humanitarian religion has failed to make much progress and has lost ground since the World War, it may eventually prove to be a suitable faith. But as a religion humanitarianism seems to suffer from the defect that it is based on a negative aversion from suffering rather than on a positive search for pleasure. It is unavoidably a religion for the weak. The psychological roots of the humanitarian sentiment lie among the compensating mechanisms whereby the individual makes up for his bewilderment in this chaotic world. More than humanitarianism is necessary, for the great adventures both of thought and of emotion lie beyond philanthropy.

CRANE BRINTON

*See:* SOCIAL REFORM; CHRISTIANITY; POSITIVISM; HUMANISM; SOCIAL WORK; PHILANTHROPY; POVERTY; POOR RELIEF; DEBT; CHARITY; DISASTERS AND DISASTER RELIEF; FAMINE; RED CROSS; CRIMINOLOGY; PRISON REFORM; MENTAL HYGIENE; SLAVERY; ABOLITION; ANIMAL PROTECTION; INDUSTRIAL REVOLUTION;

LABOR MOVEMENT; LABOR LEGISLATION AND LAW; CHILD WELFARE; WAR; PACIFISM. See also biographies of important humanitarians.

*Consult:* Westernmarck, Edward A., *The Origin and Development of the Moral Ideas*, 2 vols. (London 1906-08); Salt, H. S., *Seventy Years among Savages* (London 1921); Zeller, Eduard, *Die Philosophie der Griechen*, 3 vols. (4th-7th ed. Leipzig 1879-1923), vol. iii, sect. i, pt. i tr. by O. J. Reichel as *The Stoics, Epicureans and Sceptics* (new ed. London 1892) chs. xii, xx; Cumont, Franz, *Les religions orientales dans le paganisme romain* (4th ed. Paris 1929), English translation (Chicago 1911) ch. viii; Salt, H. S., "Humanitarianism: Its General Principles and Progress" in *Cruelties of Civilization*, Humanitarian League Publications, ed. by H. S. Salt, 3 vols. (London 1895-97) vol. 1, p. 3-27; McCrea, Roswell C., *The Humane Movement; a Descriptive Survey* (New York 1910); Moore, J. H., *The Universal Kinship* (Chicago 1908); Parneelee, Maurice, "The Rise of Modern Humanitarianism" in *American Journal of Sociology*, vol. xxi (1915-16) 345-59; Lecky, W. E. H., *History of European Morals from Augustus to Charlemagne*, 2 vols. (3rd ed. London 1877); Fouillée, A., *Humanitaires et libertaires* (Paris 1914); Klingberg, F. J., *The Anti-slavery Movement in England* (New Haven 1926); Ingram, J. K., *A History of Slavery and Serfdom* (London 1895); Kantorowicz, H. U., *Der Geist der englischen Politik und das Gespenst der Einkreisung Deutschlands* (Berlin 1920), tr. by W. H. Johnston (London 1931) ch. iii; Barnes, H. E., *The Story of Punishment* (Boston 1930), especially chs. v and viii; Pike, L. O., *A History of Crime in England*, 2 vols. (London 1873-76); Gray, B. K., *A History of English Philanthropy; from the Dissolution of the Monasteries to the Taking of the First Census* (London 1905); Hammond, J. L. and B., *The Town Labourer, 1760-1832; the New Civilization* (London 1917) ch. xi, and *The Rise of Modern Industry* (London 1925) pt. iii; Queen, S. A., *Social Work in the Light of History* (Philadelphia 1922); More, P. E., *Shelburne Essays, First Series* (New York 1904) p. 225-53; Babbitt, Irving, "The Breakdown of Internationalism" and "Humanists and Humanitarians" in *Nation*, vol. c (1915) 677-80, 704-06, and vol. ci (1915) 288-89, and *Democracy and Leadership* (Boston 1924); Hayes, C. J. H., *The Historical Evolution of Modern Nationalism* (New York 1931) ch. ii.

**HUMBOLDT, ALEXANDER VON** (1769-1859), German natural scientist and human geographer. After studying public finance, technology and the natural sciences at Frankfurt on the Oder, Göttingen, Hamburg and Freiberg and serving as a mining engineer for the Prussian government, Humboldt between 1799 and 1804 made scientific expeditions through Central and South America, the extensive accounts of which laid foundations for the sciences of physical and economic geography and meteorology. He initiated the procedure of correlating the distribution of plant life with altitude and temperature and made notable researches on tropical agri-

culture and on the production of precious metals in Mexico. His calculation of the amount of gold and silver exported by America to Europe from 1492 to 1803 furnished the international money market with a basis for financial operations. He also recorded the languages and described the distribution of the peoples and the cultures of Central and South America, reckoned the density of population and studied the influences of the natural environment and economic conditions upon social and political life. His travels were instrumental in encouraging German colonial expansion. Humboldt's extensive and diversified contributions to science led him to be widely hailed during his lifetime as one of the most learned and influential of the men of his period.

EWALD BANSE

*Important works:* *Voyages aux régions équinoxiales du nouveau continent*, 30 vols. (Paris 1907-34), especially "Essai politique sur le royaume de la Nouvelle Espagne," vols. xxv-xxvi (1811), tr. by John Black, 4 vols. (London 1811-12), and "Relation historique du voyage aux régions équinoxiales . . ." vols. xxviii-xxx (1814-25), tr. by H. M. Williams, 7 vols. (London 1814-29); *Kosmos, Entwurf einer physischen Weltbeschreibung*, 5 vols. (Stuttgart 1845-62), tr. by E. C. Otté and W. L. Dallas, 5 vols. (London 1849-58).

*Consult:* *Alexander von Humboldt*, ed. by K. Bruhns, 3 vols. (Leipzig 1872), tr. by Jane and Caroline Lassell, 2 vols. (London 1873); Kleeneke, H., *Alexander von Humboldts Leben und Wirken, Reisen und Wissen* (7th ed. Leipzig 1882); Banse, Ewald, in *Deutsche Rundschau*, vol. clxxvii (1918) 90-128.

**HUMBOLDT, FRIEDRICH WILHELM VON** (1767-1835), German statesman and savant. Wilhelm von Humboldt, the brother of Alexander von Humboldt, was influenced in his philosophy chiefly by the works of Kant. He formulated the educational program of German neohumanism in his essay *Über das Studium des klassischen Altertums* (1793). Out of his close friendship with Schiller and Goethe developed monographs on aesthetics, psychology and the theory of education. After travels through France and Spain, during which he became interested in philology, he was appointed Prussian minister plenipotentiary to the papal court in 1802. As minister of public worship and education in 1809 and 1810 he together with Nicolovius, Süvern, Schleiermacher and others reformed the Prussian state educational system along the lines of the educational ideas of the German classicists and neohumanists. Politically this reform ranks as a part of the Stein-Hardenberg reform of Prussia, which incorporated the ideas of the



French Revolution. The general education of man became the guiding principle in all stages of the educational system, as sharply opposed to the trade and class training of the period of Enlightenment. Humboldt formulated a curriculum in which the elementary school used the Pestalozzi method, the *Gymnasium* laid considerable emphasis upon Greek and the university had the general scientific framework of the philosophy of the speculative idealists—Fichte, Schelling and Schleiermacher. The establishment in 1810, in the midst of the privations of war, of the University of Berlin with its principles of freedom of research and freedom of teaching was Wilhelm von Humboldt's greatest achievement.

In his political philosophy Humboldt remained a liberal all his life. But this liberalism went through profound transformations under the influence of contemporary events. His *Ideen zu einem Versuch, die Grenzen der Wirksamkeit des Staates zu bestimmen* (1792) was still entirely individualistic and almost hostile to the state. His aesthetic liberalism of this period would confine the state merely to the exercise of protective and legal functions in order to insure the attainment of a higher end, free and beautifully developed individuality. Later influenced by romanticism, Humboldt attached greater significance to the concept of the supra-individual and historically conditioned nationality. Like Fichte he conceived the individual nationality to be only a segment of the universal spiritual and divine life and thus justified nationality only as a particular and characteristic expression of humanity. Even as minister of education he considered the state in strictly intellectual matters only as the "vicar of the nation." In his two memoirs concerning the German (1813) and the Prussian (1819) constitutions he, like Baron vom Stein, advocated a liberalism preserving the historical traditions and the individual life of the local states, provinces and regions. He endeavored to "fit the constitution closely to the genius of the national character." Although he admitted certain fundamental rights of the individual he did not, as in the atomistic liberalism of the French revolutionaries, derive the state from the isolated wills of individuals. Nor did he, like the conservatives, wish to revive the old feudal estates. His program called for a "traditional liberalism" with the regional self-governing bodies taking part, through their representation in district, provincial and general estates, in the old monarchical bureaucratic state. These en-

deavors were frustrated by the reaction arising in 1819.

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*Works: Gesammelte Schriften*, ed. by A. Leitzmann and others, Preussische Akademie der Wissenschaften, 15 vols. (Berlin 1903-20).

*Consult:* Hayn, Rudolf, *Wilhelm von Humboldt* (Berlin: 1856); Giehard, Bruno, *Wilhelm von Humboldt als Staatsmann*, 2 vols. (Stuttgart 1896-99); Spranger, Eduard, *Wilhelm von Humboldt und die Humanitäts-idee* (2nd ed. Berlin 1928), and *Wilhelm von Humboldt und die Reform des Bildungswesens*, Die grossen Erzieher, vol. iv (Berlin 1910); Kähler, S. A., *Wilhelm von Humboldt und der Staat* (Munich 1927); Meinecke, F., *Weltbürgertum und Nationalstaat* (7th ed. Munich 1928) chs. iii and viii; Gooch, G. P., *Germany and the French Revolution* (London 1920) p. 103-18.

HUME, DAVID (1711-76), English philosopher. Hume's life may be divided into three stages: youth, maturity, repose. After an unsuccessful trial of a business career he retired to France, where in three years, from 1733 to 1736, he wrote his most important work, *A Treatise of Human Nature* (3 vols., London 1739-40). During this period he lived in almost complete seclusion and considerable poverty. From 1738 to 1762 he composed a variety of works including the *Inquiry concerning the Principles of Morals* (London 1751), *Essays Moral and Political* (2 vols., Edinburgh 1741-42; 3rd ed., 1 vol., 1748), the *Political Discourses* (Edinburgh 1752) and a *History of England* (8 vols., London 1763; new ed. 1778). From 1763 to 1769 he acted with considerable success as secretary to Lord Hertford, the British ambassador at Paris. The third period may be said to begin in 1769 with his retirement, a comparatively wealthy man, from the diplomatic service and his return to Edinburgh, where he remained the acknowledged center of the intellectual life of the city until his death.

Hume's fame today rests almost entirely upon his writings on metaphysics and theory of knowledge; that is to say, upon the *Treatise*. The conception of human nature which emerges from his treatment of the subject in this work largely determines his attitude to the social sciences. Hume is definitely the most "psychological" of the eighteenth century philosophers. He holds that successfully to solve the various problems of human life and human society it is necessary to understand man's nature, and the methods which he suggests for the attainment of this understanding are very similar to those which would now be adopted by a psychologist who still retained a belief in the efficacy of introspec-

tion. Hume in fact was the first to believe that the study of human nature could be made a science, the foundations of which he endeavored to lay. His conclusion that the human mind consists of impressions and ideas associated in various ways may be regarded as the starting point of his treatment of ethics, politics and economics.

In ethics it led him to adopt a utilitarian position, which the more famous utilitarians of the first half of the nineteenth century were to develop rather than to modify. Action, he held, is good in so far as it promotes the happiness of society. Yet, although he regards happiness as the only desirable end, his hedonism is universal rather than individual. Men, he teaches, are endowed with a sentiment of humanity by virtue of which they are led to desire not only their own good but that of society. The human heart is in fact so compounded that it cannot be indifferent to the public good. Since one's duty is to promote the good of society, the so-called moral obligation is not absolute but conditional. The command that men should do their duty for duty's sake irrespective of its consequences seems to Hume an outrage to the intelligence. In Hume's view virtue becomes the habit of acting in a way of which other people approve, because it conduces to their well being. Thus the virtues are envisaged by Hume as kindly and genial; condemning as worse than useless "mortification, self-denial, humility, silence, solitude and the whole train of monkish virtues," he commends in their stead "gentleness, humanity, beneficence, affability; nay even, at proper intervals, play, frolic and gaiety." Hume's ethical doctrine is a perfect expression of the enlightened humanism of the eighteenth century seen at its best, devoid as yet of the somewhat graceless and unattractive logical extremism to which Bentham was subsequently to push it.

Hume's political views, like his ethics, are dominated by the principle of utility, which leads him to regard the promotion of human happiness as the object of political thinking and the touchstone of political action. His political theory begins with a criticism of the social contract theory, which was still dominant when he began to write. The social contract is criticized, first, on the ground that there is no historical evidence for its occurrence; secondly, because it is in any event unnecessary to presuppose that for which there is no evidence. The social contract theory based the duty of obedience upon the obligation to keep a promise. Hume derives

the duty of obedience from the fact that, were it not recognized, society would be impossible. Yet society is an indispensable condition of human happiness, so much so that man cannot be conceived at any time to have lived otherwise than in some sort of community. To say therefore that society rests upon consent is to say merely that men consent to live in the only way in which the possibility of happiness can be guaranteed to them. The ideas of justice, property, right and obligation are all derived from this consent.

Hume's application of the principle of utility issued in a conservative attitude toward practical politics. He repudiates Locke's attempt to base the right of property upon labor and establishes it upon habit and association. *Salus populi*, he holds, *suprema lex*; and, although he admits that insurrection may sometimes be justified, in practice he finds that the principle of utility operates strongly on the side of obedience and security.

His contribution to economics consists chiefly of the attempt to relate all phenomena to their roots in human nature. "Everything in the world," he asserts, "is purchased by labour, and our passions are the only causes of labour." Thus utility, the utility of a piece of work in satisfying men's passions, is the core of his theory. This does not mean, however, that he ignores the claims of labor. On the contrary, he holds that it is the business of the state to guarantee to all men the right to enjoy the fruits of their labor; all should have the necessities, most the conveniences of life. Great differences in wealth are moreover a source of weakness to the state. There is a distinct flavor of socialism in Hume's attitude toward the rights of labor, just as there is a strong conservative bias in his attitude toward property. In general, however, the views of Hume foreshadow those of the philosophic radicals, and his insistence on the overriding principle of utility and the universality of his application of it constitute the point of departure for the utilitarian thinkers of the nineteenth century.

Of Hume's more technical economic contributions the most important is his theory of international trade, the basis of the later classical doctrines of Thornton, Ricardo and J. S. Mill. Hume applies the quantity theory of money to the universe of countries engaging in commercial dealings with one another and treats as its corollaries the propositions that excessive trade balances cause international specie flows and that specie stocks are distributed among coun-

tries in a more or less automatic fashion. Although money is "none of the wheels of trade," Hume believes that a gradual increase in circulating media would be advantageous since in the interval of price readjustment real wages and productivity of labor would be increased. He protests also against the view that the rate of interest is dependent upon the quantity of money; he considers the important factors to be the demand and supply of capital or loan funds and the rate of profit, holding, however, that both profit and interest rates are a function of the stage of development reached by commerce.

In his own day Hume was chiefly celebrated as a historian. His dominating characteristic, intelligence, is nowhere better exemplified than in his history. Before Hume historians had tended to be moralists or memoir writers; their object had been to point a moral or to adorn a tale. Hume was concerned simply to tell the truth; gracefully, it must be agreed, but never conceding so much to grace of language or picturesqueness of subject matter as to weaken his overriding determination to say exactly what had happened exactly as he conceived it to have happened. The facts available in Hume's time were limited, and for this reason his history is little read today; its real importance consists in the fact that Hume returned to the conception of history as a record of objective fact, from which since the days of Thucydides his predecessors had shown an increasing tendency to depart and to which his successors were to endeavor with greater or less success to conform.

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*Consult:* Huxley, T. H., *Hume* (London 1879); Knight, W. A., *Hume* (Edinburgh 1886); T'esseire, M., *Les essais économiques de David Hume* (Paris 1902); Bonar, James, *Philosophy and Political Economy* (3rd ed. London 1922) bk. ii, ch. vi; Black, J. B., *The Art of History* (London 1926) ch. ii; Schatz, Albert, *L'oeuvre économique de David Hume* (Paris 1902).

**HUNG HSIU-CH'ÜAN** (1813-64), Chinese revolutionist. Hung led the Taiping rebellion against the Manchu dynasty in the middle of the nineteenth century. He was born near Canton and until the age of thirty was an obscure pedagogue who had failed in the civil service examinations. Some contacts with Protestant missionaries, combined with visions which first came during a severe illness, led him to lay the foundations of a religious sect which combined in bizarre fashion Christian and Chinese beliefs and practices. Its early strength was in the province of Kwangsi. Here, largely under other

leadership than Hung's, it became a religious political organization seeking to substitute itself for the ruling dynasty. Serious fighting began about 1850. After working widespread devastation in south and central China, by the middle of 1853 the rebels had captured Nanking, where Hung ruled as the head of the would be dynasty. He showed little or no skill in administering or retaining his conquests; the fighting was done by subordinates. The rebellion was finally crushed by Chinese forces with some foreign assistance. Shortly before the fall of Nanking Hung committed suicide. Some of his followers, migrating overseas, helped in the preparation of the revolution which set up the Chinese Republic in 1911-12.

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*Consult:* Hail, William J., *T'ung Kuo-fan and the Taiping Rebellion* (New Haven 1927), with bibliography p. 372-99.

**HUNGER STRIKE.** The hunger strike has been adopted and developed in many countries as a method of protest against governmental authority, especially by certain types of political prisoners. Devices of a similar nature, although individual and non-political in character, are well known in the Orient. The practise of "fasting on one's enemy," particularly on his doorstep, for the purpose of humiliating him or as a means of revenge by inconvenient martyrdom is an institution of ancient date in Japan. In India the similar device of "sitting dharna" has been resorted to from time immemorial by suppliants, penitents and persons determined to compel attention to their grievances. The hunger strike as a modern political device was probably first used in Russia by exiles and political prisoners under the old regime as a last desperate resort in securing some amelioration in their treatment. As early as 1889 forcible feeding was used on women hunger strikers in the Kará prison.

The hunger strike attained world wide celebrity, however, in 1909 through the action of the militant wing of the English women suffragists led by Mrs. Emmeline Pankhurst and her daughters. Members of the Women's Social and Political Union had for some years been imprisoned for such offenses as causing disturbance and damage and annoying cabinet ministers. In July, 1909, Miss Marion Wallace Dunlop was sentenced to one month for printing on the wall of the House of Commons a clause from the Bill of Rights. In protest against being treated as a common offender instead of as a political prisoner

she started a hunger strike. The prison officials were unprepared for this novel weapon, and the prisoner was released after a fast of ninety-one hours. Her action opened a chapter of extraordinary events. The hunger strike became at once the accepted—almost the obligatory—weapon of the insurgent suffragists protesting against their status as ordinary convicts and it was employed by unbroken relays of women prisoners until 1914. Many hundreds of women suffragists and a few men prisoners sentenced in connection with the movement during those five years endured the hunger strike.

The increased and large scale use of the hunger strike forced the authorities to devise some procedure which would permit them to keep the prisoners alive and in jail through the period of their sentence. Every possible means was tried to overcome the resistance of the women: persuasion, medical argument, threats, cajolery and sentimental appeal. Special food and drink, particularly appetizingly and delicately served, were sent into the cells. All efforts of the kind failed. In September, 1909, the authorities adopted the device of forcible feeding. Milk and meat juices were regularly fed to the hunger strikers through the gullet or the nostrils by means of a tube. The process was invariably painful and frequently resulted in temporary and even serious injuries. Unremitting attacks in Parliament and a memorial signed by over a hundred doctors who protested against the serious physical consequences of the procedure failed to stop the practise of forcible feeding. But the hunger strikes continued despite the new method. At one time several hundred women were being forcibly fed in English jails. The prisoners, many of them very young, obeyed the discipline of their union and kept up their resistance. In March, 1913, the Asquith government carried the Prisoners' Temporary Discharge for Ill-Health Bill (nicknamed the Cat and Mouse Act), which permitted the authorities to release for a few days any hunger striker judged to be in danger of collapse. Women set free under the act were hidden and usually succeeded in remaining at liberty. Mrs. Pankhurst, however, was released and rearrested ten times and her daughter Sylvia nine times under one sentence. None of the prisoners was allowed to die in prison either as a result of the hunger strike or of forcible feeding. At the outbreak of the World War a truce was called, and the passage in 1918 of the Franchise Act embodying the principle of woman's suffrage settled the prob-

lem of the hunger strike as far as the suffragists were concerned.

But the device had by that time been adopted by the Irish nationalists, who ultimately developed and exhibited its most remarkable forms and results. A few Irish women suffragists had undertaken the hunger strike, notably Mary Leigh and Gladys Evans, who in 1912 at Mountjoy prison had been forcibly fed for nearly six weeks. In 1913 James Connolly, the poet, jailed for his part in the great Dublin strike, was released after a fast of eight days and in 1915 Francis Sheehy-Skeffington, imprisoned for antiwar speeches, was released under the Cat and Mouse Act after a similar length of time. In 1917 Thomas Ashe and several others, imprisoned in Mountjoy for sedition, went on a hunger strike and were forcibly fed. Ashe died as a result of the feeding and was accorded an impressive public funeral. His death put an end to forcible feeding in Ireland. Thereafter the government resorted to the Cat and Mouse Act, but the effect was to make sentences of imprisonment meaningless. Between November 15 and 21, 1917, over one hundred hunger strikers were released from various prisons. Increasing Sinn Féin activities finally forced the government to announce in Parliament on November 24, 1919, that hunger strikers would thereafter be forced to "take the consequences." The policy, however, was easier to announce than to apply. In 1920 members of the Irish Republican party in prison resorted to the strike and were set free. As the British suffragists demanded treatment as political prisoners, so these Irish hunger strikers demanded treatment as prisoners of war. In the same year a general hunger strike of Irish political prisoners in London secured the release of the whole body. In some cases the fast covered three weeks. Finally the government was forced to apply its ruling literally. In August, 1920, Terence MacSwiney, lord mayor of Cork, and eleven other Republicans imprisoned for sedition went on a hunger strike. Three of the twelve died of starvation in the Cork jail. MacSwiney was removed to Brixton Prison, London, and died there on October 25 after an amazing fast lasting seventy-four days. This record has been surpassed in modern times only by Joseph Murphy, who died during the same hunger strike after a fast of seventy-six days. These deaths ended hunger striking activities in Ireland for a while; and on November 13, 1920, all hunger strikes ceased on the order of Arthur Griffith, acting president of Sinn Féin.

After the establishment of the Irish Free State, however, the hunger strike was again adopted by Republican men and women in 1922 and 1923 as a weapon in their war on the new state. In November, 1922, Mary MacSwiney, a sister of Terence, was imprisoned and went on strike. Thereupon Annie, another sister, introduced a new device by going on a sympathetic hunger strike before the gates of the prison. Among the strikers in 1923 were some notable Irish women Republicans, including the Countess Markiewicz and Maud Gonne McBride. The Irish government was forced to advocate the English method, and on May 3, 1923, the Dail decided accordingly. The last mass hunger strike, which began in October, 1923, and was participated in by several hundred Republicans, was called off as a failure after having continued for six weeks and resulted in two deaths. The longest strike by a woman prisoner (forty-three days) is recorded in connection with this episode.

In the United States the first case of forcible feeding in connection with a hunger strike was probably that of Mrs. Ethel Byrne, a sister of Margaret Sanger, who was sentenced in January, 1917, to one month in the workhouse for operating a birth control clinic. Her condition became so serious that the governor pardoned her on the promise, given for her by her sister, that she would cease her activities. In the American woman's suffrage campaign hunger striking was tried on a more restricted scale than in England. In October, 1917, Alice Paul, the leader of the National Women's party, who had taken part in the English militant suffragist activities, was sentenced with several other women to seven months' imprisonment for picketing the White House. She went on a hunger strike which lasted twenty-two days and was forcibly fed. Several other suffragists also struck and were similarly fed. So great, however, was the public outcry that the treatment was abandoned after having been tried on a few prisoners. Between 1917 and 1919 more than a hundred American suffragist prisoners went on hunger strike. All were released after fasting a few days. Conscientious objectors confined in American military camps during the war used the hunger strike several times to secure better treatment; the most successful strike was probably that at Fort Riley in 1918, which lasted thirteen days. Nicola Sacco, whose conviction in Massachusetts for first degree murder was widely attributed to his anarchistic views rather than to the evidence pre-

sented, went on a hunger strike in February, 1923, while his appeal for a new trial was pending. He was forcibly fed after thirty days and abandoned the strike on the plea of his wife.

In the prolonged agitation of Indian nationalists Gandhi has subjected himself to fasts of differing lengths, not in prison and not in protest against executive authority but as self-inflicted penance for the failures or misdeeds of his followers and as a means of forcing them to accept his proposals. Indian nationalist prisoners have not often adopted the hunger strike, but it has several times been resorted to by accused Indians awaiting trial in conspiracy cases. In the affair of the Lahore conspiracy (1928-29) eight Indians went on a hunger strike. Jaitendranath Das died after sixty-one days and the others abandoned the strike.

The principal force of the political hunger strike, as of its oriental prototypes, lies in the appeal to the individual conscience, to the unwillingness to be the cause of a person's death. Not only is this true in the case of the suffragists, who had obviously committed no crime deserving the death penalty, but even the Irish Republican strikers felt that while the government might not hesitate to shoot them out of hand it would shrink at the idea of letting them die by inches. The Russian government, accustomed to a treatment of political prisoners which frequently drove them to suicide, yielded several times before the prospect of causing lingering deaths by starvation. Furthermore behind the conscience of the individual official stood the conscience of the nation, an important factor in a democracy and one which all the hunger strikers aimed to reach. It was important to put their suffering before the eyes of the nation, not only to secure their own release but to emphasize their devotion to their ideal and its consequent apparent importance. Especially in the latter days of its use the hunger strike required willingness to suffer and possibly even to die for one's ideal. Records of the death of at least three ordinary criminals in England as a direct or indirect result of forcible feeding indicate that hunger striking was not unknown among such prisoners. But the stake was almost always too great for non-political offenders and the chances of success were practically nullified through the absence of any organized external protest based upon some ideal or moral ground. More and more the hunger strike tended to become a game of bluff and endurance between officials and prisoners. The officials apparently never wel-

comed the death of the strikers, but a gradual blunting of the official conscience seems apparent. To this end a variety of factors may have contributed, including the shift from a preponderance of women to men strikers, the severity of the Irish civil war, the condemnation of the strike as a form of suicide by elements in the Catholic church and the growing familiarity with the strike. Furthermore the early abandonment of forcible feeding in Ireland left the authorities with only two alternatives—release of the prisoners or resistance to the strike—and rendered more evident the serious implications for law and order which followed from any easy yielding. These anarchic tendencies of the hunger strike, coupled with the constant threat of the Republicans to peaceful government in the Free State, probably aided in creating a public opinion which acquiesced at least tacitly in the policy of resistance to the hunger strikers.

S. K. RATCLIFFE

See: PASSIVE RESISTANCE; NON-COOPERATION; POLITICAL OFFENDERS; PUBLIC OPINION; COERCION; OBEDIENCE, POLITICAL; FASTING.

Consult: FOR SUFFRAGIST HUNGER STRIKES: Pankhurst, E. Sylvia, *The Suffragette Movement* (London 1931); Metcalfe, A. E., *Woman's Effort* (Oxford 1917) pt. iv.

FOR IRISH HUNGER STRIKES: Desmond, Shaw, *The Drama of Sinn Féin* (New York 1923) chs. xxvii, xxx; Gallagher, Frank, *Days of Fear* (London 1928). FOR INDIA: Brown, W. N., "Gandhi and the Hunger Strike in India" in *South Atlantic Quarterly*, vol. xxi (1922) 203-09.

HUNT, FREEMAN (1804-58), American business journalist. Hunt worked at the printer's trade in his youth and later successfully published and edited four magazines of general interest. In 1839 he started the *Merchants' Magazine*, which he edited until his death, thus laying the foundations of modern business journalism in the United States. Hunt endeavored to professionalize trade and to change the conception of the merchant from a money maker who read only his ledgers to a business statesman who combined a "vast comprehensiveness" with "a most minute grasp of details" (*Lives of American Merchants*, 2 vols., New York 1856-57, vol. i, p. iii). He believed that a business education must include "the study of the resources of nations . . . the processes of production, and the Laws of Wealth" (*Wealth and Worth*, New York 1856, p. vii). The *Merchants' Magazine* published general theoretical articles on such subjects as the tariff, credit, money and banking, economic descriptions of various regions, dis-

cussions of commercial law, navigation, trade regulations and treaties and a large body of statistics of industry, commerce and banking. These statistics, the chronicle of commercial developments and in some measure the reports on trade regulations were issued at regular monthly intervals; they made currently available for the first time a body of facts upon which a broad business policy could be based. The magazine was responsive to the changing needs of business and reflected the shift in emphasis from mercantile to industrial and financial enterprise. It merged in 1871 with the *Commercial and Financial Chronicle*, which had been issued for some time as a weekly supplement to the *Merchants' Magazine*.

Hunt severely criticized merchants for sharp practices and still more for narrowness of vision. He held commerce to be a branch of statecraft, since the interests of merchants "have become a chief concern of statesmen . . . afford a leading subject of the legislation of States, and fill the largest space in the volumes of modern jurists" (*Lives*, vol. i, p. iii). The business man should be equipped scientifically to perform his broad function; and Hunt regretted in 1856 that he could not then prepare a system which "would embrace a code of business ethics, . . . the rationale of business management, and a course of business education" which "might be studied with advantage by the Merchant's Clerk, just as the law student, or the medical student, studies the elementary books of his profession" (*Wealth and Worth*, p. vi, vii). The men of commerce whom Hunt set forth and commemorated in his writings were principally the New England merchants of Salem and Boston. These men he adduced as "evidence that the 'Merchant' may also be a gentleman and a scholar, as well as an honest and kind hearted man" (*Lives*, vol. i, p. vi). It was the traditional merchant prince whom he thought to serve; but the development of business enterprise, facilitated by the data which he himself published, led to the rise of a new business type, the modern financier.

CAROLINE F. WARE

Consult: *New York Times*, vol. vii (March 4, 1858) p. 4, col. 5; *Merchants' Magazine*, vol. xxxviii (1858) 403-06.

HUNTER, SIR WILLIAM WILSON (1840-1900), British historian and statistician. Hunter was born in Glasgow and after graduating from Glasgow University entered the Indian civil

service in 1861. He arrived in India in the following year and soon showed a gift for collecting materials from old records, as revealed in his *Annals of Rural Bengal* (3 vols., London 1868-72; 7th ed., 1 vol., 1897). In 1869 Lord Mayo, the governor general of India, placed him on special duty "to submit a comprehensive scheme for utilising the information already collected, for prescribing the principles according to which all local gazetteers are in future to be prepared, and for the consolidation into one work of the whole of the materials that may be available," and in 1871 he became director general of statistics to the government of India. Thus Hunter began an undertaking for India, similar to the *Statistical Account of Scotland* of Sir John Sinclair, which resulted in a huge statistical survey, numbering 128 volumes, of the geographic, social and economic conditions in India. He not only supervised the work of the editors of local gazetteers but also undertook to write on the provinces of Bengal and Assam. Hunter's chief importance, however, is not as a statistician but as a historian who had an unrivaled gift for the collection of many facts regarding Indian history which few have until recent years taken the trouble to examine. His *A History of British India*, of which only two of the projected five volumes appeared (London 1899-1900), and his lives of Lord Dalhousie (Oxford 1890) and Lord Mayo (Oxford 1891) are important contributions to the study of the history and administration of British India.

G. FINDLAY SHIRRAS

Consult: Skrine, F. H. B., *The Life of Sir William Wilson Hunter* (London 1901).

HUNTING has from the earliest times to the present been a feature of almost every culture of which there is record. In palaeolithic times hunting furnished the basis of the food supply, as is shown by deposits of broken and gnawed bones of wild animals and by engravings and paintings on cave walls depicting animals wounded by the spearhead of the hunter. Hunting preceded domestication and agriculture as the main source of the food supply; as Thurnwald has shown, peoples who adopt pastoral life or agriculture do not revert to the hunting stage, although there may be a revival of hunting.

The concept of a hunting or hunting and fishing culture stage is both legitimate and convenient. In many instances, however, a classification on this basis is difficult, because many hunters supplement their food supply by stock

raising or agriculture; and, conversely, practically all pastoral or agricultural peoples secure some food by hunting. Thus the Pueblo Indians of the southwest of the United States depend almost entirely upon agricultural products but do some hunting, mainly for rabbits. The northern Iroquois, on the other hand, although they had developed agriculture to a high point, supplemented this diet to a considerable extent by the flesh of wild game and doubtless could have subsisted on game and fish.

The principal means of securing wild game are throwing devices, the bow and arrow, traps, drives and simulation. Throwing devices include the throwing stick and its modification, the boomerang, which was used in ancient Egypt, southern India, Australia and in the southwest of the United States; the spear, used in the upper palaeolithic period and although widely distributed most important in Australia, Oceania and Africa; the bolo, used by the Eskimos and on the pampas of South America; and the harpoon, found in early and transitional Mediterranean cultures, on the Andaman Islands, among the Eskimos and southward along the Pacific coast to Central America and Guiana. The bow and arrow, probably not used during the palaeolithic period, were almost universal among the preliterate peoples with the exception of Australia and perhaps parts of Polynesia. They were used in all of the historical cultures and remained until the introduction of gunpowder the most effective weapon of mankind. The most widely distributed forms of trap are the dead-fall, the snare and the pit. The use of birdlime was most general in Oceania and the early Mediterranean culture and was restricted to the Old World. The drive has been employed in parts of aboriginal North America and in South Africa; the Eskimos supplemented it by the use of dogs. Attracting the animal by imitating its call was a device used by the Eskimos; it was found also in the woodland area of northern North America and in Siberia. Disguise by the use of seal skin, wolf skin or caribou antlers is also found in these regions.

In the hunting cultures there is no pottery save in areas peripheral to agriculture, in parts of Alaska and in the transitional culture of the Mediterranean region. There is no elaboration of domicile except on the northwest coast of North America, where the assured supply of salmon favors higher culture. Although property in land is usually absent it has been found in the hunting cultures; Speck, for example, found a

recognition of family hunting domains among the Algonquin hunters, and Davidson charted hunting territories in Australia. A hunting culture seldom shows the elaboration and intensification of traits frequently found in agriculture, such as a priesthood, kingship or social hierarchy. Even in primitive society, however, hunting is not a mere economic enterprise; it is often fraught with adventure, calls forth emulation and courage and wins prestige. It has been primarily an activity of men only. Magical and religious motives influence the hunt and frequently supernatural tabus are observed lest the entire community suffer.

The metaphor and imagery of the Old Testament show little interest in hunting and practically no knowledge of it, for the people in Biblical times had become pastoral or agricultural. In ancient Egypt, Babylonia and Assyria, however, hunting was a pastime of kings and nobility. In Greece and Rome hunting was a pastime for the wealthy classes. A fresco at Tiryns of about 1500 B.C. shows hunting dogs wearing collars in pursuit of a wounded boar. Xenophon, Plato and later Arrian refer to the pastime of hunting. Xenophon considered it a valuable training for the demands of military life; in his day the hare was run into nets stretched across courses which it was expected to take. When Arrian wrote about five hundred years later the hare was run down in the open—a change probably due in part to the importation of swifter hunting dogs from Gaul into southern Europe. Arrian's detailed description of Celtic hunting reveals close resemblance to the present English pattern; there was scouting to locate the hare, participation by many in the hunt, each with his own hound, and a master of the hunt. During the period of the Roman Empire, particularly in North Africa and Asia Minor, there were hunts of bear, elephant, lion, tiger, leopard, bison and rhinoceros with the use of pits, traps and nets.

Fowling by sling, bow and arrow, throwing stick, net and torch was a favorite sport in classical times. The owl was used to decoy small birds, and birdlime attached to a rod was a favorite device for taking birds from the low limbs of trees. Falconry was practised by the Greeks at least by the fourth century B.C.; it was known to the Romans three centuries later and to the Anglo-Saxons, although after Roman times it practically disappeared from Europe. The Byzantine Demetrios gives an intimate account of the art of hawking. Tradition ascribes the reintroduction of falconry into Europe to the

emperor Frederick Barbarossa and his grandson Frederick II; a portion of an unfinished book on the subject by the latter was printed in 1596 together with a work on falconry by Albertus Magnus. By the fourteenth century, when *Le art de vénerie* by one William Twety appeared (about 1328), falconry had become the most popular sport in the British Isles. *The Boke of Saint Albans* (1486), which for a long time probably exceeded in circulation any other printed work except the Bible, describes the hawk for each social class—for duke, earl, baron, knight, squire, yeoman, priest and clerk. By the early eighteenth century falconry had almost disappeared as a national sport in the British Isles.

The red deer was the animal most often hunted in England from the time of William the Conqueror; there were no restrictions upon the hunting of it until Tudor days, when much of the land had been brought under cultivation. After the war between Charles I and Parliament wild deer could be found in only five localities. During the protectorate the raising of foxhounds or harchounds became common throughout the country; the land was overrun with foxes, which killed many lambs, and there were communal as well as private fox hunts. The organization of fox hunting clubs dates from the time of Charles II, when the Charlton Hunt was established; about a hundred years later subscription packs were formed. Riding with the hounds attained its present popularity in England in the nineteenth century. The extent of the practise is indicated by an estimate made about 1900, which found the number of hunting horses in Great Britain to be 200,000 with 67,000 men attending them. Fox hunting has developed only in countries with a large British population and among people of British heritage. Of the eighty-six packs of foxhounds used outside the British Isles in 1925 there were forty-seven in the United States, sixteen in New Zealand, ten in India, four in Australia, four in east and South Africa, three in Canada, one in China and one in Palestine. Wherever it has developed, hunting with horse and hounds has been limited to the aristocracy and the leisure, sporting and military classes. Until recently it was restricted to the landed gentry; in Great Britain it is still a matter of considerable social prestige.

In the New World game was abundant at the time of settlement; and hunting, which until recently occupied a prominent place in the life of the people, was the theme of the popular novels of James Fenimore Cooper. The move-



ment into the plains country found a new source of game in the wild buffalo, but within a few decades it had been exterminated. Hunting is still of minor economic value in many sections of the south but has practically disappeared in most other parts of the United States except as a sport. Big game hunting in Africa was first brought to popular attention by the exploits of Du Chaillu and of P. T. Barnum; later Theodore Roosevelt's accounts of African wild game were read by millions. Roosevelt's example has been followed by many Americans and Europeans, whose exploits have been much heralded by cultivated publicity in the press.

WILSON D. WALLIS

See: ORGANIZATION, ECONOMIC; EVOLUTION, SOCIAL; NOMADS; FOOD SUPPLY; FUR TRADE AND INDUSTRY; FRONTIER; GAME LAWS; ANIMAL PROTECTION; SPORTS.

Consult: Thurnwald, Richard, *Die menschliche Gesellschaft in ihren ethno-soziologischen Grundlagen*, vols. i-ii (Berlin 1931- ); Wallis, Wilson D., *Introduction to Anthropology* (New York 1926) ch. ix, and *Culture and Progress* (New York 1930) ch. xxiii; Speck, F. G., *Family Hunting Territories and Social Life of Various Algonkian Bands of the Ottawa Valley*, Canada, Geological Survey, Memoir, no. lxx (Ottawa 1915); Davidson, D. S., "The Family Hunting Territory in Australia" in *American Anthropologist*, vol. xxx (1928) 614-31; Butler, A. J., *Sport in Classic Times* (London 1930); Berners, Juliana, *The Buke of Saint Albans. Containing Treatises on Hawking, Hunting, and Cote Armour* (facsimile reprint London 1881); Madden, D. H., *The Diary of Master William Silence, a Study of Shakespeare and of Elizabethan Sport* (new ed. London 1907), and *A Chapter of Mediaeval History, the Fathers of the Literature of Field Sport and Horses* (London 1924); Markham, Gervase, *Country Contentments* (new ed. London 1675); Beaufort, H. C., and Morris, Mowbray, *Hunting* (2nd ed. London 1886); Bromley-Davenport, W., *Sport* (London 1885); Dixon, William S., *Fox-Hunting in the Twentieth Century* (London 1925); Branch, E. Douglas, *The Hunting of the Buffalo* (New York 1929); Barnum, P. T., *The Wild Beasts, Birds, and Reptiles of the World; the Story of Their Capture* (Chicago 1888); Gordon-Cumming, Roualeyn, *The Lion Hunter* (abr. ed. London 1912); Caldwell, Harry R., *Blue Tiger* (New York 1924); Roosevelt, Theodore, *African Game Trails* (New York 1910), and *The Wilderness Hunter* (New York 1893); Rösig, G., *Wild, Jagd, und Bodenkultur* (Neudamm 1912); Eheberg, K. T., *Die Jagd in volkswirtschaftlicher Beziehung* (Leipzig 1901); Sieda, Wilhelm, "Die volkswirtschaftliche Bedeutung der Jagd" in *Schmollers Jahrbuch*, vol. xlix (1925) 1297-1328; Erler, K., *Die volkswirtschaftliche Bedeutung der Jagd in Deutschland* (Halle 1910); Bieger, Wilhelm, *Die deutsche Jagdwirtschaft, Entwicklung, Umfang und volkswirtschaftliche Bedeutung* (Neudamm 1928).

HUNTINGTON, COLLIS POTTER (1821-1900), American captain of industry. Huntington was born in Connecticut of a poor family, and

his formal education ended when he was fourteen years old. After peddling watches through the south he ran a general store in Oneonta, New York. In 1848 Huntington set out for California. During a detention of three months on the Isthmus of Panama he increased his fortune from \$1200 to \$4000 by shrewd trading. When he arrived in Sacramento he set up a hardware store, which later became one of the largest in the city and of which Mark Hopkins soon became a partner. Huntington and Hopkins, with Leland Stanford and Charles Crocker, who ran a general store in the same town, were persuaded by T. D. Judah, an engineer, to construct a railroad across the Sierra Nevada. They began with less than \$1,000,000, a land grant and subsidy from Congress; the final cost of the road proved to be \$50,000,000. In 1861 they formed the Central Pacific Railroad Company, of which Huntington was vice president. Their success was largely due to Huntington's tireless energy and great business acumen and to his frequently unscrupulous methods, especially in the building of the Southern Pacific Railroad, with which his name is most closely identified. Of the two entrances to southern California over the gorge of the Colorado River one at Yuma was located on an Indian reservation; Huntington built across this and then asked permission from Congress. Lobbying of a questionable character was commonly practised and contracts were let to construction companies in which Huntington and his friends held control on terms costly to minority stockholders. The Southern Pacific controlled California for a quarter of a century, politically and commercially. After Huntington's death his holdings worth about \$50,000,000 were sold in the east and the railroad monopoly was broken.

Huntington was a man of Herculean strength and stature with a keen mind and few interests outside his work. He was persistent, courageous and imaginative but at the same time calculating, domineering and often vindictive. He was not interested in movements for social welfare and when he died left little of his fortune for public purposes.

E. L. BOGART

Consult: Riegel, R. E., *The Story of the Western Railroads* (New York 1926); Daggett, Stuart, *Chapters on the History of the Southern Pacific* (New York 1922); Sabin, E. L., *Building the Pacific Railway* (Philadelphia 1919); Russell, C. E., *Stories of the Great Railroads* (Chicago 1912); Myers, Gustavus, *History of the Great American Fortunes*, 3 vols. (Chicago 1907-09) vol. iii.

HUSAYN A'LI, MĪRZĀ (Bahā' Allah) (1817-92), Persian religious reformer. Mīrzā Husayn, known as Bahā' Allah, the Splendor of God, was converted to Babism at about the age of thirty and after the death of the Bāb in 1850 became the outstanding leader of the sect. Exiled from Persia, he was allowed to settle in Turkey. He passed the last years of his life, surrounded by a group of disciples, at Saint Jean d'Acre in Syria. The leading ideas of Bahā' may be found in his sayings and writings, the most important of which are *Kitāb-al-Ikān* (tr. by Ali Kuli Khan and H. MacNutt as *The Book of Assurance*, New York 1924) and *Kitāb-al-Akdas* (Bombay).

Bahā' gradually discarded the concepts of the Bāb and finally asserted that he himself was the divine manifestation whom the Bāb had predicted; his religion dropped the name of Babism and was called Bahaism. While the doctrines of the Bāb had remained very oriental, very Persian and very national and while Bahaism is a link in the chain of all the Persian sects, Bahā' turned, on the contrary, in the direction of the European world and modern thought and claimed to express the form of religious sentiment most suited to the entire contemporary world.

Bahaism with its emphasis upon the oneness of all religions is an interesting attempt to promote an increased spirit of unity among mankind and to revive the mystical element in a world preoccupied with material progress. Its central thought is the union of all humanity by means of broader religious concepts and a spirit of mutual aid and brotherly love. To achieve this prejudices, such as those of race, tribe and nationality, must be discarded. There is no dogma in Bahaism except perhaps an acceptance of the idea of a divine spirit rather than of a definite personal god and a belief in progressive revelation. Bahā' asserted that every religion had been suited to its period and had been based upon divine revelation; the revelation of the new era was that of Bahā' and accordingly members of all other religions were exhorted to follow it. Bahā' condemned wars and suggested a central council at once religious and political to settle all differences between states. A single universal language, perhaps Esperanto, was to be adopted. Social distinctions were to be preserved but the rich were urged to share their possessions. The study of sciences and arts conducive to the improvement of the conditions of life were encouraged. In each village a council was to be established, supported by voluntary contributions, fines, a capital levy and the inheritance of prop-

erty in the absence of other heirs; an important share of the revenue was to be devoted to education and hygiene.

After the death of Bahā' his son, 'Abd-al-Bahā', succeeded him. 'Abd-al-Bahā' not only contributed to the philosophy of the movement but by his zealous propaganda gained it a number of converts in Europe and the United States.

B. CARRA DE VAUX

*Consult:* Dreyfus, Hippolyte, *Essai sur le Béhaisme, son histoire, sa portée sociale* (Paris 1909); Abd-oul-Béhā, *Les leçons de Saint-Jean-d'Acre*, collected by Laura Clifford-Burney and tr. by Hippolyte Dreyfus (Paris 1908); Behā' u'llāh, *Bahā'ī Scriptures*, ed. by H. Holly (2nd ed. New York 1928). See also the publications of the Bahā'ī Publishing Committee of New York.

HUSKISSON, WILLIAM (1770-1830), British statesman. Huskisson was introduced to public life by Pitt. He later became associated with the Canning reform group of the Tory party and on all general economic questions was one of the most informed parliamentarians of his day. He was an influential member of the Bullion Committee of 1810, whose famous report expounding the Ricardian theory of the inflation of the British currency he defended in a widely circulated pamphlet. In the many discussions on currency during the subsequent years Huskisson did much to popularize the monetary doctrines of the economists and in general he endeavored, with such moderation and opportunism as might be expected from a practical statesman, to translate the theories of the classical economists into state policies. He exerted a great influence on corn law legislation during the period from 1815 to 1828, defending at first the act of 1815 but after 1821 becoming more and more in favor of free trade in corn. As president of the Board of Trade from 1823 to 1827 in the ministries of Liverpool and Canning, he was at once the custodian of the growing commercial and manufacturing interests of northern England and the enlightened reformer acting in accordance with the canons of the new economics. His reform of the navigation laws, which opened the commerce of the colonies to all European or other states prepared to reciprocate and allowed the ships of the reciprocating countries to share the carriage of goods, was the most substantial breach in the navigation laws previous to 1849 and helped to enrich the empire by enlarging its trade relations with other countries. At the same time he laid increased emphasis on imperial preferences in the duties imposed within the colonies under British acts and in Great Britain on certain goods

imported from the colonies. In order to extend British trade, abolish the vast social evil of smuggling and improve the processes of British manufacturers by exposing them to the fresh winds of competition he effected the first comprehensive tariff revision of the century, involving the removal of prohibitions and prohibitive duties and the establishment of the general principle that 30 percent should be the upper limit of protection for manufactured commodities. He encouraged steam transportation, both railroad and steamship, and sponsored the amendment of the combination laws, which allowed a greater degree of freedom to workers.

ALEXANDER BRADY

*Consult: The Speeches of the Right Honourable William Huskisson*, 3 vols. (London 1831); *The Huskisson Papers*, ed. by Lewis Melville (New York 1931); Brady, Alexander, *William Huskisson and Liberal Reform* (London 1928).

HUSS, JOHN (Jan Hus or Huss) (c. 1370–1415), Bohemian religious reformer. Huss was born at Husinec in southern Bohemia of a poor Czech family and studied at the University of Prague. In 1396 he became master of arts, in 1400 priest, in 1401 dean of the philosophy faculty and in 1402 rector of the university. He became absorbed in study of the writings of the English reformer Wycliffe, using them first as a source of philosophical and theological erudition and then, although he rejected the arguments on transubstantiation as well as many of Wycliffe's other strictures against Catholicism, embracing their basic ideas on ecclesiastical reform. He adapted to conditions in Bohemia the Wycliffite program with its nationalistic, anti-papal coloration and its proposal for the erection of a "poor church" in harmony with the ideals of primitive Christianity. The campaign which he conducted as university teacher and priest at the Bethlehem Chapel after 1402 welded the Czechs, who at that time were in the midst of an intellectual efflorescence, into a common reform movement based partly on a long prepared protest against the corruption and worldliness of the church; partly on a nationalistic hostility to the Germans, who constituted a large part of the ecclesiastical hierarchy as well as the dominant element in the Bohemian bourgeoisie. The first serious conflict between the Hussites and the allied Germans and clergy centered in the university and was precipitated by the summoning of the Council of Pisa in 1409 to deal with the papal schism. When the German professors disobeyed King Wenzel's order that they maintain

neutrality and so permit him to cooperate with the council, the king yielded to Huss' imprecations to destroy the German hegemony at the university. By the decree of January, 1409, a new university constitution was established, which allotted three votes to the Czechs and only one to the other three foreign nations combined, whereas hitherto each nation had held a single vote. The result was the immediate withdrawal of the Germans, their founding of the University of Leipzig and the transformation of the University of Prague from a cosmopolitan cultural center into a national university.

At the end of 1409 the Bohemian archbishop Zbýnek received plenipotentiary power from Pope Alexander v to proceed against Wycliffite doctrines and books. In 1410 he defied the excited nation and excommunicated Huss. Two years later when Huss joined the controversy over indulgences, the theological faculty, unable to follow him in his attack upon the papacy and an established Catholic tradition, abandoned him. The dissension heightened by the martyrdom of three lay Hussites and by Huss' demand that the theological faculty present Scriptural refutation of his position on indulgences induced Wenzel, who had hitherto refrained from interference, to request Huss' retirement from Prague. Huss complied, and in the town of Kozi Hradek composed his tract *De ecclesia* (1413).

As public preacher and agitator Huss envisaged no more than national ecclesiastical reform; his Wycliffism was conditioned by Czech nationalism. The *De ecclesia* marks the beginning of his fervent espousal of the broader Wycliffite doctrine concerning the true church of Christ. Based on Wycliffe's treatise of the same title, the *De ecclesia* contended that the true church is not the narrow Catholic institution but the entire community of those who since the beginning of time have been predestined for salvation. The elect owe fidelity only to Christ and need not follow an erring pope. Huss had already appealed to this doctrine against the papalistic Roman council which condemned the writings and followers of Wycliffe in 1413, when Emperor Sigismund, who as prospective heir to the Bohemian throne was eager to settle the Hussite controversy, invited Huss to meet the chief dignitaries of Christendom at the oecumenical Council of Constance, summoned by the emperor to assemble in November, 1414. Huss accepted with confidence, but after his arrival at Constance he was imprisoned by the clergy. Although he had

guaranteed Huss' safe conduct Sigismund soon perceived that he must sacrifice him for the sake of church unity. After first condemning Wycliffe and his doctrines the clergy examined Huss in June, 1415. With a heroic submission to the fate of martyrdom he remained steadfast against the council's importunate efforts to secure his general recantation, clinging to the position that he could admit the error of his doctrines only on the authority of Scripture. On June 24 his books were ordered burnt and on July 6 he was condemned, subjected to ceremonial degradation as a heretic and sent to the stake. The following year the Bohemian nobleman and Hussite Jerome of Prague suffered the same fate. The non-Catholic but Christian doctrine of the true church of Christ—the chief ground on which the council had condemned Huss—was upheld more than a century later by Luther, who declared that Constance had erred in a crucial opportunity to destroy the system of papalism and legal Catholicism in general.

The martyrdom of Huss and Jerome aroused a fierce outburst of nationalism in Bohemia and in 1419 war broke out between the Hussites and the imperial armies aided by papal crusaders. The Hussites (*see* SECTS) divided into two parties. The Utraquists, who found in the lay chalice a symbol for a program which was essentially a continuation of Huss' demand for a national reformed church, represented the conservative party and were recruited chiefly from the nobles and the upper Czech bourgeoisie. The Taborites, or radicals, developed and to a certain extent distorted the social aspects of Wycliffism; they became the party of the Hussite peasants and urban working men, preaching a religious renovation to simplify the cult and a social revolution in the name of Christian equality. The Taborites never recovered from their overwhelming defeat in 1454. But the Utraquists after having received the grant of the lay chalice by the Prague Compacts of 1433 and the Diet of Iglau in 1436 survived as the constituents of the Bohemian reformed church under a series of intermittently abrogated and superseded compromises, until in the sixteenth century the more conservative of them became virtually indistinguishable from the Catholics and the more radical became identified with the Lutherans or other reformed sects. In the latter half of the fifteenth century a modification of the tenets of the advanced party of the Hussites was developed by the Bohemian Brethren (also Moravian Brethren), who evolved the idea of an asso-

ciation of laymen isolated from society and basing their lives on the ethical precepts of the gospel. Although included in the privileges of the *Bohemica confessio* of 1575 the Bohemian Brethren, along with all the other remnants of Hussites, were crushed or finally expelled from Bohemia by the Catholic Austrians in 1620.

ERNST BARNIKOL

*Works:* *Historia et monumenta Joannis Hus atque Hieronymi pragensis*, 2 vols. (Nuremberg 1558; reprinted 1715); *Documenta mag. Joannis Hus . . .*, ed. by F. Palacký (Prague 1869). In English there are available a translation of *De ecclesia* by D. S. Schaft (New York 1915), and *Letters of John Hus*, tr. by H. B. Workman and R. M. Pope (London 1904).

*Consult:* Strunz, F., *Johannes Huss, sein Leben und sein Werk* (Munich 1927); Herben, J., *Huss and His Followers* (London 1926); Loserth, J., *Huss und Wiclif* (2nd ed. Munich 1925), tr. by M. J. Evans (London 1884); Denis, E., *Huss et la guerre des hussites* (Paris 1930); Hauck, A., *Studien zu Johann Huss* (Leipzig 1916); Troeltsch, E., *Die Soziallehren der christlichen Kirchen und Gruppen* (3rd ed. Tübingen 1923), tr. by O. Wyon, 2 vols. (New York 1931) vol. i, p. 362-69; Odložilík, O., "Wycliffe's Influence upon Central and Eastern Europe" in *Slavonic Review*, vol. vii (1928-29) 634-48.

HUTCHESON, FRANCIS (1694-1746), Scottish philosopher and economist. Hutcheson, the son of a Presbyterian minister, was born in Ireland. He studied at the University of Glasgow, conducted a private college in Dublin and in 1730 became professor of moral philosophy at Glasgow.

Beginning as a follower of Shaftesbury, Hutcheson contributed much to the introduction of humanism into the Scottish universities. The central point in his writings and his chief contribution to philosophy was his effort to work out the doctrine of a moral sense, an immediate, indefinable perception approving of actions which procure what he was the first to call "the greatest happiness of the greatest numbers." The first three editions of his work on aesthetics contain mathematical formulae for expressing ethical relations, which caused Sterne to describe Hutcheson as the man "who plus's and minus's you to heaven or hell, by algebraic equations." Hutcheson extended to the field of economics the concept of a natural order working through physical forces and human psychology. There is considerable economic material in his works, particularly in the *System*. Adam Smith, who was a student in his class in moral philosophy in 1740 and later called him "the never to be forgotten Hutcheson," learned from him to esteem "natural liberty." Smith was influenced by the *System*

in his treatment of the division of labor, labor as a standard of value, value in use and value in exchange, the origin of capital, money and the maxims of taxation. Hutcheson also had considerable influence on Hume and through these two on the development of English classical economics.

W. R. SCOTT

*Important works:* *An Inquiry into the Original of Our Ideas of Beauty and Virtue* (London 1725, 5th ed. 1753); *An Essay on the Nature and Conduct of the Passions and Affections* (London 1728, 3rd ed. 1742); *A System of Moral Philosophy*, ed. by Francis Hutcheson, Jr., 2 vols. (London 1755), which was written about 1737; *Philosophiae moralis institutio compendiarum* (Glasgow 1742), English translation, 2 vols. (3rd ed. Glasgow 1764); *Metaphysicae synopsis* (Glasgow 1742, 6th ed. 1774).

*Consult:* Scott, W. R., *Francis Hutcheson* (Cambridge, Eng. 1900); Bonar, James, *Philosophy and Political Economy* (3rd ed. London 1922), and *Moral Sense* (London 1930); Stephen, Leslie, *History of English Thought in the Eighteenth Century*, 2 vols. (3rd ed. London 1902); Hasbach, Wilhelm, *Die allgemeinen philosophischen Grundlagen der von François Quesnay und Adam Smith begründeten politischen Ökonomie, Staats- und Sozialwissenschaftliche Forschungen*, no. xliii (Leipzig 1890).

HUXLEY, THOMAS HENRY (1825-95), English biologist and protagonist of the theory of evolution. After attending Charing Cross Hospital as a medical student Huxley turned to biological research. His voyage of scientific exploration to Australia and the East Indies laid the foundation for his wide knowledge of organisms. He produced some 170 scientific monographs, several of which became classics.

Huxley's fame rests primarily, however, on the part he played as an advocate of the theory of evolution. Darwin was not a controversialist; in order to weather successfully the storm aroused by his *Origin of Species* he needed the bold and eloquent support given by Huxley in England and Haeckel in Germany. By knowledge and temperament Huxley was ideally fitted for this role. He was an ardent defender of the scientific spirit against the obscurantism of orthodox belief. His famous retort to Bishop Wilberforce, his controversies with Gladstone, Canon Liddon and the duke of Argyll bring evidence of his forensic skill. Some of his lectures were convincing polemics which served to popularize evolution.

Huxley was at no time a blind follower of Darwin nor did he accept unreservedly the principle of natural selection. An opponent not of religion but of dogmatic theology, he character-

ized himself as an agnostic determined to follow reason in all matters of the intellect. Sensitive to the arts, a student of literature, scientist, philosopher, educator and organizer, he was one of the richest personalities of his day.

ALEXANDER GOLDENWEISER

*Works:* *Scientific Memoirs*, ed. by M. Foster and E. R. Lankester, 4 vols. (London 1898-1902), and supplementary volume (London 1903); *Collected Essays*, 9 vols. (London 1893-94, new ed. New York 1896-1902).

*Consult:* *Life and Letters of Thomas Henry Huxley*, ed. by Leonard Huxley, 2 vols. (New York 1900; 2nd ed., 3 vols., London 1903); Drachman, J. M., *Studies in the Literature of Natural Science* (New York 1930) ch. xviii; Huxley, Julian, "Thomas Henry Huxley and Religion" in his *Essays in Popular Science* (New York 1927) p. 143-60; Clodd, Edward, *Pioneers of Evolution* (London 1897) p. 185-244; Ayres, Clarence, *Huxley* (New York 1932); Peterson, Houston, *Huxley, Prophet of Science* (New York 1932).

HYDE, EDWARD, LORD CLARENDON.

See CLARENDON, FIRST EARL OF.

HYNDMAN, HENRY MAYERS (1842-1921), English writer and social democratic pioneer. Hyndman was born in London of a wealthy family, studied at Cambridge, read for the bar, spent a few years in sport and travel and then became a war correspondent with Garibaldi's forces for the *Pall Mall Gazette*. Neither a patient scholar nor a cautious investigator but a politician and journalist gifted with quick apprehension, a forceful style and considerable oratorical power, his career from about 1864 until 1880 was that of the typical well to do English radical of the mid-Victorian era. He sympathized with the Italians struggling to be free, disliked Prussia and hoped for a French victory in 1870, stood up in defense of the Paris Commune and supported Indian and Irish protests against British domination. During the trade depression which set in about 1875 and deepened through the late eighties a rebellious spirit against the self-complacency of mid-Victorian liberalism gradually grew in Hyndman, and in this mood he read in 1880 the French translation of the first volume of Marx' *Capital*. From a disgruntled radical without a clear program Hyndman became a fierce anticapitalist and socialist. He called upon the aged author of *Capital* and his impression was overwhelming, although Marx never came to trust him fully. In 1881 he organized the Democratic Federation (after 1884 the Social Democratic Federation). Although some of the ablest Englishmen of the time labored

indefatigably for it for over forty years, Hyndman's hope of creating a mass party was not realized; the membership was never much more than 10,000. Hyndman ran for Parliament several times but never succeeded in getting elected. He scorned trade unions, utterly misunderstanding the revolutionary mission that Marx ascribed to them. While the federation was never more than a propagandist organization enjoying little contact with the working masses it did keep alive a sense of the value of action as a socialist technique. It later became the Social Democratic and finally the British Socialist party, the latter, without Hyndman, merging at last into the Communist party. His Marxian economics did not go beyond the labor theory of value, surplus value, robbing the workers, speeding the social revolution. He failed to see the need for the second and third volumes of *Capital*, which were supposed to solve the problem of how equal capitals with unequal labor power units and consequently unequal surplus values could produce equal average rates of profit; he failed to take account of the neutralizing factors which according to Marx retard and mitigate crises that might otherwise lead to the collapse of the capitalist system. Hyndman took from Marx only what might be effective for social revolutionary agitation. Even where he appeared to differ from Marx, namely in the economic or materialist conception of history, he really touched not Marx but his crude interpreters. To the last of his days he dogmatically adhered to Lewis H. Morgan's exposition of primitive society, never suspecting that a new critical school had challenged older theories of primitive agrarian communism.

Hyndman was not, in fact, the successor of Marx but was of the line of such social reformers and Tory democrats as Fielden, Sadler, Oastler, Disraeli and such Chartists as J. R. Stephens. He was close enough to Tory ways and interests to get Tory financial support for anti-Liberal parliamentary contests. The few conceptions he took from Marx were to him but sticks with which to beat the bourgeoisie. He was a staunch patriot and self-conscious patrician, burning with zeal to see England great, generous, mighty, and all his countrymen well fed, well housed and warlike. He detested all foreign powers that might threaten the greatness of the British Empire. He left the British Socialist party in 1914 when it opposed the war. He hated the Bolsheviks as pro-Germans and destroyers of the parliamentary and democratic

institutions constituting the legacy of a thousand years of great Englishmen.

MAX BEER

*Works:* *England for All* (London 1881); *The Historical Basis of Socialism in England* (London 1883); *The Economics of Socialism* (London 1896, new ed. Boston 1921); *Glennceau, the Man and His Time* (London 1919); *The Evolution of Revolution* (London 1920); *The Awakening of Asia* (London 1919); *The Record of an Adventurous Life* (London 1911); *Further Reminiscences* (London 1912).

*Consult:* Hyndman, R. T., *The Last Years of H. M. Hyndman* (London 1923); Gould, F. J., *Hyndman, Prophet of Socialism (1832-1921)* (London 1928); Beer, Max, *A History of British Socialism*, 2 vols. (London 1919, 20); Rothstein, T., *From Chartism to Labourism* (London 1929); Clayton, Joseph, *The Rise and Decline of Socialism in Great Britain 1834-1924* (London 1925).

IBN-I-JANBAL, AHMAD IBN-MUHAMMAD (780-855). Mohammedan theologian and jurist. After studying theology and jurisprudence in his native city, Bagdad, and after extended travels in Mesopotamia, Syria and Arabia he finally became a student of al-Shāfi'ī.

Ibn-I-Janbal is the fundamental authority of the Hanbalite school, the latest of the four Islamic schools of law (*madhāhib*) recognized by the orthodox Sunnites. Declaring himself the representative of an extreme Koranic orthodoxy ibn-I-Janbal rejected all concessions to rationalistic interpretation. As such he was the object of ruthless persecution during the period when the liberal theology of the Mutazilites enjoyed governmental recognition; after the victory of orthodox doctrine under the caliph al-Mutawakkil, however, he gained great prestige. In keeping with his dogmatic position ibn-I-Janbal recognized as the foundations of law only the Koran and the *hadith*, the tradition concerning the acts and utterances of the Prophet, opposing even recourse to analogy on the basis of these sources, let alone purely rational legal concepts. A juristic system in the true sense of the term was scarcely to be constructed on such principles, and for this reason the followers of the three other schools opposed the recognition of these fanatical theologians and untiring collectors of traditions as true legal scholars. Ibn-I-Janbal's collection of traditions, the *Musnad*, comprising between 28,000 and 29,000 items, was first edited after his death by his son 'Abdallah, who made still further additions to it. Merely an enormous accumulation of material with no systematic formal force, the work remains free of any bias but is also entirely lacking in critical content.

Any collection, nevertheless, no matter how replaceable, was necessarily acceptable if all legal relations were to be regulated on purely traditionalistic lines.

In keeping with his strict adherence to the traditionalistic legal doctrine ibn-Hanbal bequeathed to his followers, the Hanbalites, greater rigorousness in all rituals and social relations and a fanatical intolerance. Current up until the sixteenth century in Mesopotamia, Syria and Palestine, their doctrine won temporary support even as far as Persia. It experienced a notable revival with Ta'iq al-Dīn ibn-Taymiya (1263-1328), to whose ideas the reactionary reform movement of the Wahhabites in the eighteenth century was related. Of essential significance today only in the interior of Arabia, the Hanbalistic doctrine is by far the least accepted in the course of studies at the Azhar Mosque in Cairo, the leading center of Mohammedan theological studies.

ANTON BAUMSTARK

Consult: Patton, W. M., *Ahmed ibn Hanbal and the Mihna* (Leyden 1897); Goldziher, I., "Neue Materialien zur Literatur des Überlieferungswesens bei den Muhammedanern" and "Zur Geschichte der hanbalitischen Bewegungen" in *Zeitschrift der deutschen morgenländischen Gesellschaft*, vol. 1 (1896) 465-506 and vol. xii (1908) 1-28; Hartmann, M., "Die 'Tradenten erster Schicht im Musnad des Ahmad ibn Hanbal' in University of Berlin, Seminar für Orientalische Sprachen, *Mitteilungen*, vol. ix, pt. ii (1906) 148-76; Goldziher, I., in *Encyclopaedia of Islam*, vol. 1 (Leyden 1913) p. 188-90; Brückelmann, Carl, *Geschichte der arabischen Literatur*, 2 vols. (Weimar and Berlin 1898-1902) vol. i, p. 181-83.

IBN-KHALDŪN (Walīy al-Dīn Abū-Zayd 'Abd al-Rahmān Ibn-Muhammad) (1332-1406), Mohammedan historian and philosopher. From the autobiography appended to his history it appears that ibn-Khaldūn was born in Tunis and received a liberal education, displaying an unusual aptitude and inclination for study. He served in various capacities several of the potentates who divided Moslem north Africa and Spain between them; among other posts he held that of envoy to the court of Peter the Cruel at Seville and for a time he lived among the nomad Arabs. On his way to Mecca in 1382 he passed through Cairo, where he remained and was appointed professor of law and later Malikite judge, an office which he occupied intermittently until his death.

Ibn-Khaldūn's extant literary work consists of a history in three parts, which in its printed form fills seven volumes (Bulak 1867). The nar-

rative portions (parts two and three) begin with a sketch of universal history prior to Islam and contain histories of the Islamic dynasties down to his time. Of these the most important is the history of the Berbers (French translation by W. M. de Slane, *Histoire des berbères et des dynasties musulmanes de l'Afrique septentrionale*, 4 vols., Algiers 1852-56; new ed. by P. Casanova, 2 vols., 1925-27), which is the basic source for modern knowledge of Moslem north Africa. These sections, which deal almost entirely with political history, remain a dry narration of events. Nevertheless, they are significant both because of their critical attitude toward historical material and because of the abandonment of the traditional chronological approach in favor of the method of treating history by nations and dynasties which was introduced by al-Mas'ūdi.

But even more attention has been attracted by the volume of prolegomena (French translation by W. M. de Slane, in *Notices et extraits des manuscrits du roi*, vols. xix-xxi, 1862-68) which opens the work. It is primarily a philosophy of history but touches on sociology and economics and toward the end becomes encyclopaedic in conformity with ibn-Khaldūn's doctrine that history is the study of all social phenomena. The author is justified in regarding his work as starting an original line of inquiry in Arabic literature, in which until quite recent times he found no successors. It is unique in that, unlike the purely annalistic histories of the Arabs, it formulates generalizations based on the study of the records which form the subjects of the subsequent volumes. Having made observations upon the effect of climate, altitude and other physical factors on conduct and character, and having restricted his subject to the temperate zones, he emphasizes the distinction between nomads and town dwellers. The former roam about the desert in groups held together by 'asabiya (clannishness), a sentiment originating in blood relationship, which causes each member to subordinate his individual interests to those of the clan. The wants of persons in this state are exiguous, and they display many virtues, of which courage is the most conspicuous, although they have no scruple about raiding and pillaging. The need for justice within the group causes leaders to arise, and when the groups become sufficiently numerous they migrate to fertile lands and ultimately change into town dwellers or subdue already existing town communities, adopting the previously established civilization. The town

dweller become luxurious and lose their capacity for self-defense. The rulers, as their wants increase, must resort to constantly increasing taxation; and resenting the claims of their clansmen to equality with themselves they rely for aid on foreign supporters, who become necessary moreover because of the decline of the clansmen as warriors. Thus the state grows decrepit and becomes the prey of a fresh group of nomads, who undergo the same experience. The period which constitutes the normal life of a state is 120 years, or three generations of forty years each.

Ibn-Khaldūn's deductions are made from the history of the Islamic dynasties, chiefly those of north Africa and Spain. It does not occur to him to suggest remedies which might arrest the decay of the state. The latter he supposes to have by nature a fixed duration, with periods of growth, maturity and decay, analogous to that of the individual; and he is unaware of any form of government save an Oriental despotism.

Of his views in economics the most noteworthy is the observation that price is determined by the cost of production, into which taxation enters. He also appears aware of the influence of supply and demand on price. He analyzes the dangers which arise when a government takes part in trade and argues that increase of population brings increase of wealth through division of labor while increase of wealth causes an increase of population.

Despite the new point of view introduced by Ibn-Khaldūn and despite the continuous use of his work in the East he had no followers of any importance. In the West little was known of his work until the nineteenth century.

DAVID S. MARGOLIOUTH

*Works:* A bibliography of Ibn-Khaldūn's work and of the translations of various parts of it may be found in Schmidt, N., *Ibn Khaldun* (New York 1930) p. 47-60, and in Gabrieli, G., "Saggio di bibliografia e concordanza della storia d'Ibn Khaldūn" in *Rivista degli studi orientali*, vol. x (1923-25) 169-211.

*Consult:* Ayad, M. Kamil, *Die Geschichts- und Gesellschaftslehre Ibn Khalduns*, *Forschungen zur Geschichts- und Gesellschaftslehre*, vol. ii (Stuttgart 1930); Schmidt, N., *Ibn Khaldun, Historian, Sociologist and Philosopher* (New York 1930); Altamira, R., "Notas sobre la doctrina histórica de Abenjalldūn" in *Home-naje à Francisco Cordero*, ed. by E. Saavedra (Zaragoza 1904) p. 357-74; Bouthoul, G., *Ibn-Khaldoun, sa philosophie sociale* (Paris 1930); Hussein, T., *La philosophie sociale d'Ibn Khaldoun* (Paris 1918); Colosio, S., "Contribution à l'étude d'Ibn Khaldoun" in *Revue du monde musulman*, vol. xxvi (1914) 318-38; Maunier, R., *Mélanges de sociologie nord-africaine* (Paris 1930).

IBN-MISKAWAYHI. *See* MISKAWAYHI.

IBN-TAYMIYA, ABU-AL-'ABBĀS AHMAD IBN-'ABD AL-'ĤALĪM (1263-1328), Mohammedan jurist and theologian. Ibn-Taymiya was born in Harrān and spent most of his life in Damascus with occasional visits to Egypt. His biographers state that he studied under the ablest teachers the various subjects cultivated by the Moslems and was an omnivorous reader.

His significance as a theologian lies in his revival of Hanbalite doctrine, in his transmission of it to modern times and in the acceptance of his views by the Wahhabis, who ascribe to Ibn-Taymiya a role similar to that of Luther in western Christendom.

He was one of the most voluminous of Arabic authors and is said to have composed five hundred volumes, the titles of which have been preserved. Several have been printed, notably the collection of Ibn-Taymiya's "opinions," which occupies five bulky quartos (*Fatāwā*, Cairo 1908-11); his refutation of the Shī'a in four volumes (*Minhāj al-Sunnah' al-Nabawiyyah*, Cairo 1904); and his treatise against Christianity (*Al-jawāb al-sahih liman badal dīn al-Masih*, 4 vols., Cairo 1905). Ibn-Taymiya used the matter of the last named book in another of his works, and he may have followed this practice in his other writings. His political treatise is *Al-Siyāsa al-Shar'iya fi Al-Rā'i wal-Ra'iya* (Legal administration dealing with the shepherd and flock, Bombay 1888). The work consists of maxims for the guidance of rulers and their subjects, often homely in character and illustrated by anecdotes and sayings ascribed to Greek, Persian and Islamic sages. Probably the most noteworthy passages are those in which the author proves that humanity is steadily progressing and in which he advises rulers to divert attention from political controversies by circulating fictitious alarms.

DAVID S. MARGOLIOUTH

*Consult:* Schreiner, M., "Beiträge zur Geschichte der theologischen Bewegungen im Islām" in *Deutsche Morgenländische Gesellschaft, Zeitschrift*, vol. lii (1898) 463-510, 513-63, and vol. liii (1899) 51-88; Macdonald, D. B., *Development of Muslim Theology, Jurisprudence and Constitutional Theory*, Semitic series, vol. ix (New York 1903) p. 270-78, 283-85; Goldziher, Ignaz, *Die Zāhiriten, ihr Lehrsystem und ihre Geschichte* (Leipzig 1884) p. 188-93.

IBSEN, HENRIK (1828-1906), Norwegian dramatist. He won his world fame as author of a series of so-called social dramas, starting with *The Pillars of Society* (1877) and *A Doll's House* (1879) and ending with *Rosmersholm* (1886). The



theme of all these plays is the struggle of individuality against society, a theme going back to the very beginnings of Ibsen's literary activity, when as a young man he wrote the tragedy *Catiline* (1850). His first modern drama, *The Comedy of Love* (1862), was a bitter satire on the social conventions ruling the relations between man and woman and fettering the souls of both. Then came after the Dano-German war of 1864, when he had expected his own nation to step forward in defense of the Danish brethren, his outburst of rage against his countrymen, erecting in *Brand* (1866) the tragic figure of the uncompromising champion of moral demands and picturing in *Peer Gynt* (1867) the versatile illusionist who always shirks the truth and the honest deed. These two dramas may be called the most strongly personal of his works, highly emotional and abundant in poetic expression. In a realistic comedy, *The League of Youth* (1869), he showed the character of Peer Gynt transformed into a modern politician; and then from the seventies he turned to society as a whole, confronting it with the personal demands of truth and self-realization.

In many cases Ibsen's point of departure was the actual questions or conflicts of his day, like the struggle recently begun for the emancipation of women, or conflict between modern science and Biblical Christianity or even more explicitly such current topics as Samuel Plimsoll's agitation against the "swimming coffins" sent out by unscrupulous shipowners (*The Pillars of Society*). His general ideas, however, were deeply rooted in the spirit of the age. Ibsen was the most consistent representative of the individualism of the nineteenth century, and he pushed the demands of personal liberty to their extreme consequences. But in thus venting the ideas of his age he made them revolutionary forces, questioning the foundations of society. It is characteristic that he repeatedly scoffed at the word duty, concentrating in it all kinds of conventional demands upon personal behavior. He recognized no duty but the fidelity of every man to the commands of his own conscience, his character and his faculties. This was the meaning of his slogan for social life: "Truth and liberty." Of all his characters the man who was nearest to his conception of a social ideal was the hero of *An Enemy of the People* (1882), the rebel against social tyranny.

To Ibsen the moral problem involved in the conflict between individual and society was at the same time a psychological problem, and in the

succession of his dramas can be seen the steady growth of psychological interest and intimate character studies. Ever more the conflict is one between inner forces in the man himself, his fight against the inherited or accepted moral traditions which dominate his own mind. Such is the theme of *Ghosts* (1881) and *Rosmersholm*, and in the dramas which followed the problem is confined to the fight for complete self-realization as opposed to the merely artistic view of life. The combination of moral and psychological conflict was the element that gave power to his dramas, and by translations into many languages and still more by theatrical representations all over the world they became a great force in the education of humanity for liberty.

HALVDAN KOHT

*Works: Samlede værker*, 8 vols. (3rd ed. 1914), tr. by William Archer and others, 12 vols. (rev. ed. London 1906-12). A centenary edition by F. Bull, Halvdan Koht and D. A. Seip was begun in Oslo in 1928.

*Consult: Koht, Halvdan, Henrik Ibsen, cit. diktarliv*, 2 vols. (Oslo 1928-29), tr. by R. L. McMahon and H. A. Larsen as *The Life of Ibsen* (New York 1931); Jaeger, H. B., *Henrik Ibsen, 1828-1888* (Copenhagen 1888), tr. by W. M. Payne (2nd ed. Chicago 1901); Gosse, E. W., *Ibsen* (London 1907); Moses, M. J., *Henrik Ibsen: the Man and His Plays* (New York 1908); Zucker, A. E., *Ibsen, the Master Builder* (New York 1920); Brandes, G. M. C., *Henrik Ibsen* (Copenhagen 1898), tr. by Jessie Muir as *Henrik Ibsen: Bjørnstjerne Bjørnson, Critical Studies* (New York 1899) p. vii-122; Lauric, Ossip, *La philosophie sociale dans le théâtre d'Ibsen* (Paris 1900); Shaw, G. B., *The Quintessence of Ibsenism* (new ed. London 1913). For Ibsen bibliography in England and America see his *Speeches and New Letters*, tr. by A. Kildal (Boston 1910) p. 121-202.

ICONOCLASM, the hostility to images, is a recurrent phenomenon. The term has been used specifically to designate a movement against the worship of images in the Byzantine Empire in the eighth and ninth centuries A.D. but is also used in a more general sense to characterize comparable manifestations. The earliest known appearance of iconoclasm is the heresy of Ikhnaton, king of Egypt (c. 1375 B.C.), which substituted for a multiplicity of gods in human or animal form "the splendor which is in the disc of the sun." A strong iconoclastic spirit voiced by the Hebrew prophets expunged from the Bible records of the old idolatry; only a few cases, such as the story of Moses' brazen serpent, remained. The prophets in their attacks assumed that the image, not the being for which the image stands, was worshipped; and they had no difficulty there-

fore in reducing such worship to absurdity (*Isaiah* XLIV: 9-20; *Jeremiah* x: 3-5; *Psalms* cxv: 4-7). The apocryphal *Epistle of Jeremy* is a tirade on the worthlessness of images, which is the theme of iconoclasts of all ages; the early Christians, for example Lactantius, condemned pagan idolatry as being utterly foolish. As the church absorbed proselytes in large numbers it made concessions. It drew a distinction between images and idols, attacking the latter as fanciful representations of phantoms or demons and approving the former as genuine forms of Christ, His mother and His saints, meriting worship because of the miracles they had wrought. The iconoclastic principle was surrendered; it was not the worship of images that was condemned but only that of "false" images. The Roman church became iconoclastic toward other religions only and has remained so. The Spanish conquerors showed zeal against heathen idols because they were devoted to Christian images.

In the Eastern church, where the worship of images proceeded to excesses as great as those of paganism, a movement against the practices was led by the emperor Leo III (716-40) and was continued with great fervor by his son Constantine Copronymos. The worship of images was declared to be idolatry, images were broken up and their defenders persecuted. The champions of images eventually prevailed but their councils expressly declared that images were to be venerated, not worshipped.

In the west organized attacks against images, which did not begin until Wycliffe and Huss, culminated with the Reformation. Protestants complained that the Roman Catholics taught that there was a virtue in images comparable to that which magicians claimed for the figures of constellations. The Calvinists were especially violent; in the Low Countries and France they sacked churches and destroyed images. In England iconoclasm found no opportunity for expression except during the military operations of the Great Rebellion, when a great many statues and much stained glass were smashed. In Protestant countries the cult of images has never recovered, and wherever they have gone Protestant missionaries have served as agents of iconoclasm. In Roman Catholic and Orthodox countries the veneration of images flourishes and tends to relapse into adoration. In Arabia opposition to idolatry culminated with Mohammed, who prevented the recurrence of images by prohibiting all representations of human or animal forms. In Islamic Persia and India, however, human

miniatures of considerable artistic merit were fashioned in defiance of Mohammed's precept.

The claim of iconoclasts that they are striving to bring back religion to its original purity is justified in so far as idolatry is not addressed to the images or fetishes but to the powers attached to them; the worship of the object itself is a corruption. It is doubtful, however, whether ritual ever existed apart from material vehicles of the powers to whom the worship was addressed. Iconoclasm attacks primarily human representations because they are more likely to usurp the place of the deity they represent; non-human shapes keep their representational character. Mohammed, uncompromising as regards idols, retained the black stone of the Caaba. When the Church of England removed images it retained symbols, such as the triangle for the Trinity.

Iconoclasm tends to be concomitant with simplification and centralization both in religion and in government. Ikhnaton came at the end of a period of imperial expansion and expressed autocratic tendencies. The Hebrew prophets worked to concentrate the worship of one god in one temple. It is not a coincidence that the first Roman emperor to embrace Christianity and to condemn pagan images tried to arrest the decentralization begun by Diocletian; after him the process resumed as did the adoration of images. The iconoclastic emperor Leo III was a centralizer and his son asserted imperial supremacy in ecclesiastical affairs. The Reformation marks the end of the feudal period and the beginning of absolutism. Mohammed after abolishing idolatry proceeded to unite Arabia and then to impose religious and political unity on other nations.

Iconoclasm is essentially a product of urban life. Christianity first developed in the cities; as it absorbed the rural population it lost its iconoclastic principles. The iconoclastic French Revolution was the result of a steady movement toward the concentration of all power in Paris. The recent Spanish and Russian revolutions, which surged with iconoclasm, were the work of city populations. In the latter instances iconoclasm is an overt expression of the protest of the masses against the churches' participation in their exploitation. Secularistic and rationalistic attitudes concomitant with the spread of popular science and the liquidation of illiteracy provide fertile backgrounds for iconoclastic movements.

A. M. HOCART

See: IDOLATRY; CULTS; RELIGION; REFORMATION; RATIONALISM; FREETHINKERS; ATHEISM; SECULARISM. Consult: Weigall, A. E. P., *The Life and Times of*

*Akhmaton* (new ed. London 1923); Harnack, Adolf, *Lehrbuch der Dogmengeschichte*, 3 vols. (4th ed. Tübingen 1909-10), tr. by N. Buchanan and others, 7 vols. (London 1895-99) vols. iii-v; Gibbon, E., *The History of the Decline and Fall of the Roman Empire*, ed. by J. B. Bury, 7 vols. (2nd ed. London 1900-02) vol. v, ch. xlix; Bury, J. B., *A History of the Later Roman Empire*, 2 vols. (London 1889) vol. ii, bk. vi; *Tertullian: Apologia de spectaculis*, original Latin text with translation by T. R. Glover, Loeb Classical Library (London 1931) ch. xii, p. 66-69; Emereau, C., in *Dictionnaire de théologie catholique*, vol. vii (Paris 1922) cols. 575-95; Heffele, Karl J. von, *Conciliengeschichte*, 6 vols. (2nd ed. by A. Knöpfler, Freiburg, i.Br. 1890) vols. ii-iv, English translation to 787 A.D. only, 5 vols. (Edinburgh 1883-96) vol. v; Schwarzlose, K., *Der Bilderstreit* (Gotha 1890); Ostrogorsky, Georg, *Studien zur Geschichte des byzantinischen Bilderstreites*, Historische Untersuchungen, vol. v (Breslau 1929); Sell, E., *The Life of Muhammad* (Madras 1913), and *The Historical Development of the Qur'an* (4th ed. London 1923); Fortescue, Adrian, in Hastings' *Encyclopaedia of Religion and Ethics*, vol. vii (Edinburgh 1915) p. 78-81.

**IDEALISM.** In the popular sense the term idealism means a tendency to oppose the representations of the mind (ideas and ideals) to empirical reality and to give them a predominant position and role in the scale of human values. Since by their very nature ideas and ideals are as far as possible independent of the limitations and imperfections of empirical reality and have at least aspirations toward the perfect and the absolute, it follows that idealism in the popular mind leads men to live in a superworld remote from what is usually regarded as common reality and to be indifferent to and disdainful of the things of this lower world. Even in the philosophic sense idealism is credited with the same tendency to grant to spiritual representations primacy over nature and experience. There is in the philosophic use of the term, however, the methodical effort to explain these objects in terms of ideas and then to reintegrate the unity of the world and of experience. This methodical and critical labor of philosophy has had various phases during which the conception of idealism has become radically transformed.

Although the word idealism as designating a philosophic tendency and school has been used only in modern times, the beginning of idealistic speculation is to be found in Plato. The fundamental attitude usually considered idealistic is peculiar to the Platonic philosophy and consists in attributing autonomous reality to Ideas and in combining them into an "ideal world," as opposed to the world of empirical flux. All the characteristics of ancient and mediaeval idealism are present in Platonism. Ideas are not the prod-

ucts of human ideation and are therefore not subject to the mutability and errors of the thinking subjects but are perfect entities anterior to men and all things of experience, unchanging types and patterns after which things subject to birth and death are modeled. The very thoughts of man are but imitations of the eternal Ideas, which may therefore be considered the thoughts of God that preside at the creation of the world (*Timaeus*). Platonic idealism is thus objectivistic and transcendental. Although Plato had given the world of flux an ideal foundation and thus attempted to explain the recurrence of stable notes in the incessant change of empirical things—such as order in the movements of the stars or the preservation of organic types—nevertheless, as he set off the two worlds too sharply against each other he did not succeed in reaching a satisfactory solution. On the contrary, it is evident that he became the inspirer of dualistic theological speculation, which opposes heaven to earth, the creator to the creature, and regard to the world of phenomena as a pilgrimage toward a stable and eternal goal. Christian patristics and scholastics are both saturated with Platonic idealism.

If in ancient idealism ideal reality was thought of as transcendent and therefore the attitude of human thought toward it was purely contemplative, in modern idealism, on the contrary, there is evident a tendency to regard ideas as acts and products of the intellect and the objective and natural world as the conscious content of this renewed spiritual subjectivity. Not only do the ideas descend from the Platonic superworld to empirical reality, but the reality, thus vivified and idealized, gravitates around the center of the human intellect. This double process of assimilation has gradually realized itself by steps often apparently opposed but in the last analysis converging. On the one hand, modern English empiricism has vindicated the claims of the human subject to the authorship of those ideas that formerly had seemed to come to him from above: the very term *idea*, which in Platonic philosophy was full of theological mysteries, has finally come to express purely empirical representation. Thus from an empirical source has sprung Berkeley's subjective idealism, which regards the objective world as a complex of representations in consciousness. On the other hand, with Descartes the rationalistic tendency centered the ideal world around the activity of the *cogito* and regarded this active thinking as the foundation of being. A more mature expression

of modern idealistic attitudes was given in the critical idealism of Kant. With Kant the epistemological significance of modern idealism becomes clear in contrast with the ontological and the theological character of ancient idealism: ideas are not transcendent and quasi-divine beings participating in some incomprehensible way in human thought and natural objects, but are acts and forms of the intellect, which models the empirical material received through the senses. The resultant of this synthesis of form and matter is what is called experience and comprises an element always mobile and variable, the sensible datum, and a stable and solid mental warp which lends order and law to the phenomenal world. Behind this experimental synthesis Kant nevertheless allows for the existence of a *Ding an sich*, a noumenon, as an unknowable substratum of phenomena. The effort of the post-Kantian idealism of Fichte, Schelling and Hegel has been applied to the elimination of this residue of transcendence and to the conversion of thought into the exclusive pillar of the universe. Moreover post-Kantian idealism set in greater relief, in opposition to Kant, the genetic character of mental activity and strove to demonstrate that the various ideal stages in mental organization correspond to the stages in the formation of the cosmos. In the realization of this task it has been guilty of manifestly arbitrary assumptions, making a misuse of a priori dialectic deduction and divorcing thought too absolutely from the human conditions of its presentation. The assumption, however, of a genetic point of view in the study of the problems of the mind marked the beginning of historicism and the evaluation of reality as a historical process of spiritual formation. This view, anticipated in the eighteenth century by the Italian philosopher G. B. Vico and emphasized by the romanticists, in the beginning of the nineteenth marks a partial contrast with the Kantian ideal of a knowledge orientated toward the natural sciences and a more fundamental opposition to the transcendent idealism of ancient thought.

In the course of the nineteenth century idealism in the metaphysical formulation that it had received from German philosophy suffered a long period of eclipse. To this its dialectic abuses in part contributed, in part also the fact that the great progress of the natural sciences attracted the mind toward a naturalistic view of the world and of life and made the intuitions of the new historicism at least premature. For some decades

naturalism dominated the field of philosophical speculation, from positivism to the most radical forms of materialism. But toward the end of the nineteenth century there set in an idealistic revival, which became intensified during the twentieth. This began by assuming the character of a reaction against the natural sciences and against the tendency of the philosophy that had preceded to rely too exclusively upon the physical and biological sciences, contracting and repressing those spiritual values that cannot be weighed in a balance or observed with a microscope but which nevertheless are attested by consciousness. That this reaction was opportune and salutary is due to the fact that its promoters were the very students of the natural sciences (such as Poincaré and Mach) who gave particular emphasis to the conventionalized and hypothetical elements inherent in all naturalistic constructions and thus corrected the notion that science was an exact reproduction of a supposed objective reality. The philosophers who followed them undertook a saner and more modest task; namely, that of showing that those critics did not diminish the value of science, but rather increased it by affording an unexpected testimony to the originality and inventiveness of the mind of the scientist and transferred it to the proper sphere. Since the attacks of scientific thought—or rather of the naturalism that had arrogated to itself the right to represent such thought—have thus been met, those spiritual energies and values in contemporary idealistic philosophy that had formerly been stifled and repressed have been able to have freer course. A classification of the contemporary idealistic schools may be made by taking as a basis the several spiritual forms that each of the schools considers fundamental and primary. The rationalistic trends are represented by neo-Kantian schools, including the phenomenalism of Renouvier, the Marburg school of Hermann Cohen and Natorp and the school of the philosophy of values of Windelband and Münsterberg, as well as by the post-Kantian and particularly Hegelian idealism of Stirling, Green, Caird, Bosanquet and Bradley in England, Royce in the United States, Spaventa and Gentile in Italy and Lachelier and Hamelin in France. The contingentist and intuitionist trends, which regard reality as something alogical and prelogical, that is grasped by an immediate intuition, are represented by Boutroux, Bergson and Le Roy. The psychological trends, which proceed from the data of the psychological consciousness and found on these a

spiritualistic metaphysics, are represented by the school of Ravaisson. The voluntaristic trends, which regard the will as an ideal and moral force, are best represented by Blondel's philosophy of action and by that which exalts practical activity into an intelligent principle for the reconstruction of experience, the idealistic pragmatism of Dewey. The historical trends, which in place of a unilateral priority of one spiritual form over another are partisans of an organic explanation and a harmonious constitution of spiritual forms having history as its center, find their most complete expression in Croce's philosophy of the spirit.

This rapid review of the principal historical attitudes of idealistic thought affords a means of understanding in their genesis and changes the social and political doctrines connected with the idealistic view of reality. Platonic idealism, with its conception of Ideas as universal and transcendent essences, has its complement in a political doctrine which makes the ideal state a transcendent and perfect existence above the changing scene of ephemeral and transitory individual interests. This doctrine has been the fountain of all the utopias in which humanity, groaning under the burden of oppression and injustice, has summed up its most profound social and ethical aspirations. The contrast between the perfect state and the existing state, which in Plato's *Republic* and in the utopias is merely implied, becomes explicit and emphatic in the conception of Christian Platonism. Thus St. Augustine opposes the City of God to the earthly city; and this antithesis dominates the whole mediaeval mentality. In general ancient idealism does not recognize individual values and rights in the presence of society and the state: the universal precedes the individual and is superior to it; the individual has his position and task preordained in the social organism and it is not in his power to modify them.

In contrast with the ancient, modern idealism places the center of the ideal world in the consciousness of the individual. Therefore also the politics of the new idealism removes the center of interest from the state as a theological and transcendent entity to human personality as an autonomous and infinite value. Modern idealism thus developed the concept of individual liberty in its varied forms—religious, civil, economic, political—and the concept of natural rights, inherent in the person and independent of all governmental recognition. In the presence of the individual thus emancipated the state assumes a

secondary and derivative existence as the product of a convention by which the individuals renounce a part of their liberty and of their original rights in view of the exigencies of their common life, but always within the limits of the utility and well being to be realized by means of that common life. From such a view, widely diffused during the course of the seventeenth and eighteenth centuries, there developed attitudes decidedly critical and polemical toward the existing states and social orders. Cartesian rationalism furnished the intellectual weapons for the waging of that stern struggle against the historical institutions which ended with the French Revolution. But the essential strength of the aggressive and polemical attitudes resided in the conviction that, as individuality and not the state was the fundamental value, there lay in the individual also the capacity to reform and renew. The individualistic ideal thus lent to action a tone of vital optimism.

The French Revolution, however, belied many hopes of its intellectualistic partisans. It showed that in idealism as embodied in historical institutions, in religion, in customs, in society, there was a force of resistance that revolutionary radicalism was not able to overcome. The political idealism of the nineteenth century, commencing with the period of the Restoration, has realized ever more completely that if the ultimate source of all spiritual values is in the individual, the latter in turn is here considered in his universality; that is, in those rational and moral aspects that link him to other individuals and whose external expression is historically conditioned. Idealistic historicism has thus reintegrated those values that the antihistorical mentality of the preceding century had wished to subvert. It has explained that the individual is not born free but becomes free with a constant endeavor to be free; that this liberty is not the negation of any social tie, but the conscious and virile acceptance of all the bonds that conscience itself represents to him as necessary for the realization of perfection and the common weal; that therefore human societies from the family to the state are not forces hostile and repressive to the personality, but means through which the personality forms and emancipates itself; that, in short, a purely revolutionary activity, with the illusory fancy of reviving elements and values purely individual by making a *tabula rasa* of all the labor of history, in reality tends to produce the opposite effect, to impoverish these individual elements and values and rob them of all content.

This work of reintegration was undertaken chiefly by German idealist philosophy. It has often, it is true, been obscured and distorted by the reactionary attitudes of the period of the Restoration in which it had developed. The Restoration, viewed today in the light of the whole course of nineteenth century events, was not merely expressed in legitimism or in the Holy Alliance but also included that slow and constant labor of assimilation and penetration whereby revolutionary radicalism and the forces and institutions of the past were fused together. But the Restoration in its beginnings conceived the anachronistic plan of annulling all the "innovations" of the revolution in spite of their world wide acceptance and reviving in its entirety a past that was beyond recall. This reactionary spirit influenced the German thinkers of the early nineteenth century, in particular Hegel, whose political doctrine appears to be a compromise between the liberal and individualistic tendencies of the Kantian philosophy and the reactionary absolutism of the Restoration. Thus Hegel on the one hand made liberty the center and pivot of political philosophy but on the other withdrew this liberty from the individual, its true source and seat, and transferred it step by step to the family, to the society, to the state. There was a profound motive of truth in that transference, in which family, society and state were conceived as means of expansion and perfection for the human personality; but Hegel was too easily prompted, by force of the very milieu in which he lived, to identify the concept of society with the semi-feudal society of his time, and the state that was to embody liberty with the Prussian absolutist state. Thus developed the paradox that the state to which was entrusted the entire celebration of human liberty was really the one which with its coercive means strove to suppress it at its source, and that idealism—*lucius a non lucendo*—became the exponent of absolutism.

This union between idealism and absolutism did not continue in the subsequent history of idealistic political thought. The Hegelian doctrine had pretended to sanction the political and institutional status quo, whereas the idealism that followed attached itself to a movement in which for the first time, in conformity with all the exigencies of restoration in the larger sense, conservative and traditional elements fused with revolutionary: the movement of nationalism. The new nationalists were conservatives in the sense that the values for which they stood—race,

language, customs—were the product of a historical tradition; but they were at the same time revolutionary, because the existing political order did not give nations adequate recognition and it had to be overthrown by force to give national unity its political expression. Thus not only idealists of the type of Mazzini but also idealists of the Hegelian school, like de Sanctis and the two Spaventa brothers in Italy, dissociated the terms of the Hegelian compromise and espoused the cause of liberty and nationality.

This same compromise is represented today in the works of Gentile. That this is possible is, however, due not to reasons inherent in idealistic thinking, but to historical occasions and particularly to the very different attitude of present day nationalism from that of its formative period. Then the nation was an ideal force rousing itself in the name of liberty and self-determination against governmental oppression. Today the nations, which have definitively won political recognition, are increasingly becoming organisms economically and spiritually closed to the world outside them and at the same time aggressive and imperialistic. A thinker who applies to present nationalism the qualifications that liberals once attributed to their national ideals preserves, to be sure, the grammatical subject of his propositions but no longer the historical and real subject. Gentile thus repeats in his writings the old phraseology of the philosophers of the Italian Risorgimento although he is in fact thinking of something very different. It is in this way that the interpretation of idealist philosophy, as developed by Gentile, has become an integral part of present Fascist ideology. There exists, however, no intrinsic, logical or historical reason for making idealism responsible for the absolutist and nationalistic attitudes of certain of its partisans. If it is true that there are profound ideals incarnate in the institutions of history, such as nations and states, and that therefore idealism is right to dwell upon them and exalt the affection, the devotion, the spirit of sacrifice of individuals in their regard, it is also true that the ideals of the human spirit are not all comprehended in them and that to exalt them as exclusive objects of dedication and worship is rather fetishism than idealism.

Apart from the Hegelian and neo-Hegelian deviations cited there is in most of the manifestations of modern idealistic thought the tendency to place the supreme values in human society not in the realizations already existing and in some manner institutionalized, but rather in the pro-

found spiritual exigencies that spur men on to create ever new forms and institutions in which they may adequately express the progressive character of their being. If in the course of the nineteenth century the national state represented this ideal over against the policed and legitimist states, today the national state is something that is beginning in its turn to be transcended in view of the higher ideal of a supernational and international society. The same may be said of the conditions under which Manchester liberalism was realized and surpassed. Since the nineteenth century English idealism has assumed a critical and polemic attitude toward the liberal order of the political society of the time. Thus Carlyle pillories with his most stinging criticism the mammonism of the capitalistic class, which under the cloak of liberalism hampered social legislation and the democratic progress of England. Later the philosopher T. H. Green pointed out how traditional liberalism with its formal respect for freedom of contract had come to consecrate an effective subjection of the working class to the capitalistic, and he therefore advocated governmental intervention to equalize really and not only formally the conditions of the labor contract. Thus he gave a new liberal-democratic direction to English liberalism by tempering those too individualistic and atomistic aspects which had made possible a certain social callousness and lack of sympathetic understanding and imagination in the Manchester school.

In Italy a profound revision of the political attitudes of idealism is taking place especially through the works of Benedetto Croce. Croce proposes to reconcile two aspects of the problem that at first sight seem to be in opposition: on the one hand, to assure active politics a certain autonomy in relation to ethics; on the other, to affirm that the dynamic forces of human history are essentially moral. His solution of the problem is by means of what he calls the dialects of distinct elements, by which politics is at once allied with and distinct from ethics; that is, it is a utilitarian activity conducted according to its own technical criteria but at the same time subordinate to and included within the scope of the moral consciousness. From this point of view political institutions, among which the state stands foremost, are susceptible to peculiar appraisals—economic, juridical, administrative and the like—but as actors and builders of history they are elements subordinate to the moral texture of human life. Thus the danger of a fetishistic adoration of them disappears, and the

interests of a sane conservatism harmonize with human aspirations toward reform and progress. A true protagonist of history is the spirit of liberty making use not only of states for its instruments but also of the transformation and even of the destruction of states to attain its universal ends. Croce's historical idealism does not stand for a mere respect for the past, for the status quo, but for an adhesion to the profound aspirations of humanity toward a future of more advanced liberty, citizenship and justice.

GUIDO DE RUGGIERO

See: PHILOSOPHY; REALISM; MATERIALISM; NATURALISM; POSITIVISM; ROMANTICISM; STATE; SOCIAL CONTRACT; NATIONALISM; FASCISM.

Consult: Hocmél, R. F. A., *Idealism as a Philosophy* (2nd ed. New York 1927); Merz, John Theodore, *History of European Thought in the Nineteenth Century*, 4 vols. (Edinburgh 1896-1914) vol. iii, ch. v; Royce, J., *Lectures on Modern Idealism* (New Haven 1919); Kronenberg, M., *Geschichte des deutschen Idealismus*, 2 vols. (Munich 1909 12); Troeltsch, Ernst, "Der deutsche Idealismus" in *Gesammelte Schriften*, vol. iv (Tübingen 1923) p. 532-87; Hartmann, N., *Die Philosophie des deutschen Idealismus*, 2 vols. (Berlin 1923-29); Basch, V., *Les doctrines politiques des philosophes classiques d'Allemagne* (Paris 1927); Jones, W. Tudor, *Contemporary Thought of Germany*, 2 vols. (London 1930-31); Muirhead, J. H., *The Platonic Tradition in Anglo-Saxon Philosophy* (London 1931); Green, T. H., "Lectures on the Principles of Political Obligation" in his *Works*, ed. by R. L. Nettleship, vol. ii (London 1886) p. 335-553, and *A Lecture on Liberal Legislation and Freedom of Contract* (Oxford 1881); Bradley, Francis Herbert, *Ethical Studies* (2nd ed. London 1927); Bosanquet, Bernard, *The Meeting of Extremes in Contemporary Philosophy* (London 1921), and *The Philosophical Theory of the State* (3rd ed. London 1920); Sabine, G. H., "The Social Origin of Absolute Idealism" in *Journal of Philosophy, Psychology and Scientific Methods*, vol. xii (1915) 169-77; Fouillée, A., *Le mouvement idéaliste et la réaction contre la science positive* (Paris 1896); Brunschvicg, Léon, *L'idéalisme contemporain* (Paris 1905) p. 37-57; Croce, Benedetto, *Elementi di politica* (Bari 1925), *Aspetti morali della vita politica* (Bari 1928), and *Capitali introduttivi a una storia del secolo XIX* (Bari 1931); Crespi, A., *Contemporary Thought of Italy*, tr. by Agnes McCaskill from Italian ms. (London 1926); Janet, Paul, *Histoire de la science politique, dans ses rapports avec la morale*, 2 vols. (5th ed. by G. Picot, Paris 1925); Michel, Henry, *L'idée de l'état* (3rd ed. Paris 1898); Ruggiero, Guido de, *Storia del liberalismo europeo* (Bari 1925), tr. by R. G. Collingwood as *The History of European Liberalism* (London 1927); Davy, G., "L'idéalisme et les conceptions réalistes du droit" in *Revue philosophique*, vol. lxxxix (1920) 234-76 and 349-84; Aliotta, A., *The Idealistic Reaction against Science* (London 1914). For a criticism of idealist political philosophy see Hobhouse, L. T., *The Metaphysical Theory of the State* (London 1918). Also consult the biographies of the individual idealist philosophers.

IDENTIFICATION is a term applied to the process of determining by confrontation of comparative analysis that a given person, object or idea is the one which is being sought. In the modern state in particular, with its intricate network of social relationships, governed by a multitude of rules which define the legal rights and responsibilities of the citizen, identification has become an increasingly important means of safeguarding civil rights. Its development is correlated with the growth of modern science, which has made possible the refinements in technique upon which good identification must be based.

The technique of identification has been so closely associated with criminal law enforcement that many assume that criminal identification is its whole domain. Before the scientific era the identification of prisoners accused of crime was difficult. Various devices were developed by the law as substitutes for witnesses to the crime or to protect the accused against bias or the fallibility of the senses. One of these devices was the ordeal, which threw the burden of identification on the Almighty; another was the confession, which made witnesses unnecessary and which led to the development of judicial torture. Where witnesses existed they were no doubt at times assisted in recognizing the accused by characteristics, such as physical defects and birthmarks, or by the amputations or brands which the law inflicted on certain offenders upon conviction. With the invention of photography an important step was made in the technique of identification, but it was not until Alphonse Bertillon devised his system of body measurements, standardized the criminal photograph and developed methods of individualizing the data by classification that identification was put on a scientific basis. Bertillon's anthropometric system was based on the fact that once physical maturity has been reached the dimensions of skeletal parts remain unchanged through life. His system made possible the identification of recidivists, which is important, since the criminal law prescribes heavier penalties for them than for first offenders. But the system had serious drawbacks. It was not applicable to physically immature persons and was not reliable in the case of adult women. In spite of this fact it was after its adoption in France in 1888 introduced in all parts of the world with excellent results and is still used in many localities in conjunction with fingerprints.

While Bertillon was perfecting his system, another and superior means of personal identi-

cation was being developed. The ridge patterns on the skin of the fingers had long been observed. Even before Malpighi in 1686 called attention to them, fingerprints had appeared in a magical role on occasional documents as far back as ancient China. In 1823 Johannes Evangelista Purkinje classified these patterns in nine groups. From 1858 on William Herschel, an English colonial administrator in India, used thumbprints to identify native workers in his charge. In 1888 Francis Galton became interested in fingerprints from the point of view of biological heredity and in 1891 he suggested a method of indexing them, thereby opening the road to their practical utilization. In the same year Juan Vucetich of La Plata, inspired by Galton, put into operation a system of classification based on a simple yet adequate principle and introduced fingerprinting in regular police practise. In 1897 Edward R. Henry proposed his elaboration of Galton's classification. Since then about twenty-five other methods of dactylar classification have been established, most of them variants of the Vucetich or the Galton-Henry system. The former has been accepted in South America and in some European countries; the latter has found favor particularly in the English speaking nations. Most countries now possess national bureaus of criminal identification, where fingerprints are deposited. These collections are at times immense; the Bureau of Investigation of the United States Department of Justice, for instance, contained 2,802,666 cards on January 1, 1932; during the fiscal year 1931, 480,524 prints were received and 161,325 identifications made.

Once practical classifications of fingerprints had been developed, the Bertillon system was doomed as less effective, for the skin patterns remain unchanged from infancy to old age. Moreover criminals were known to leave fingerprints on the scene of the crime, but never their body measurements, a fact which made fingerprints useful beyond the identification of recidivists. The Bertillon system may still find use in case of persons who have lost hands or fingers, but even the latter may be identified by palmar impressions, which in late years have been studied and classified. Numerous systems of classifying single fingerprints have also been developed and methods perfected for the telegraphic transmission of prints. With the coming of television the exchange of such information will be facilitated.

Criminal identification may also be made by other methods. The records of dentists have frequently provided means of identification



where others have failed. Psychology has also been called into service since the turn of the century. The *modus operandi* system, devised by L. W. Atcherley and described by him in 1913, is based on the theory that professional criminals, like all craftsmen, develop habits in work reflected in their technique of operation. The police have thus been able to solve whole series of offenses committed before the one which led to a criminal's arrest. *Modus operandi* files exist in numerous police departments, but as yet no satisfactory system of filing large numbers in a national bureau has been invented. In recent years also experiments have been made with psychological tests, such as association tests and tests of emotional expression, as means of connecting a suspect with an offense; but these tests, which have often aided criminal investigation, have not yet found favor in the court room.

The identification of objects has also proved to be an important aspect of criminal investigation; for instance, the identification of a firearm by microscopic study of shells or bullets fired from it. The marks left by firing pins and barrels have proved to be almost as individual as fingerprints, and systems of classifying these traces or impressions are being developed. The identification of handwriting has not as yet reached the level of personal or firearm identification but is nevertheless making great strides. The value of expert testimony in all matters of identification depends of course on the honesty and competence of the expert.

Although identification has hitherto loomed largest in criminal justice administration, its greatest value in the future may perhaps be found in its use in civil life. Passports containing personal descriptions and photographs have long been in use and in 1912 Portugal introduced fingerprints on its passports. In some countries a *carte d'identité* more or less similar to a passport must be carried by all persons of certain categories. Photographs have also become important means of identifying owners of railroad or other tickets or certificates purchased at privileged rates. Banks occasionally fingerprint employees, and in civil service such prints are frequently required in order to prevent employment of persons with criminal records. They have also been used in military and naval services. In the United States, where the practise has been in force since 1907, the War Department possesses a classified file of about three million cards; the files of the Navy and the Marine Corps total two million. Maternity hospitals frequently

use footprints for the identification of infants, and recently experiments have been made in this connection with the stenciling of identification symbols by means of ultraviolet rays, a modern variant of branding.

The social importance of universal identification as a means of controlling and safeguarding the interests of both state and citizen has received most recognition in South America. In 1905 Vucetich sponsored the resolution relating to universal identification passed by the International Police Conference at Buenos Aires. He drafted the universal identification law, which was promulgated in 1916 in Argentina and abrogated within a year because of popular opposition; in 1931 a new law was drafted by Luis Reyna Almandos at the invitation of the government. Chile made fingerprinting compulsory in 1924 for all persons over eighteen years (since reduced to seven years) and in 1931 the Civil Registry Office was merged with the Central Identification Bureau.

Popular antagonism against the extension of fingerprint identification to non-criminals has deep roots in many countries, particularly in the United States, where the practise has occasionally prejudiced the rights of organized labor and where plans have been advanced for the fingerprinting of certain population classes alone, such as aliens. The proponents of universal identification have realized that an important means of counteracting such sentiments is not only the proposal of fingerprinting every person, but also the complete separation of the identification service used for civil purposes from bureaus of criminal identification. The importance of such a separation may be inferred from the fact that in the minds of many persons, expressed also in the legislation of most countries, an element of infamy or a criminal stigma attaches to fingerprints. In many jurisdictions they cannot legally be taken of petty offenders or of persons not yet convicted of crime, while in some the acquitted defendant has a right to the destruction of his fingerprints taken by the police. Another difficulty in the way of universal fingerprinting is a technical one. Experts have pointed out that existing systems of classification require considerable modification before they can be used successfully in the gigantic collections which such legislation would produce.

THORSTEN SELLIN

See: CRIME; CRIMINOLOGY; POLICE; EVIDENCE; EXPERT TESTIMONY; RECIDIVISM; PASSPORTS.

Consult: Gross, Hans, *Handbuch für Untersuchungs-*

richter, 2 vols. (7th ed. Munich 1922), tr. by J. Collyer Adam as *Criminal Investigation* (London 1924); Heindl, Robert, *System und Praxis der Daktyloskopie* (3rd ed. Berlin 1927); Locard, Edmund, *Traité de criminalistique*, 2 vols. (Lyons 1931); Osborn, Albert, *Questioned Documents* (2nd ed. Albany 1929); Wentworth, B., and Wilder, H. H., *Personal Identification* (Boston 1918); Södermann, Harry, *L'expertise des armes à feu courtes* (Lyons 1928); Wigmore, J. H., *Principles of Judicial Proof* (2nd ed. Boston 1931); Galton, Francis, *Finger Prints* (London 1892); Henry, E. R., *Classification and Uses of Finger Prints* (6th ed. London 1928); Vucetich, Juan, *Dactiloscopia comparada* (La Plata 1904), *Historia sintética de la dactiloscopia* (La Plata 1920), reprinted in *Revista de identificación y ciencias penales*, vol. vi (1930) 177-239, 355-93, vol. vii (1930-31) 5-110, and *Proyecto de ley de registro general de identificación* (La Plata 1929); Almandos, L. R., "Proyecto de registro nacional de identificación para la república Argentina" in *Revista de identificación y ciencias penales*, vol. vii (1930-31) 155-81; Hoover, J. Edgar, "Criminal Identification" in American Academy of Political and Social Science, *Annals*, vol. cxlvi (1929) 205-13; *Progreso: revista de identificación científica*, vol. ii (1930) no. xxiv; Bertillon, Alphonse, *Identifications anthropométriques: instructions signalétiques* (2nd ed. Melun 1893), English translation (Chicago 1896).

**IDOLATRY.** Idols are images used as abodes or receptacles for supernatural beings, gods, spirits of the dead or demons; they represent the fixation of spiritual power in a material object and differ from relics and fetishes only in being fashioned after the likeness of a man or animal, from sacred animals only in being inanimate. Idolatry cannot be fully explained by sympathetic magic, which is the belief that there is a close inherent connection between a person or thing and its image, so that whatever affects the image affects the original. A sacred stone may not resemble the god, yet what is done to it redounds to the god; a statue, however resemblant, is nothing but so much stone or metal and can be treated as such until it is consecrated. Sacred images of Ceylon and India are not revered until their eyes are formed and spirits are invited to enter by officiating priests. In China life is conveyed to the statue by putting small live animals into a hole at the back; then the eyes are painted and it becomes sacred. The giving of life to a statue is alluded to in *Revelation* XIII. In Egypt the important ceremony of consecration is called the "opening of the mouth." Mere resemblance is evidently neither sufficient nor necessary to establish a bond between the god and his material representation; it is the consecration that is essential. Resemblance is merely one of several qualifications, but one that has had such a profound influence on theology and politics that

idols stand in a class by themselves among objects of worship.

Images of animals go back to late palaeolithic times; the dark caves in which they have been found and the wounds they appear to have received leave no doubt that they had a ritual use. Human statuettes also existed in Aurignacian times, but it is not certain that they were idols. The beginnings of the later vogue of idolatry can be localized within narrow limits. Herodotus described the Persians as imputing folly to peoples who set up images and shrines and altars. Early Buddhist worship was addressed to the tumulus, tree and relics; the figure of the Buddha was deliberately left out. It was the Hellenistic school that introduced the latter as an object of worship in the first century A.D.; Hinduism later adopted the practise. Some Indian tribes are still without idols. Buddhism carried image worship to China and Japan. Varro declared that the Romans had served the gods more than 170 years without images. Tacitus and Caesar comment on the absence of idols among the Celts and Germans. Peoples outside the pale of the great civilizations either have no images to the present day or make no consistent use of them. On the other hand, the Egyptians were commonly representing gods in human form from about the second dynasty. The Sumerians had from the earliest times images Semitic in type and dress; this has led to the inference that they learned idol making from the Semites. Statuettes which can only be idols have been found in Minoan and Mycenaean sites. The expansion if not the origin of idolatry can thus be credited to an area adjoining the eastern Mediterranean.

Mummification, which was developed in the same area, indicates an anxiety to preserve the dead as completely as possible; the same idea may have suggested a close imitation of the deceased in stone, wood or metal. The Egyptian statue was formed as like the original as possible. The Greeks pursued a more generalized truth, aiming at anatomical correctness not of an individual but of an ideal body. Their artistic merit assisted considerably the spread of idolatry but at the same time undermined it, for their art eclipsed the ritual purpose and stimulated aesthetic appreciation instead of religious faith. In the period of decadence men accordingly returned to the uncouth and sometimes monstrous figures of archaic times as more suitable for worship. India subordinated art to theology; it was interested not in the human form or the personality, but in the attributes by the signs of which

gods are distinguished. India has a fondness for monstrosities such as numerous heads, arms and legs; gods with many limbs were known elsewhere in mythology and occasionally in art, but the artistic Greeks rejected these types. The late Roman Empire saw the influx of monstrosities, such as the Mithraic Cronus, compounded of many animals; but the western feeling was against them. Modern imagery has gone through a cycle comparable to the ancient. The works of Raphael are of too high artistic merit to stimulate devotion and have been followed by a return to a popular imagery.

Pure animal forms are uncommon, yet the earliest references to idols in the Bible are to the golden calf and the brazen serpent (*Exodus* xxxii; *Numbers* xxi). Idols animal and human are in every way equivalent to the deity and receive all the service bestowed on a sacrosanct king. They are bathed, anointed, clothed, crowned, fed, censured, lighted with candles, put to sleep and even provided with a consort. Frequently they are taken in procession. Various phases of this ritual are alluded to in the Old Testament and the Apocrypha (*Ezekiel* viii: 10, 11; xvi: 17, 18; *I Kings* xii: 33; *Epistle of Jeremy*). The ritual is still well preserved in India and Ceylon. As in the case of kings, equivalence tends to identity and idols come to be treated as if they were the gods themselves. Some images are considered more miraculous than others although theoretically of the same god. Idols are stolen from the enemy to deprive him of their assistance (Herodotus v: 83) and in consequence are chained to the wall. Conquerors remove the idols of the conquered. Idols become credited with human actions, such as nodding, shedding tears, sweating and speaking; impostures are sometimes perpetrated by priests, who provide the statue with mechanical devices for the performance of such acts. A little Burman village grew into a prosperous town because the local image perspired. The presence of miraculous images stimulates trade, which in turn encourages the continuance of the miracles.

The attribution of miracles to individual images has been carried furthest in Hinduism and Christianity. In Ceylon no statue has acquired an individuality. Buddhism put a limit on idol worship by not recognizing a soul. Leontius of Cyprus at the end of the sixth century argued that in family life a person's image, seal, even clothes, are constantly honored and that if images and crosses are placed in Christian churches it is not that they are regarded as gods

but as mementos. The official doctrine of the church is that images are a means of visual instruction as reminders of religious truths and as stimulants to devotion. In practice, however, the masses lapse into idolatry, making vows not so much to the Virgin or a saint as to one particular image, such as the Virgin of Lourdes or the Virgin of Halle. The Greek church does not allow statues, but the cult of icons, or pictures, has been carried to extremes; they are everywhere even in shops, banks and railway stations. The Christian church has no cult images of God the Father, but only of those who have lived in the flesh: Christ, Mary and the saints.

Idolatry has stimulated anthropomorphism. Before the introduction of idols gods appear to have been spoken of in human terms but to have been so far from being primarily human that an Indian writer of the sixth century B.C. found it necessary to explain why they are spoken of as having human attributes. Idols by always presenting gods in human or animal form fix that form as their proper one. They cease to be vague powers and become supermen. A concrete personality on which to fix the emotions of hope, fear, veneration, anger and revenge is more readily grasped by the masses; hence its success. Originally the idol was merely the receptacle of a power or a spirit and the means of bending the spirit to man's will. This point of view still persists among the Christian masses in spite of the teaching of the church—as witness the Tamil fishermen who immersed a statue of St. Anthony up to the neck in the sea and threatened to drown it if it did not grant them better fishing. The idol thus provides a convenient scapegoat on which the worshiper can vent his disappointment, whereas he would feel helpless if he thought himself confronted by an impersonal and inexorable nature. Among the educated classes of the great religions such props are less necessary; the other emotions recede into the background and veneration is dominant. Images then provide a visible object on which to fix that idealism which is not satisfied by the real world.

A. M. HOCART

See: RELIGION; CULTS; DEIFICATION; ANCESTOR WORSHIP; SAINTHOOD; HOLY PLACES; FETTERISM; DIVINATION; MAGIC; ANIMISM; SUPERSTITION; ICONOCLASM.

Consult: Erman, A., *Die ägyptische Religion* (2nd ed. Berlin 1909), tr. by A. S. Griffith as *A Handbook of Egyptian Religion* (London 1907); Farnell, L. R., *The Cults of the Greek States*, 5 vols. (Oxford 1896–1909); Pfeiffer, R. H., "The Polemic against Idolatry in the Old Testament" in *Journal of Biblical Literature*, vol. xliii (1924) 229–40; Wissowa, Georg, *Religion und*

*Kultus der Römer* (2nd ed. Munich 1912); Grünwedel, A., *Buddhistische Kunst in Indien*, Handbücher der Königlichen Museen zu Berlin, vol. iv (Berlin 1900), tr. by A. Gibson and rev. by J. Burgess (London 1901); Barth, Auguste, *Les religions de l'Inde* (Paris 1879), tr. by J. Wood (London 1882); Jouveau-Dubreuil, G., *L'archéologie du sud de l'Inde*, 2 vols. (Paris 1914) vol. ii; Hocart, A. M., "Many-armed Gods" in *Acta orientalia*, vol. vii (1929) 91-96, and *The Temple of the Tooth in Kandy* (London 1931); Getty, A., *The Gods of Northern Buddhism* (2nd ed. Oxford 1928); Ashton, W. G., *Shinto* (London 1905); Luquet, G. H., *L'art et la religion des hommes fossiles* (Paris 1926), tr. by J. T. Russell (New Haven 1930); Grunel, V., "Images (culte des)" in *Dictionnaire de théologie catholique*, vol. vii (Paris 1922) cols. 766-843; Fewkes, J. W., "The Use of Idols in Hopi Worship" in Smithsonian Institution, *Annual Report*, 1922 (Washington 1924) p. 377-97; "Images and Idols" in Hastings' *Encyclopedia of Religion and Ethics*, vol. vii (Edinburgh 1915) p. 110-60.

IDRĪSĪ, ABU-'ABDALLĀH MUḤAMMAD IBN-MUḤAMMAD AL- (c. 1100-66), Moslem geographer. Al-Idrisi was educated at Cordova and after traveling extensively for many years in Asia Minor, Egypt, Morocco, Spain and Portugal spent a long time at Palermo at the court of his Norman patron, Roger II. There in 1154 he completed *Kitāb Rujār or Nuzhat al-Mushtāq fi Ikhtirāq al-Āfāq* (Book of Roger, or the recreation of him who wishes to travel through the countries), one of the most important geographical works of mediæval times. It not only sums up the chief features of such preceding works as those of Ptolemy and Mas'ūdī but supplies for the Moslem world as well as western Christendom a remarkable fund of information based primarily upon original reports submitted by emissaries whom he had sent to various countries to secure data. The geography of Italy, France, Illyria and Germany was practically unknown to previous Arabic geographers. In his critical collation of the material Idrisi showed a noteworthy breadth of view and grasp of scientific facts, such as the roundness of the earth. Some of the seventy-one maps in this work represent despite obvious defects the best products of early Moslem cartography. The work as a whole suffers, however, from an insistence upon a rigid climatic division and a tendency to disregard all other dividing lines, whether physical, linguistic or political, which are not in harmony with it. Al-Idrisi constructed for Roger a celestial sphere and a disk shaped map of the world, both in silver, and wrote for William I of Sicily *Kitāb al-Mamālīk* (Book of kingdoms), of which only an extract remains. His writings found no early Latin translator and

therefore there are but faint traces of their influence upon European thought.

PHILIP K. HITT

*Works:* The text of *Nuzhat* has been published only in part. A superficial synopsis appeared in Rome (1592) and was translated inaccurately into Latin as *Geographia nubienis* by Gabriel Sionita and Joannes Hesronita (Paris 1619). A poor French translation of the entire text was made by Amédée Jaubert, *Géographie d'Édrisi*, 2 vols. (Paris 1836-40). Other editions and translations have been made of certain sections; among them are *Description de l'Afrique et de l'Espagne* by R. P. Dozy and M. J. De Goeje (Leyden 1866), and *L'Italia descritta nel "Libro del re Ruggero"* by M. Amari and C. Schiaparelli (Rome 1883). The best translation of the portion on Spain is by Antonio Blázquez, *Descripción de España* (Madrid 1901). The extract of *Kitāb al-Mamālīk* referred to is available only in the Hakim Oghlū, 'Alī Pasha Library, Istanbul (no. 688).

*Consult:* Ispizua, Segundo de, *Historia de la geografía y de la cosmografía en las edades antigua y media*, 2 vols. (Madrid 1922-26) vol. i, p. 347-62; Reinaud, M., *Géographie d'Aboulféda*, 2 vols. (Paris 1840-83) vol. ii, pt. i, p. cxlii-cxxii, ccxc-cccxv; Carra de Vaux, Bernard, *Les penseurs de l'Islam*, 5 vols. (Paris 1921-26) vol. ii, p. 9-13. For maps see "Idrisi-Atlas" in *Mappae arabicae*, ed. by Konrad Miller, 6 vols. (Stuttgart 1926-31) vol. vi.

IGLESIAS POSSE, PABLO (1850-1925), Spanish socialist. Iglesias was a printer by trade and intellectually self-taught. He was one of the Madrid group of labor unionists and radicals who were the pioneers of the Spanish Socialist party. Iglesias was a member of the International Workmen's Association (First International) through his membership in the Alianza de la Democracia Socialista, which had been organized in Spain in 1868 under the influence of the Garibaldian Fanelli, the coworker of Bakunin. Iglesias, however, was not influenced by anarchist ideas and did not deviate from Marxism; he was an influential force in the typographical section of the Madrid Federation of the International. In 1872, when the Spanish delegates to the congress of the International at The Hague leaned to the side of Bakunin in his struggle with Marx at the time of the split between socialists and anarchists, Iglesias repudiated their action and was instrumental in the formation of a Marxist Socialist party. In 1886 he began the publication of the journal *Socialista*; and in 1888 he formed the Unión General de Trabajadores, a labor union organization decidedly under the influence of the Socialist party; the *Socialista* became the organ of both the union and the party. Iglesias was the undisputed leader of the party, its organizing and tactical genius

He was imprisoned several times by the government. In 1910 he was elected to the Cortes, where he ably expounded the official Socialist policy. During the World War and the early post-war period the Socialist party grew in numbers and influence, still under the leadership of Iglesias. His leadership, however, was challenged by Left wing elements influenced by the Bolshevik revolution in Russia and in 1921 the party split, as did all parties of the Socialist International, between socialism and communism. Iglesias remained loyal to orthodox Marxism and adhered to the International Union of Socialist Parties in opposition to the Third, or Communist, International. Iglesias was essentially an organizer and man of action; his writings are unimportant.

C. BERNALDO DE QUIRÓS

*Consult:* Fidel (A. García Quejido), *Pablo Iglesias en el partido socialista* (Madrid 1905); Zugazagonia, Julian, *Una vida heroica, Pablo Iglesias* (Madrid 1925); Meliá, J. A., *Pablo Iglesias, rasgos de su vida íntima* (Madrid 1926); Morato, J. J., *Pablo Iglesias, educador de muchedumbres* (Madrid 1931).

IGNATIUS OF LOYOLA. *See* LOYOLA, IGNATIUS OF.

IHRER, EMMA (1857-1911), German socialist and labor leader. Emma Ihrer was born in Silesia; in her early twenties she went to Berlin, where she made a precarious living for herself and her widowed mother by working as seamstress. Here she first came in contact with the labor movement, which was at that time severely hampered by Bismarck's antisocialist laws. Despite her early Catholic training the militancy of the movement appealed to her indomitable spirit, which resented the oppression to which the women factory workers were subjected. The Social Democratic party attempted to organize these women workers, although the law prohibited participation of women in political organizations, and Emma Ihrer became a tireless agitator and organizer. She was among those who formed in 1885 the Verein zur Verteidigung der Interessen der Arbeiterinnen which, after a number of successful public demonstrations demanding increased wages, a shorter workday, Sunday rest for women workers, particularly in the needle industry, and woman suffrage, was dissolved by the police. With the repeal of the antisocialist laws in 1890 the political and economic organization of working women grew rapidly, and Emma Ihrer became one of the most influential leaders of the movement. She founded

and edited the *Arbeiterin*, the first woman's labor paper in Germany, which was taken over by the Social Democratic party and continued to appear as the *Gleichheit* with Klara Zetkin as editor. Emma Ihrer insisted that woman's emancipation could be accomplished only through the socialist labor movement, a conviction which she developed ably in *Die Organisationen der Arbeiterinnen Deutschlands* (Berlin 1893) and *Die Arbeiterinnen im Klassenkampf* (Hamburg 1898). At the time of her death Emma Ihrer was president of the Artificial Flower and Feather Workers' Union of Germany and the editor of its organ, *Blumenarbeiterin*.

LILY LORR

*Consult:* Issues of the Berlin *Vorwärts* for January 10 and 11, 1911; *Geschichte der Berliner Arbeiterbewegung*, ed. by Eduard Bernstein, 3 vols. (Berlin 1907-10) vol. ii, ch. iii.

ILBERT, SIR COURTENAY PEREGRINE (1841-1924), English jurist. From academic life in Oxford Ilbert passed to the legal membership of the council of the governor general of India, a post which he retained from 1882 to 1886. He endeavored, with Lord Ripon's approval, to eliminate racial discrimination in the administration of criminal justice by extending to district magistrates and sessions judges of Indian race power to try European offenders; this evoked deep appreciation from nascent nationalist feeling but aroused bitter hostility in the European commercial community, which had to be conciliated by granting to such offenders the privilege of trial by juries half European in composition. As a result of his important work in drafting Indian laws on his return to England he was appointed in 1886 as parliamentary counsel with responsibility for drafting governmental bills, and the wide knowledge of parliamentary procedure thus acquired bore fruit in his selection in 1902 as clerk of the House of Commons, where he remained until 1921. His grasp of Indian constitutional law led to the determination to reduce to code form the mass of English legislation as to India, and his labors are the foundation of the important Government of India Act of 1915 consolidating forty-seven acts from 1770. His own work as draftsman, his influence as chairman of the Statute Law Committee and his lucid and effective exposition of the principles of his art had powerful influence on the technique of both English and colonial legislation, while his active interest and support contributed largely to the successful establishment of the *Journal of*

*Comparative Legislation* as a means to the comparative study of the laws of the British Empire and foreign countries.

A. BERRIEDALE KEITH

*Important works: The Government of India* (Oxford 1898, 3rd ed. 1915); *The Government of India; a Brief Historical Survey of Parliamentary Legislation Relating to India* (Oxford 1922); *Parliament* (London 1911); *Legislative Methods and Forms* (Oxford 1901); *The Mechanics of Law Making* (New York 1914).

Consult: Pollock, F., in *British Academy, Proceedings*, vol. xi (1924-25) 441-45.

## ILLEGITIMACY

**SOCIAL ASPECTS.** While an illegitimate child is ordinarily considered to be one born to an unmarried woman, the term applies also to the child of a widowed or divorced woman when the husband could not have been the father and to the issue of void or voidable marriages in the absence of countervailing legislation. The term "born out of wedlock" may have little more than technical significance in communities where custom renders moral certain departures from premarital chastity, as between betrothed couples. Illegitimacy in some form is a universal social phenomenon, and law and custom everywhere take account of it. Marital institutions and sex mores, however, differ so widely and are so differently integrated with economic, moral and religious practices as to give it a bewildering sociological variety. Like divorce, it is understandable only in the light of its entire sociological setting in each community; it cannot therefore be viewed as an index of sex morality.

Among primitive peoples a woman with a child finds her chances of marriage enhanced, unaffected or seriously blighted depending on the traditions of her tribe. Among numerous tribes permitting premarital license the unmarried mother is in such disgrace that she may be killed or severely punished, while her child is almost certain to be destroyed at birth; elsewhere she is more eagerly sought after as a spouse because her fertility has been demonstrated. In some societies no line is drawn between the children born to wife, concubine or slave, provided the master acknowledges them; elsewhere only the children of the first wife are regarded as legitimate. Where sex freedom is granted to wives and where wife lending and similar customs prevail, the offspring are all regarded as legitimate; whereas in other societies the wife may be summarily executed for adulterine bastardy.

Christianity sought to stamp out premarital

unchastity by making it sinful and by placing the unmarried mother under severe condemnation. It was no easy task, however, to bring about a degree of harmony between sex mores of long standing and the ideals of an ascetic religious morality. Viewing woman as the chief source of sin Christianity tended to degrade motherhood, to accentuate masculine supremacy and to maintain a double standard of morality. It thus inflicted an often unbearable cruelty upon the unmarried mother and an almost certain degradation upon her offspring. In mediaeval and early modern times the mother was often required to confess her sin before the congregation in both Catholic and Protestant communities; she was sometimes fined, sometimes publicly whipped, sometimes placed in the stocks, and the child was neglected and socially ostracized, while the father suffered little or no penalty. Such severe treatment of the mother of an illegitimate child compelled concealment, abortion, maternal mortality and infanticide. In 1777 Frederick the Great wrote to Voltaire that the largest number of the executions occurring in Germany were of girls who had killed their infants. Severity of treatment and its multiplication of unnecessary evils continue in some areas but are giving way to the more humane methods of a rationalistic morality.

The extent of illegitimacy varies widely even among nations of European culture. Statistics are unreliable because of concealment and the registration of the illegitimate as legitimate. Comparisons of country with country are inexact. Illegitimacy rates are stated usually as a proportion of total births but sometimes as a rate per 1000 single, widowed and divorced women of child-bearing age. Both methods have their advantages; one showing whether illegitimate births represent an increasing or decreasing contingent of all births and the other whether illegitimacy is increasing or decreasing in relation to its opportunities.

A compilation of official data by the Children's Bureau of the United States Department of Labor showed that the number of illegitimate births in Europe in 1914, omitting those in Russian Finland, Poland and the Balkan States (except Rumania), exceeded 900,000. The percentages for illegitimacy for Norway, Sweden and Italy in 1926 were respectively 6.54, 14.57, 4.96; those of Belgium, Denmark, Germany, Chile and Uruguay in 1927 were 4.6, 11, 12, 35.07, 28.21; those of England and Wales, of Scotland and of Ireland in 1928 4.5, 7.4, 4.6.

The highest rates of illegitimacy officially reported are those of Jamaica (1924 to 1928) and Panama (1925), which exceeded 700 per 1000 births between 1921 and 1925; extraordinarily high rates are found also in Cuba and Central and South America. These wide differences have been of long duration. The World War led to a considerable increase in number of illegitimacies in England and Wales; the wartime illegitimacy ratio to total births increased also in France and Germany, although the actual number of illegitimate births declined in those countries and in Finland, Scotland, Italy, Australia and New Zealand. Thus the annual average numbers of illegitimate births in Germany were: 1911 to 1915, 177,645; 1916 to 1920, 136,923; 1921 to 1925, 154,592; while the ratios per 1000 total births were for the three periods respectively 100, 113 and 110. The statistics of illegitimacy have manifested no general tendency to increase or decrease during fifty years, although they decreased somewhat in most European countries in the two or three decades before the war and have increased since then. The rate per 1000 total births was distinctly higher in 1925 than in 1875 or 1880 in Austria, France, Germany, Sweden, New Zealand and Finland; it was slightly higher in Denmark and Australia. It had fallen in Norway, England and Wales, Scotland, Italy and Holland. The Japanese rate has fallen sharply from 116 for the years between 1891 and 1895 to 78 per 1000 births for the years between 1921 and 1925 and to 67 in 1928.

In interpreting these figures it should be noted that in view of the general decline in the total number of births a lesser decline in the number of illegitimate births would give an increasing ratio. Moreover decline in the birth rate increases the proportion of first born, among whom the incidence of illegitimacy is much higher than among the later born. The illegitimacy rate may therefore be an increasing proportion of all births even though it is declining if calculated per 1000 unmarried women. It may also be affected by changes in the relative ages of unmarried women. The completeness with which illegitimate births are recorded has probably increased in various countries. This is true of the United States, where annual data for illegitimacy since 1917 for an increasing registration area are available. These show for 1928 a total of 63,942 illegitimate births, excluding those of New Mexico, Nevada, South Dakota and Texas, states not in the registration area, and those of California and Massachusetts, where no statement con-

cerning the legitimacy of the child is required. In 1928 the rate was 30.9 per 1000 births for the entire area, 16.7 for all whites, 18.2 for native whites, 6.7 for foreign whites and 136.6 for Negroes. The rates per 1000 total births have increased since 1917 for all population classes by closely similar percentages. The Negro rate has been from eight to ten times that of whites, accounting in recent years for about one half the total number. Although the rural rate for the entire registration area has been slightly higher than the urban, the reverse is true for all but a few of the states and for all population classes except the colored. In continental Europe the urban rate is now distinctly higher than the rural. The urban excess reflects the presence of a greater number of young, unattached persons of both sexes, the anonymity of city life, the absence of community social controls and the large numbers of young women engaged as domestics, waitresses and industrial workers.

The infant mortality rate is usually from 50 to 100 percent higher for illegitimate than for legitimate births. The death rate of mothers from causes connected with pregnancy and childbirth is found to be about twice as high for unmarried as for married mothers. The illegitimate infant death rate is relatively higher in urban than in rural areas in spite of greater hospital facilities and social welfare agencies. Moreover English and Norwegian data reveal that the ratio of illegitimate infant deaths to legitimate is higher in the second month than in the first and still higher in the third. The causes of the higher mortality of illegitimacies may be in part the immature ages of some of the mothers but are mainly the generally adverse economic and social conditions surrounding both mother and infant together with ignorance, secretiveness and wilful neglect. Debility and marasmus are much more frequent among illegitimate infants, and the proportion of deaths from intestinal disorders is notably high. It is difficult for the police to distinguish between malicious maltreatment and stupid ignorance on the part of the mothers. German data for 1902 to 1927 show that illegitimate infant mortality declined fully as rapidly as that for legitimate births, being in 1927 less than the mortality of the latter in 1914.

Illegitimacy is an important cause of infanticide, abortion, premature births and stillbirths. Widespread infanticide led the church in the sixth century to establish in Italy the first foundling asylum, and in the twelfth century to utilize the *tour*, or turn box, to receive the child without

revealing the mother's identity. Miscarriages, including abortions, and premature and stillbirths are considerably greater for illegitimate than for legitimate births. The number of stillbirths is doubtless increased by maltreatment of the infant during or immediately following birth. Moreover illegitimate births are predominantly first births, among which stillbirths are generally high. Not only are the mothers often extremely young but they are more likely to continue at regular work until parturition is imminent; and syphilitic infection is markedly more frequent among illegitimate than among legitimate mothers. Among other effects of illegitimacy are delinquency, crime, destitution, prostitution, venereal disease, further illegitimacy and cruelty to mothers and children.

In those parts of Europe and America where illegitimacy suffers social stigma its causes must obviously be those conditions which result in unregulated premarital intercourse. They may be classed as personal and social, although the former result largely from the latter. Unmarried mothers are sometimes either feeble-minded or psychopathic; some suffer from ignorance of simple biological facts, high sexual suggestibility and lack of industrial proficiency and personality development. The social causes center in the character of home life and of parents but often include also neighborhood and community mores. Parental and home standards influence profoundly ideals of sex and family life, extent of education and vocational training, recreation, companionship and employment. Social work inquiries have revealed illegitimacy closely associated with poverty; with drunken, quarrelsome, unsympathetic or immoral parents; with broken homes, unsupervised recreation and early employment. The impossibility of marriage during those years when the sex impulses are most powerful and little understood is an important factor. The higher rate of illegitimacy among the lower classes is no doubt due in part to the better knowledge of birth control among the upper classes and perhaps also to more facile abortion.

Religion seems to have little relation to present illegitimacy rates. Catholic Austria and Protestant Sweden have the highest rates in Europe, while Catholic Ireland, Protestant Holland and England and Greek Orthodox Russia (before 1917) have rates among the lowest. German data show considerably less illegitimacy among Jews than among other religious groups but with some tendency to increase during the

last generation. Nor is climate a measurable factor. Occupation and social class are vastly more important. Everywhere the ratio of domestic and agricultural servants having illegitimate children is large and rates are high for women workers in hotels, restaurants and industry. The ratio was large among indentured servants of the American colonies, among Indians in contact with whites and among Negro slaves. In fact it has been a feature of the spread of white domination throughout the world, often associated with slavery or concubinage. It is an accompaniment of the superposition of races and classes, as in military invasions and conquest, and of periods of social upheaval, such as war and revolution. In the rural sections of Austria, where illegitimacy is the most general in Europe, it is associated with late marriage, with large estates where only members of the family and domestics reside, with absence of social stigma and with legitimation by subsequent marriage and recognized conventions governing intercourse of unmarried persons. In America bastardy was relatively common under pioneer conditions, where women because of their scarcity were little handicapped by the possession of illegitimate children. In northern Europe it is associated with conventionalized premarital intercourse of betrothed persons, partly to test the fruitfulness of union; it appears also to be associated with the equality of the sexes and the social and economic independence of women. In Soviet Russia, where the latter conditions prevail, there seems to be little or no social stigma attached to children born out of wedlock. In Central and South America and the West Indies, in some parts of which illegitimacy is the rule, it is associated with mixed white and Indian or Negro populations, in which the mass mores reflect less the traditional morality of the original racial elements than a morality springing from racial miscegenation under frontier and colonial conditions.

Little governmental care and protection of illegitimate children were manifested until the World War. In English speaking countries especially it was the rule for white mothers to abandon, give away or otherwise dispose of their illegitimate infants; colored mothers have generally followed the opposite course. While the mother's confinement was mollified by a restricted hospital service, by "rescue homes," such as those of the National Florence Crittenton Mission and the Salvation Army, and by child welfare societies, private maternity homes



too often found profit in disposing of her infant to a baby farm or foster home where his life was likely to be short and harrowing. Foundling asylums, orphan homes, child placing agencies, maternity homes and similar agencies are now, however, increasingly subject to public licensing and inspection. Illegitimate children are viewed as future citizens, workers and soldiers and as worthy as the legitimate of care and training. The state is finding it advantageous both economically and culturally to assume official guardianship over them. Legislation, formerly concerned primarily with protecting the taxpayer, increasingly aims to keep mother and child together, to enforce paternal responsibility and to insure the health, protection and education of the child.

FRANK H. HANKINS

**LEGAL ASPECTS.** The law dealing with the child born out of wedlock has throughout history reflected to a considerable degree the changing mores concerning illegitimacy. It is only necessary, however, to consider the scope of possible regulation with respect to rights of support, inheritance, filiation or legitimation to conclude that the law has rarely been consistent. Not even all illegitimate children have been treated alike. Quite generally in both ancient and modern times adulterine or incestuous bastards have received far less favored treatment than the ordinary child born out of wedlock. In the latter class have been many who have been bastardized by purely technical requirements of marriage laws. Such results have followed particularly when degrees of prohibited consanguinity or affinity have been extended too far or where divorce laws have been in sharp conflict. Finally, it must be remembered that the individualism of the private law, which became very marked in the nineteenth century, has often left some degree of choice to the parent of an illegitimate child. Since a growing freedom of testation has made it possible for a man to leave his property as he wished, an illegitimate might be benefited no less than a total stranger. Where the law recognized the institution of adoption, the father might sometimes make an illegitimate child a member of his own household.

Because of the peculiar structure of the early Roman family, based as it was on the principle of agnation, the position of the illegitimate child was unfortunate in the ancient Roman law; he had neither father nor mother. But with the development of the principle of cognation the il-

legitimate child came to have rights of support and succession with regard to his mother. The attachment of the child to his mother's family was due to the rise of the *jus naturale*, under which the principle of cognation came to be regarded as the basis for kinship. The natural child remaining a stranger to his father became along with the legitimate child a cognate of his mother. The betterment of the position of the illegitimate child was thus merely the logical consequence of the structure of the Roman family.

It was, however, the law of the Christianized empire, not of pagan Rome, that became most influential. Constantine suppressed all rights of illegitimate children against their mother except in the case of those born in concubinage, which had become a recognized institution. Illegitimate children were now classed according to the degree of guilt of the union which produced them, and the child's property rights were dependent on the class from which he came. Illegitimate children were of two main categories: first, those *ex damnato coitu*, of which there were two classes, the incestuous children and adulterine children; and, second, *liberi naturales*, or natural children proper, of which there were three classes, those born of a concubine (*retenta in domo*), those born in prostitution (*vulgo quæsiti*) and those born of any other union (*spurii*). The most important aspect perhaps of the legislation of Constantine was his introduction of the doctrine of legitimation by subsequent marriage. Two other methods of legitimation came into practise under the law of the empire. The first was by special imperial decree (*per rescriptum principis*) and the other was by presentment to the curia (*per oblationem curiae*). Under the legislation of Justinian the position of the children of concubines became very favorable and their rights of inheritance greatly increased.

Under early Germanic law bastards had to be cared for and supported by the mother under the *maegth*, or kinship group. The lack of betrothal prevented the father from exercising *mundium* over a free born concubine or her child. Nevertheless, the Germanic house lord could constitute his household as he wished; and if he received an illegitimate son into it, the latter commonly had rights of inheritance along with the legitimate sons. This certainly was true of the Germanic law in the Christian period. Under Lombard law, which is most explicit, the position of a natural son was especially favorable. He not only shared in rights of inheritance

but in wergild and the betrothal price of a sister.

In the Middle Ages under Christian and feudal influences bastards were largely deprived of the ordinary rights of man in the continental countries. Under many law books the bastard became little better than an outlaw. The feudal lord often treated him as a serf. He sometimes lost the right to inherit even from the mother. Mediaeval legal theory, however, generally maintained that the illegitimate child had a right to support. So too did the canon law, which moreover came to recognize the doctrine of legitimation by subsequent marriage, extending it to all cases of parents who might have married at the time of conception.

The common law of England was ruthless in its denial of rights to children born out of wedlock. The bastard was in every sense of the term *filius nullius*. At common law the illegitimate child was completely isolated from his parents; even though he was born of unfree parents he was free himself. At the outset neither parent had any right to the custody or guardianship of the child. The law recognized no legal relationship between the mother and child, far less between the father and the child. In no way could the child born out of wedlock inherit from his father or even from his mother. He had no heirs but those of his own body; if he died without lawful issue, any real or personal property might escheat to the crown. He had no rights of support against either of his parents. Nevertheless, the bastard was under none of the harsh disabilities of civic degradation to which he was subjected elsewhere. Under English law, however, following the Statute of Merton of 1236, legitimation by the subsequent marriage of the parents was not recognized.

In England from early times the illegitimate child was cast upon the parish for support and was cared for like any other vagrant or poor person. The first right to support came as the result of the parish's unwillingness to carry this heavy burden. The Poor Law Act of 1576 (18 Eliz. c. 3) put the duty of maintenance on both parents. Later legislation, however, shifted the burden to the father (acts of 1809, 1844 and 1872).

From the Middle Ages until modern times no very great improvement in the legal position of the illegitimate child occurred except as to the removal of civic degradation. Indeed the first of the great modern civil codes meant a distinct retrogression. Under the *ancien régime* in France in the regions of both written and customary law

the illegitimate child had the right to seek out his father, at least for the purpose of establishing the right to support. But the *Code Napoléon* declared in its famous article 340: *La recherche de la paternité est interdite*. With the investigation of paternity forbidden, neither the unmarried mother nor the illegitimate child had any rights, and thus the law of France remained until 1912.

Under the present law in France the court can inquire into the question of parentage, but only in cases of seduction, abduction, notorious concubinage or where there has been an admission by the father. A filiation action can be brought by the child and during his minority by the mother. In most cases an incestuous or an adulterine child cannot inquire into his parentage. If a filiation order has been made or the child has been recognized, the child takes the name of the father if recognized by him; if recognized by the mother alone, her name. In the case either of judicial filiation or recognition the parents are under a duty to support the child; the child succeeds to his parents and they succeed to him. This, however, does not give him rights of succession to the ascendants of his mother and father. Provision is made in the code for the voluntary formal recognition of the child by either parent, but such recognition does not affect the other parent. Generally recognition cannot be made for the benefit of an incestuous or an adulterine child. If a child is neither recognized nor filiated he still has rights of support against anyone who pretends to be his parent. The amount that the illegitimate child can take on intestacy is dependent upon whether his parents have legitimate children. There is a provision for the legitimation of a child born out of wedlock by the subsequent marriage of the parents. The child, however, must have been recognized before the marriage. Such legitimation carries with it all the effects of legitimate birth.

It is provided by the German civil code, which in this respect has followed the German common law, that in regard to the mother and her relatives the illegitimate child is in the legal position of a legitimate child; further in regard to the father the child born out of wedlock may be declared legitimate upon his petition by a government declaration, the child thereby acquiring all the rights of legitimacy. There is a provision that to this petition the consent of a child or his guardian is necessary and, if the child has not reached twenty-one, the consent of the mother also. If the marriage of the parents was prohib-

ited at the date of the child's conception, there can be no declaration of legitimacy. The child can obtain the right to support and maintenance against the father even if the latter does not establish his legitimacy, and this through the judicial establishment of paternity or through voluntary recognition. The duty of the father to support precedes that of the mother. Legitimation can also take place through subsequent marriage.

The laws of the Scandinavian countries in regard to children born out of wedlock are in advance of those of most countries. The Norwegian law, passed in 1915, places the burden of establishing paternity and of fixing the maintenance on the state rather than on the mother. The law calls for the compulsory reporting of the pregnancy by the physician or midwife consulted and of the birth of the child out of wedlock by the physician, midwife or mother. Thereupon the proper officials summon the man named as the father, who if he denies the paternity must institute proceedings to establish the true paternity or be held liable. The illegitimate child is placed in the same position in regard to his father as in regard to his mother; the child is entitled to the name of the father and to maintenance and education from both. The type of support and education is determined by the economic position of the more favorably placed parent. The law provides for minimum sums which are to be paid for the maintenance of the child to the sixteenth year; the local government official is charged with the supervision of these payments and given remedies for the collection thereof. Careful provisions are made against the father's migration before he has completed his payments. If the father dies before full payment has been made, the balance is a charge on the estate after the creditors have been satisfied, although in no case can a child born out of wedlock receive more than a legitimate child. Unless the child's parents have married, he has the same rights of inheritance as a legitimate child; the parents have a similar right in regard to the child.

The Swedish law of 1917 gives the child born out of wedlock no right of inheritance from the father except in the case of "betrothal children." Under an amendment of 1928, however, the father may by declaration stipulate that the child shall inherit from him. The responsibility for support is placed on both parents. Unless otherwise ordered by the court the mother has the custody and legal guardianship of the child. It is provided that the parent not having the care

of the child is to meet the maintenance expenses. A woman bearing a child out of wedlock is placed under a duty to report her condition to the "guardian official" of the parish, who designates a suitable person to act as guardian for the child. It is the duty of the guardian to see that the child's rights are protected, to proceed to determine the paternity and to collect the support. In Sweden the burden of proof in regard to paternity is on the person instituting the proceeding and not on the alleged father, as in Norway. Under the laws of Soviet Russia no legal problem of illegitimacy exists.

In all but a very few countries legitimation by the subsequent marriage of the parents is now recognized, although adulterine or incestuous children are generally excepted. The doctrine was finally introduced into England by the Legitimacy Act of 1926, which gave such a legitimated child all the rights of inheritance which he would have had if born legitimate. The same act made it possible for an illegitimate child to inherit from his mother and for the mother to inherit from the child. Legitimation by subsequent marriage had been introduced into the British dominions much earlier either by the continuance of the continental codes which contained the doctrine or by special legislation, as in all the states of the Australian Commonwealth and New Zealand, which indeed had shown the way as early as 1894.

The number of countries which assimilate closely the relation of mother and illegitimate child to that of mother and legitimate child is still small. Indeed as a principle it prevails primarily in the Germanic countries. Thus Austria and Switzerland may be mentioned in addition to Germany and the Scandinavian countries. The voluntary acknowledgment of an illegitimate child now generally entails some rights of inheritance; and sometimes even where the acknowledgment is effected only by judicial proceedings. In most places, however, the establishment of the putative father is still mainly for the purpose of securing support for the illegitimate child. There is some provision for compelling support in practically all countries. The exceptions are constituted primarily by those very few countries which still prohibit an investigation of paternity. The most important exception to the right of support is the *exceptio plurium concubentium*, which generally prevents the affiliation upon which the right is predicated. But even this exception is abrogated in some countries, as, for example, the Scandinavian coun-

tries, Soviet Russia and some parts of Canada.

In the United States there may be found illegitimacy laws of practically all known types from the most backward to the most advanced. At the one extreme are the laws of a few states, such as Texas, Louisiana and Virginia, which, since they ordinarily interdict the investigation of paternity, make it impossible for an illegitimate child to secure support. At the other extreme are such liberal laws as the Minnesota law of 1917, which charges the board of control of the state with safeguarding the interests of the illegitimate child to the extent of securing for him "the nearest possible approximation to the care, support and education that he would be entitled to if born of lawful marriage," and the North Dakota law of 1917 (followed by Arizona in 1921) which declares that every child is the legitimate child of his natural parents.

The oldest type of American illegitimacy law was simply the bastardy proceeding, historically connected with the English system of poor relief. While improved forms of bastardy or affiliation proceedings are now generally available they often leave much to be desired, since the sums awarded for support are usually low. Frequently the bastardy proceedings are criminal in nature, as under the old Massachusetts and Pennsylvania laws. In states where the non-support and abandonment laws apply to both legitimate and illegitimate children criminal proceedings are also available to enforce the obligation to support. The advantage of imposing criminal sanctions is that it enables the system of probation to be used and makes possible the extradition of fathers who have absconded to some other state. A very favorable type of law, which is primarily designed to enforce maintenance, is the Uniform Illegitimacy Act, which since its drafting in 1923 has been adopted in Nevada, New Mexico, New York, North Dakota, South Dakota and Wyoming.

The continuous tendency of American legislation, however, has been to depart more and more from the common law. The relationship of the illegitimate child to his mother has been made to approximate the status of lawful parent and child, and most American states have by statute given the illegitimate child a right to inherit from or through his mother, sharing alike with her legitimate children. On the other hand, paternity is generally established only for the purpose of securing support. In some states a right of inheritance is given in case of acknowledgment by the father in the absence of ex-

pressed legitimation. There is particularly great variety in the possible methods of legitimation. In almost all of the states there is recognized legitimation by the subsequent marriage of the parents either with or without recognition by the father. In a minority of states legitimation by the father in the absence of marriage may be accomplished in many formal as well as informal ways: by proceedings before various courts in Alabama, Georgia, South Carolina, North Carolina and Tennessee; by notarial acknowledgment or filing in a notary's office in Delaware and Louisiana; by recording an instrument like a deed in Michigan. In several states the father may legitimate the child by public acknowledgment or by adoption. American practice particularly has made use of the procedure of adoption, although it was unknown to the common law and, while known in the civil law countries, has rarely been used there in cases of illegitimacy. Another characteristic of American law has been the great amount of legislation which is intended to obviate technical illegitimacies. Thus the issue of many marriages which might be voidable or void for many reasons, such as nonage, idiocy, insanity, consanguinity, affinity or bigamy, are often declared to be legitimate. The miscegenation laws, however, contain no such saving provision. The issue of common law marriages are of course legitimate.

In several states the expression "child born out of wedlock" has been substituted for "bastard" or "illegitimate child" in all laws and public records. It is also sometimes prescribed that birth certificates omit reference to the fact of illegitimacy. Of greater material importance are the laws of Maryland, North Carolina and South Carolina which prevent a mother and child from being separated during the nursing period; such separation is a particularly important factor of high infant mortality among illegitimate children. A variety of other laws also benefit illegitimate children. In Michigan, Nebraska and Tennessee mothers' aid laws specifically authorize aid to unmarried mothers, a result that has been achieved in some other states by judicial construction. Workmen's compensation acts in twelve states apply to illegitimate children. In Nevada the acts apply to any illegitimate child; in Colorado, Idaho, Indiana, Kentucky, Louisiana, New Mexico, New York and Vermont only to acknowledged illegitimate children; and in Montana, Oregon and Washington only to those who have been legitimated prior to the injury.

Despite the legislative steps already taken there is a considerable social lag in the illegitimacy problem. The entire aspect of the welfare of the mother and child has been neglected; the question of financial support alone has received general attention.

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See: FAMILY LAW; FAMILY; MARRIAGE; CONCUBINAGE; CHILD; INFANTICIDE; ADOPTION; GUARDIANSHIP; INHERITANCE.

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ILLITERACY. See LITERACY AND ILLITERACY.

IMITATION. The concept of imitation was first given prominence in the writings of Walter Bagehot, Gabriel Tarde and Edward A. Ross, who used the term as a general principle to explain the spread of social beliefs and practices and to describe social processes now defined in terms of diffusion and syncretism of culture. Bagehot, who applied the term to man's universal tendency to follow patterns of behavior set before him, believed that "the imitative propensity" insured uniformity. Tarde held imitation with its correlated processes of opposition and adaptation to be the fundamental social process which accounted for the spread of fashion, crime, education, new inventions and other social patterns. For him imitation was the human social particular of the universal law of repetition found everywhere in nature. He ascribed invention to the conflict and combination of

items imitated or learned and formulated the laws of imitation as logical imitation, derived from reason and deliberation, and extralogical imitation, which is motivated by feelings, emotions and the desire for prestige and status. Ross, who drew heavily upon Tarde, depicted and classified several types of imitation: fashion, the imitation of innovations in dress or manners; convention, imitation of present day standards and practises; custom imitation, the imitation of the past; and rational imitation, the imitation of that which is logical and reasonable. These sociologists did not deal with the psychological mechanisms behind imitation but assumed that man possessed a propensity or inherent tendency to imitate.

J. Mark Baldwin attempted to bridge the gap between individual and social behavior by the concept of imitation. For him imitation became not only the mechanism of individual learning but also the basis of social organization. He conceived of imitation as a basic process by which the personality is built up within the social matrix of group life—first by the imitation of the external world of persons and then by self-imitation, which is important in the rise of social self-consciousness—and also as the “method of social organization” through the dialectic of social interaction.

Students of animal and human behavior have used the concept of imitation to explain the mechanics of learning. The psychological literature on imitation among men and among the lower animals is in a state of confusion, to which a failure to agree on terms has contributed. The existence of a definite innate basis or instinct of imitation as defended by McDougall and others is now doubtful. Imitation is rather to be regarded as a particular form of conditioning explained by the fact that the response of another becomes the conditioned stimulus for one's own response to the stimulus. So-called motor imitation among infants is perhaps a result of accidental association of like stimulus and response. Deliberate and rational imitation occurs only when the individual comes to possess free mental imagery and the related mental powers. Such behavior as yawning when others yawn or running in the direction in which others run illustrates what Bernard calls “automatic or suggestion imitation,” wherein a response becomes through long conditioning an unconscious stimulus for another person to perform a similar or identical act. Accidental or fortuitous imitation occurs in the behavior of children, when a chance com-

bination of stimulating circumstances sets up a chain of simple imitative responses which in turn become conditioned and integrated into the child's repertoire of habits and attitudes. Purposeful trial and error imitation, where one's action serves as the clue to another's similar or identical action, arises, as Mead has shown, only where there exists some motivation to perform the like action. The highest levels of imitation are those where rational or deliberate purpose comes into play and where projective or what Baldwin called “ejective” patterns within the individual serve as the basis for a reconstruction of one's internal, symbolic and meaningful ideas and attitudes. The concept of imitation, although in some disrepute because of its earlier connection with instinct psychology, thus remains a useful concept verifiable by experimental studies of animal and human behavior.

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See: SOCIAL PSYCHOLOGY; CONFORMITY; CONVENTIONS, SOCIAL; CUSTOM; FASHION; CHANGE, SOCIAL; INVENTION.

Consult: Tarde, G., *Les lois de l'imitation* (3rd ed. Paris 1900), tr. by E. C. Parsons (New York 1903); Baldwin, J. M., *Mental Development in the Child and the Race* (3rd ed. New York 1926), and *Social and Ethical Interpretations* (4th ed. New York 1906); Ross, E. A., *Social Psychology* (New York 1908) chs. vi-xvi; McDougall, William, *An Introduction to Social Psychology* (rev. ed. Boston 1926) p. 105-10; Humphrey, G., “Imitation and the Conditioned Reflex” in *Pedagogical Seminary*, vol. xxxviii (1921) 1-21; Peterson, J., “Imitation and Mental Adjustment” in *Journal of Abnormal and Social Psychology*, vol. xvii (1922-23) 1-15; Allport, F. H., *Social Psychology* (Boston 1924) p. 239-42, 390-91; Bernard, L. L., *An Introduction to Social Psychology* (New York 1926) chs. xxi-xxiv; Young, K., *Source Book for Social Psychology* (New York 1927) p. 242-56, and *Social Psychology: an Analysis of Social Behavior* (New York 1930) p. 118-23; Folson, J. K., *Social Psychology* (New York 1931) p. 319-23; Murphy, G. and Lois P., *Experimental Social Psychology* (New York 1931) p. 173-81, 266-67.

IMMIGRATION is the entrance into an alien country of persons intending to take part in the life of that country and to make it their more or less permanent residence. European immigration into distant lands has been part of the economic and social structure of the western world since the modern colonizing movement, which started in the sixteenth century. It was the means by which European culture was spread to the undeveloped regions of the world and since the development of these regions into independent nations or dominions it has served to redistribute population between the old, congested,

and the new, sparsely settled, countries. There was virtually no intercontinental immigration from the Far East before the nineteenth century, except for sporadic population movements in the fifteenth and seventeenth centuries. Both in volume and in the intensity of the problems produced by the entrance of alien peoples into a different land, immigration assumed its greatest importance in the nineteenth and twentieth centuries; many of the conditions characteristic of the later movement were present, however, in the colonial settlements.

Whenever areas of greater and less advantage lie within access of each other and governmental regulation does not intervene, migration toward the more favored spots will tend to take place both within a single country and internationally. In their economic aspects international and intranational movements differ little. The position on the western American frontier of the migrant from the eastern seaboard was often similar to that of his neighbor who had come from overseas. Likewise those who left the farms to seek their fortunes in industrial and urban centers within their own country frequently had to make much the same economic adjustments as peasant immigrants entering the same factories. The difficulties of cultural adjustment are, however, greatly augmented for the immigrant by the distance traveled, the change in his political status and the cultural differences of the new environment. Where close proximity, similarity of cultural conditions and international harmony prevail, as between the United States and Canada, immigration has practically the same characteristics as internal migration.

The direction of immigrant flow is determined by the lure of opportunity, real or imagined. Although enslavement or forced immigration has many of the same results as immigration, the latter movement is essentially a voluntary one involving active planning and conscious choice on the part of the immigrant. This quality of choice sets him apart from the majority of his countrymen, who accept the conditions of their homeland. Whereas emigration usually results from some sort of maladjustment produced by unfavorable home conditions, the direction of immigration is determined by expectation and the receiving country is affected by the immigrant psychology of hope and confidence.

The type of opportunity most generally sought is economic; the number of immigrants actuated by other than economic motives is proportionately small. The immigrant receiving countries

are therefore those offering richest economic opportunities in agricultural or industrial activity.

The effectiveness of economic advantage in drawing immigration depends upon the factors which facilitate or obstruct the process of transfer from one country to another. Primary among these is the ease of travel, a condition especially important in oversea settlement. The sharp rise in the volume of immigration in the later decades of the nineteenth century reflects the promptness with which migration responds to improved transportation. While travel affects the volume, conditions facilitating adjustment in the new country influence the direction of immigration. Similarity of culture and even more the presence of countrymen, friends or relatives draw immigrants to particular localities. Political and religious liberties attract refugees from persecution. Experience in a specific occupation and occupational bias exert a directive influence; Welsh miners, for example, have found their way to the mines of Pennsylvania and Swedish woodworkers have gravitated toward the furniture factories of the American middle west. The bulk of immigrants, however, have not been artisans or industrial workers. Although defective reporting makes the statistics on the occupations of immigrants too rough to permit accurate generalization, it is clear that the overwhelming body of immigrants have been agricultural workers, general laborers and domestic servants, most of whom have been drawn from rural regions. Their immigration therefore especially in recent years represents a drift from agriculture into industry, a shift which has seldom been reversed.

Immigration is sensitive to variations in economic advantage as reflected in the business cycle. When the industry of a country is in a depressed condition, immigration is checked, while at the same time emigration is stimulated. This effect showed itself conspicuously in Argentina beginning in 1914 when poor business conditions and extensive unemployment not only reduced the volume of immigrants greatly but actually reversed the direction of flow, so that the country became an emigrant sending instead of an immigrant receiving country. The same shift has occurred in the United States where the depressions of 1907, 1921 and that beginning in 1929 have each produced an excess of emigrants over immigrants.

Most immigration is a collective drift rather than a movement of an integrated mass. Although sometimes almost a whole village migrates piecemeal to another country, the general movement

is highly individualistic, for the immigrant is drawn from among the ambitious who seek personal advancement and the misfits who seek escape. The character of particular immigrations is determined by the circumstances producing emigration rather than the conditions attracting immigrants. Where a minority group has a particularly unfavorable status in the country of egress, those who immigrate may represent a cross section of that group; this has been conspicuously true of Jewish and Armenian immigration. On the other hand, Italian immigration, which has constituted the largest single element in the European immigrant stream of the twentieth century, has been far from a representative cross section of the Italian community, for it has been drawn overwhelmingly from low economic levels. The conditions forcing egress also determine in a large measure the age and sex composition of the group and its rate of permanence or repatriation. Since Italian immigration was almost wholly economic in motivation and did not represent a desire for change of habitat it contained a preponderance of males, and the proportion repatriated from 1902 to 1924 amounted to 62.8 percent of those going out. Among the Irish the sexes were almost evenly distributed, the female immigrants being drawn by the opportunities for domestic service; the Irish rate of repatriation from the United States between 1908 and 1923 amounted to only 11 percent, while the returning Jews have been estimated at 5 percent.

The nature of the impact of immigration upon the country of ingress depends upon the economic and social development of that country and the degree of similarity between the immigrants and the native group in economic equipment, living standards and cultural characteristics. These problems of social adaptation and of cultural transfer constitute the chief human issues involved in immigration. Although immigration of workers drawn from industry is replacing immigration from land to shop to an ever greater extent and although immigration for agricultural settlement still persists in South America, Australia and Canada, the history of modern immigration has been that of the increasing dominance of the land to industry type with the single outstanding exception of the Jewish group. This trend has complicated the problem of cultural transfer, for adaptation is more difficult under urban than under rural conditions. Although settlers are frequently on the move for new land to exploit, their act of immigration is a

commitment to a new place and way of life from which they do not look to return. The factory worker by contrast has a much smaller stake in his job, his life is much less dependent upon permanence than is that of the rural settler and his movements respond with great sensitiveness to conditions of the labor market. Although the life of the frontier is sufficiently different from that of the settled Old World village to dislocate most of the economic as well as the social habits of the settler, sometimes with disastrous results, the agricultural immigrant tends to gravitate toward a climate, if not a soil, which is familiar to him. Scandinavians in northern United States, Slavs in Canada and Italians in South America and California have all selected situations comparable to those to which they were accustomed. Rural adjustments involve principally the bare struggle for existence. But with the transfer of a peasant people to foreign industrial centers the usual strains set up by industrialization are increased by the pressure of alien speech and alien mores which bears more immediately upon them. In rural regions the traditional language can easily be maintained and the inherited customs can remain largely undisturbed. The city immigrant, however, is brought into close and active contact with the alien cultures of the country of ingress and with those of immigrants from other countries. Under conditions of individualistic agriculture the opportunities to exploit the settler's ignorance of the local ways and conditions are few. In industrial centers the immigrant is peculiarly subject to exploitation and is often unwittingly the tool by which the employer of native labor seeks to lower the standards of that labor. The disparity between conditions in the old and the new environment, differences in both real wages and money wages as well as the different position which money occupies in an industrial as against a rural community, all make wages below those which the native element demands appear generous to the inexperienced foreigner. Similarly, bad working conditions fought by native labor are accepted by the newcomer because they compare favorably with those to which he has been accustomed. As a foil for labor organization the foreigner is useful to the native exploiter or employer. Labor organization is checked by mixing nationalities to prevent communication, by pitting immigrant groups against one another, by playing upon Old World antipathies and by using immigrants as strike breakers. The most extreme forms of exploitation often come through the im-



migrant's own countrymen who have immigrated at an earlier date and who as padroni, foremen, saloon keepers or "boarding bosses" often impose upon the newcomers in ways the native employer would not know.

The least desirable jobs are assigned to the immigrant, and because these are performed by immigrants they are regarded as "foreigners' work" and native labor refuses to engage in them unless no other jobs are available. In the United States supporters of free immigration argued because of this that the nation's disagreeable work would not get done if the supply of willing immigrants were cut off. Immigration tends to delay the process of mechanization of industry by keeping a human supply cheaper than the cost of mechanical development. It militates against labor organization by introducing a wide breach into the ranks of labor, by permitting an aristocratic labor group to develop and organize for its own interest without considering the interests of the unskilled and inarticulate immigrants. The aspirations of immigrants for higher positions within the ranks of labor weaken class solidarity and labor organization. The fluidity of labor in a country which continually receives immigrants eliminates a more or less fixed set of labor relationships, which is one of the conditions most necessary to a substantial labor movement. Immigration is normally attracted to places where there is a labor shortage, and for this reason immigrant labor is usually welcomed by employers. Whenever there is or threatens to be an excess labor supply either in a single trade or in general, conflict between immigrant and native groups ensues. The immigrant is in an especially weak position in times of crises; in the United States he has been made the scapegoat for them since 1830. The powers of deportation were invoked and unemployed immigrants deported as public charges during the crisis following 1929. Labor organizations have fought consistently and vigorously for immigration restriction, for the exclusion of coolie and contract labor and for the general limiting provisions on immigration which were acquiesced in by the employing class only when the advantages of cheap labor with no fixed traditions became slight.

The social status of the immigrant results from the combination of cultural differences and economic status. His isolation from the life of the community which he enters is based on his low economic position, which in turn becomes associated in the minds of the natives with the nationality to which he belongs or with foreigners

as a class, so that the representatives of that nationality are assumed to be of low class and therefore socially undesirable. The social atmosphere surrounding the immigrant is thus surcharged with prejudice associated with his economic condition. The poverty of the bulk of an immigrant group in fact distinguishes the immigrant completely from other members of his nationality, so that any sympathy which may be felt for his fellow countrymen on their native soil is not extended to him. The problem of the transfer of immigrant cultures varies with the degree of divergence between the incoming and the native group. English speaking countries have regarded oriental immigrants as so diverse that no cultural amalgamation can take place, and orientals have consequently been virtually excluded from Anglicized regions. The shift in the source of most European immigrants from northern and western to southern and eastern Europe toward the close of the nineteenth century accentuated for the British dominions and the United States the problems involved in the transfer of immigrant cultures.

However similar or divergent its culture from that of the country of ingress, the immigrant group has the choice of sloughing off as rapidly as possible its traditional culture or rallying to its defense, clinging firmly and fervently to it. These alternatives are present whether the country of ingress is wild or settled, whether the immigrant faces the physical wilderness or the wilderness of an alien culture. The contrast is clearly displayed on the early American frontiers of Virginia and New England. In the former each man fended for himself as he entered the back country; he donned the moccasin and wielded the tomahawk of the Indian and sought to meet the conditions of the environment without regard for Old World traditions. In the latter the town group clung together, established its church and school and organized a closely knit community life around its cultural institutions. The strictness of the Puritan discipline, the merciless criticism and intolerance of social divergence, were a resultant of the group's response to the wilderness. The New England towns as outposts of civilization answered the challenge which the wilderness offered to their culture—its validity, applicability and power to survive—by standing in battle array organized and prepared to defend it. The immigrant colony in the heart of a city which maintains its own group life and builds up its own cultural institutions is meeting a comparable situation in a similar way.

Complete cultural adaptation of the immigrant is scarcely possible, for the tradition and education of every people rest largely upon an age long development and are so gauged to a particular place and the conditions of a particular social group that they are not appropriate to a new environment. The adult newcomer cannot therefore enter fully into an understanding and appreciation of native culture and achieves essential similarity with the native only in the most elementary or superficial terms. The vaunted democracy and individualism of the American frontier resulted from the fact that culture was there reduced to its simplest form. Social barriers were few because cultural inheritance had been discarded. On the social frontier of the industrial center the same process of cultural stripping has further added to the poverty of the national culture of the United States and to its emphasis on wealth and physical prowess as cultural measures of value. In the physical wilderness the choice lies largely with each group to maintain or to discard its cultural tradition and its group separateness. In an industrial city, however, the immigrant's choice is more frequently forced by both official policies and unofficial external pressures as well as by the nature of the native social organization. In the United States the nearly universal use of English for official, business and educational purposes, the public school system and the lack of recognition of cultural differences have exerted a strong positive pressure to make the immigrant drop his own culture. Canada and most South American states are in contrast multilingual and education varies with each cultural group.

Neither the process of establishing ethnic communities nor that of cultural assimilation solves the problem of cultural transfer. The one perpetuates the alienism of the immigrant group; the other involves a wastage of human values in not utilizing the accumulated experience of the past. In either case personal maladjustment on the part of the immigrant generally ensues and either the cultural poverty or the cultural confusion of the immigrant receiving country is inevitable. This result is inherent in the nature of the immigration process. The individual immigrant registers his protest against his tradition by his act of departure. Every immigrant group is thus antitraditional in its social philosophy and individualistic in its values. People without a cultural home, like the Jews, are exceptional; they have had to build their traditions on all soils and do not move to repu-

diate their own group but rather that among which they find themselves. The incompatibility of the culture which the immigrant brings with the new environmental conditions results in a still further reduction of the traditional element in his social custom and point of view. Only where the conditions of individualistic, equalitarian assimilation have not prevailed has there been a cultural development beyond elementary bounds. It was the Puritan group with its technique of group resistance in meeting new situations which transmitted a cultural tradition to the United States; it is those who, like the Jews, have not come to escape from their own cultural tradition or who, like the Negroes, have been forced into cultural isolation that have developed distinctive cultural and social patterns which can enrich and embellish American cultural life. Every city immigrant group organizes its colony or ghetto with its characteristic food stores, its mutual benefit societies, newspapers, steamship agents and banks for handling remittances to the home country. To the extent to which these colonies retain the flavor of the Old World they are to the immigrant home. Their colorful, teeming life lends a picturesqueness to otherwise drab cities; but they have in the United States no status as quarters—they are a part of the slums, which their leaders leave as soon as they achieve a measure of individual success.

Since the immigrant can neither slough off completely the results of his home education nor capture the inwardness of his new environment however much he seeks to do so, he is bound to impart to his children some measure of his traditional social pattern. The children, who are exposed in the United States to an environment which expects from them complete conformity and a repudiation of alien ways, are torn and confused by the conflict. With the often unwitting sanction of the educational institutions in which they are enrolled they repudiate parental direction. Their alien home environment and their lack of close contact with native persons make their problem of adaptation difficult. The presence of many American born children of immigrant parents in the ranks of gangs must be attributed to the failure of America to recognize the complexity of the culture pattern of even the simplest people and to provide the means for the cultural adjustment which must follow immigration. The problem of immigrant adjustment is most acute in the second generation, but even four generations have not, in the case of the Irish and Germans, for example, served to

eradicate differences. The problem of the development of a national culture out of immigrant peoples is the problem of the level at which assimilation shall take place. Individualism has resulted in draining off from immigrant groups their more educated or abler members and their incorporation into the cosmopolitan American group. It has made no impression, however, upon the masses, which remain either disorganized or in nucleated, unassimilated cultural groups. No immigrant receiving country made up of a diversity of immigrant peoples has as yet successfully solved the problem of mass amalgamation.

Before the nineteenth century the immigration policy of the colonizing powers was governed by the demands of mercantilism. With the exception of the English colonies immigrants were selected largely on the basis of nationality and religion and an attempt was made to exclude paupers and convicts. Eager for numbers most North American colonies offered inducements to those who persuaded others to cross the seas. In the latter part of the seventeenth century the English government in spite of the protests of the colonists began to unload its undesirables upon its continental colonies, which it did not regard as very important. After the American Revolution it transported convicts to Australia and its paupers usually to Canada. Spain rigidly restricted immigration into her colonies; but after the Hispanic American countries achieved independence they reversed the policy of their parent countries by including the right of immigration in their constitutions and laws as a fundamental principle. After the United States became a nation it was regarded as the land of the free, the haven for the oppressed subjects of political tyranny and the land of opportunity for the poor and destitute of the world who were willing to labor. The wealth of natural resources, which was expected to remain unexploited for many centuries, made unlimited labor welcome. Doubts of the unconditional value of immigration were based primarily on political rather than on economic fears. Except for the hysteria surrounding the passage of the Alien and Sedition Acts of 1798 these doubts were slight—so slight in fact that aliens who declared their intention to become citizens were accorded the vote in frontier western communities. At no time, however, did the federal government of the United States adopt a policy such as that pursued in the British dominions and the South American countries of officially soliciting and assisting immigration. With the rapid increase of immigration into the

United States between 1830 and 1840 opposition to immigrants began to be manifested. Massachusetts and New York complained of the alien paupers who were filling their almshouses and sought to assess head taxes on entry or to require the masters of vessels to give surety for their passengers, but these measures were declared unconstitutional as invasions of the realm of interstate and foreign commerce. Labor writers in the 1830's who called for protection against the importation of foreign labor comparable to the tariff on the manufacturer's product reached a much more limited audience than did those who decried immigration as a "foreign conspiracy against the liberties of the United States." Immigration appeared as an impending danger to American political institutions, the opponents warning especially against those who, they declared, owed allegiance to the Roman pontiff. The protest gathered political force and culminated in the organization and subsequent victory at many local polls of the Know-Nothings, or American party. Native American agitation, however, did not lead to restrictive legislation, partly because the Civil War intervened.

The first federal restrictive measures on immigration in the United States were directed against Chinese coolies; American vessels were forbidden to transport them in 1862 and they were excluded from entry in 1882. In singling out the Chinese for exclusion the United States joined a movement which was becoming general among Europeanized countries, on the grounds that diversities in race and culture and the extremely low standard of living of the vast masses of potential Chinese immigrants were a menace. Canada followed the American exclusion act with a restrictive measure in 1885 in the form of a special head tax. Australia after the passage of regulatory acts by the several colonies and after a bitter fight over the principle of whether the country should remain white made exclusion virtually complete by the Commonwealth Immigration Restriction Act of 1901, which empowered officials to require immigrants to pass a dictation test in any specified language.

American restrictive acts were not directed against any specific race or nationality other than the Chinese until after the World War. They were instead designed to exclude undesirable individual immigrants. Convicts and prostitutes were first banned in 1875; "lunatics," mental defectives and persons likely to become public charges were excluded in 1882. At the instigation

of organized labor contract laborers were denied entry in 1885. In 1891 certain diseases were made the basis of exclusion, as was polygamy. In 1903 the first abandonment of the policy of maintaining a refuge for the politically oppressed came with the exclusion of anarchists. A literacy test for immigrants was vigorously contested but finally passed in 1917 over a series of presidential vetoes. The act of that year, the basic regulation upon which numerical and national restrictions have been superimposed, extended earlier measures and sought to provide for the protection of the United States politically through the imposition of a literacy test and the elimination of anarchists and advocates of violent revolution; physically through the exclusion of persons carrying dangerous diseases; morally through the exclusion of those guilty of "moral turpitude"; and economically through the exclusion of those likely to become public charges. The World War broke down completely the traditional policy of a free America. The revelation of "hyphenated Americanism" combined with the doubtfully reliable but much publicized results of the physical and mental tests made upon soldiers drawn from various immigrant groups released the forces of opposition to the new non-"Nordic" immigration which had been gaining strength since 1882. The wholesale exodus from stricken European countries at the close of the World War dissipated the last shreds of effective resistance, and a quota law with its limiting of volume and its selection on the basis of nationality was enacted in 1921. These restrictions, which discriminated against immigration from southern and eastern Europe, were increased in 1924. The law with its "national origins" provision effective in 1927 limits the quota immigrants to 150,000 a year and favors immigration from Great Britain as against other "Nordic" groups.

The quota system had its roots in the diversity in the degree of adjustment of different immigrant groups, for whereas the abandonment of a laissez faire attitude toward immigration in favor of limitation came in response to changed economic conditions, the form which restriction took was completely non-economic. Although it marked a departure from the traditional open shore attitude it retained and remanet in the light of earlier experience and modern conditions the old principle that the basis of immigrant adjustment should be the sloughing off rather than the reinforcing of alien cultures. The wartime experience clearly revealed the presence of

national groups which had failed to follow this prescription. At the same time with the passing of frontier conditions the increased sophistication of American culture made the problems of assimilation more complex. No longer was culture reduced to the simple terms of wealth, physical strength and the free democratic institutions that the native American party had cherished nor to the Protestant faith for the defense of which the American Protective Association had been organized in 1887. Discerning more subtle cultural values but without faith in the possibility of the amalgamation of alien cultures with the American cultural pattern and fearful lest control should pass to an alien cultural group, the dominant groups in America fostered a belief in "Nordic" superiority and then pressed successfully for restriction on a cultural rather than an economic basis.

Most of the features of the United States laws except the quota law are to be found in the regulations of other countries, but the latter have not gone so far as those of the United States either in national selection or in absolute numerical limitation. Orientals are generally excluded except from the majority of South American countries; convicts, prostitutes, the mentally and physically infirm and the advocates of violent revolution or anarchy are almost universally banned. Canada, Australia, South Africa and Mexico also may require immigrants to be literate, but the South American countries do not. Canada has gone further than other countries in seeking to adapt its immigrants to economic conditions; it requires that the immigrant possess a considerable sum of money when landing, maintains an employment service in direct contact with the Ministry of Labour in London, which calls for the type of labor needed in the dominion, and authorizes the governor general to issue orders in council regulating immigration on economic grounds. Both Australia and Brazil empower appropriate administrative officials to prohibit or suspend immigration on economic grounds.

Control over immigration has been exercised by all immigrant receiving countries as a matter of internal policy wherever the exclusion of individual undesirables has been involved. Where it has been directed against the nationals of a particular state it has led to international friction. Chinese exclusion from the United States was preceded by a treaty with China establishing the right of the United States to suspend immigration from that country. Japanese laborers were largely prevented by "gentlemen's agreements"

from entering the United States and Canada, until the United States over the protests of the Japanese diplomatic representatives transformed the international agreement into domestic legislation by the Immigration Act of 1924 excluding aliens ineligible for citizenship. The American quota system, the designation of "preferred" nationalities by Canada and the Australian provisions for admission on the grounds of assimilability have all been entered into without consultation with or regard for the interests of immigrant sending countries. The latter, especially Italy, have retaliated with limitations on the right of emigration. Friction has become particularly acute where the proportion of repatriations is large and the immigrant sending country has sought to keep control over its nationals abroad in the expectation that many of them will return. The policy of Italy in this respect has been a source of irritation to the United States. Faulty administration of restrictive acts resulting in the return of incoming immigrants from the ports of entry has added to the hardships of restriction and to international ill will. To remedy this situation entering immigrants are now required by most countries to secure visas, and the responsibility for selecting admissible immigrants is placed in the hands of consular representatives in countries of emigration. Within the British Empire the right of the present dominions to restrict immigration from the mother country was only gradually established. Much ill feeling has been generated by the restriction of Indian immigration. In an

effort to promote the international regulation of migration with mutual understanding among nations international conferences on migration have been held since the World War and the International Labour Office has made itself responsible for the collection and publication of information regarding population movements and regulations existing within and among countries.

The effect of the considerable body of restrictive and regulatory legislation since the World War has been to change the character of immigration from a haphazard movement to a carefully regulated one, severely to cut down its volume and largely to deflect the direction of its flow. As immigration in the seventeenth century broke up the excessive rigidity of the mediaeval economic and social organization, its restriction in the twentieth may be regarded as an effort to redress the balance against excessive fluidity and absence of direction. As a result the differences

in the standard of living and population density between new and old countries are being perpetuated. The countries of Europe and Asia, suffering from density of population, are being forced to find some solution other than emigration for their maladjusted nationals. Within the British Empire a solution for the needs of both England and the dominions was attempted by the Empire Settlement Act of 1922, which provided for assisted emigration of British nationals to the dominions under both British and dominion auspices. Emigrants from England, however, frequently cannot meet the requirements chiefly of an economic character imposed by the dominions, such as the requirement that immigrants shall be farmers or that they shall have sufficient capital to set themselves up on the land or in business. European immigration to the United States has been reduced to a small fraction of its pre-World War volume. But as the quota provisions do not apply to Mexico, Canada, Porto Rico and the Philippine Islands—the latter two not subject to restriction because they are dependencies of the United States—these countries are now the principal sources of cheap immigrant labor. In this way the objects of the quota law are defeated, for the racial disparity between the old American and the Mexican, Porto Rican and Filipino stocks is greater than that between Americans and European immigrants. Brazil and Argentina remain eager for population expansion with few restrictions and with favorable provisions for the recruiting and settlement of immigrants.

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*See:* ORIENTAL IMMIGRATION; EMIGRATION; MIGRATION; MOBILITY, SOCIAL; ETHNIC COMMUNITIES; FOREIGN LANGUAGE PRESS; ALIEN; ADAPTATION; ASSIMILATION, SOCIAL; AMERICANIZATION; GANGS; LABOR MOVEMENT; CONTRACT LABOR; LAND SETTLEMENT; COLONIES.

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L., *Immigration Restriction* (New York 1927); *Immigration Laws of the United States*, compiled by A. E. Cook and J. J. Hagerty (Chicago 1929); Council on Foreign Relations, *Survey of American Foreign Relations*, vol. ii (New Haven 1929) sect. iii.
- IMMUNITY, DIPLOMATIC. Heralds and envoys have been employed for international intercourse from the very beginning of politically organized communities. The ancient states of Asia had established ceremonies and formalities accompanying the interchange of embassies. In Greece and Rome diplomatic intercourse attained a high degree of development and immunities enjoyed by envoys were well established. It should be noted that the right of legation active and passive, that is, the right to send and the correlative duty to receive envoys, was fully recognized. Up to about the thirteenth century envoys were sent largely for the performance of particular, isolated tasks, such as the negotiation of a truce or of a treaty. Thus their mission was chiefly political. It was necessary to insure their inviolability; since law and religion were scarcely distinguishable and the highest law was at this early period divine law, the person of the envoy—who frequently was a priest—was regarded as sacred. Diplomatic immunity throughout this

early period was supported more by religious than by legal conceptions. With the appearance of centralized states and the development of international commerce the intercourse of states became more intense and more continuous and led ultimately to the establishment of resident embassies. From merely political the task of the envoys became also to a certain extent economic and consisted chiefly in supplying information. On the political side jealous rivalry, conflicting ambitions, territorial or otherwise, and the intermingling of dynastic with national interests impelled the monarchs to watch through their envoys events in other countries. On the economic side they were interested in the possibility of assuring expansion or of safeguarding interests already acquired.

From the end of the thirteenth up to almost the end of the nineteenth century envoys were regarded primarily as the personal representatives of the monarch, in whom the state's sovereignty was embodied. The immunities enjoyed by these representatives were considered therefore as due to them on account of the dignity of the prince they represented. A legal basis for these immunities was found in the fiction of extritoriality. According to this fiction the envoy of a foreign sovereign was not in legal contemplation within the territory of the receiving state and his dwelling was part of the territory of the state which sent him. Therefore he and his residence were not subject to the operation of the local law. The immunity of the residence was for a time carried to such an extent that not only the house but also the whole quarter wherein a foreign mission was located was regarded as extritorial. The rationalizing tendency in modern international law gave, however, a serious blow to this fiction. Sovereignty passed in most countries from personal monarchs to the people, and the envoy today represents the state rather than the person who for the time being is the head of the state. His task now is to represent generally and to protect the interests of his state and its citizens, whether these interests be political, economic or of any other character. Friendly relations between nations require that he should in no way be hampered in the performance of his functions and that respect and protection should accordingly be afforded to him. To accomplish this object it is unnecessary to resort to a fiction which is factually untrue and legally unnecessary.

Diplomatic immunities consist of (1) the inviolability of the person of the diplomatic

representative; (2) his exemption from local jurisdiction whether civil or criminal; (3) exemption from taxation; (4) immunity of the mission's offices and the residence of the diplomatic representative; (5) freedom of correspondence and communications. The early insistence on freedom of religious worship is no longer important because that freedom is no longer called in question. These immunities are extended not only to the chief of a mission but also to the staff (counselors, secretaries, attachés), to their families and very generally to all employees of a mission provided that they are not nationals of the state to which the mission is accredited. It has not yet been clearly determined to what degree of family relationship this immunity of employees and subordinate members of a mission extends. Where the employees are nationals of the receiving state there is a difference of opinion as to whether such persons enjoy any immunities at all or whether they enjoy immunities only with respect to acts performed within the scope of their employment.

The classification of chiefs of missions by the Congress of Vienna in 1815 and by the Congress of Aix-la-Chapelle in 1818 (ambassadors, envoys, ministers resident and *chargés d'affaires*) was undertaken with a view to putting an end to irritating disputes over precedence and other questions of etiquette and is immaterial in the substantive law as to the extent and nature of immunities.

Diplomatic immunities are almost exclusively the creation of customary international law. There are relatively few national legislative acts defining the substance and extent of these immunities. When cases come before courts the issue is usually determined with a reference to "the generally accepted principles of international law." Great Britain, however, in order to placate the outraged czar after the arrest of the Russian ambassador enacted the Diplomatic Privileges Act of 1708 (7 Anne, c. 12), which forbids the issuance of a writ or process against any foreign ambassador, his "domestic or domestic servant." This act, held subsequently to be merely declaratory of the law of nations, was substantially reenacted in the United States by the Act of Congress of April 30, 1790 (U. S. Rev. Stat. sects. 4062-66). Germany has also provided for the exemption of diplomatic agents from local jurisdiction (*Gerichtsverfassungsgesetz* (1877, sects. 18-20). A considerable number of countries provide by statute for the punishment of persons offending the person of a foreign diplo-

matic representative. A few treaties concluded with Asiatic powers and recent treaties concluded with Soviet Russia have undertaken to provide for and to define the extent of the immunities to be accorded to the diplomatic representatives of the contracting parties. On the other hand, laws can be found in most countries concerning the exemption from taxation of the person, income and property of diplomatic representatives. It is a controverted question whether exemption from taxation is a matter of right, as is exemption from the jurisdiction of the courts, or whether it is a matter of courtesy or international comity. The fact that in the majority of cases—especially in relation to customs duties—such exemption is conditioned upon reciprocity seems to support the latter view.

As a matter of courtesy rather than of strict right certain immunities are granted to diplomatic representatives while in transit through other states to or from their post.

Diplomatic immunities are usually extended to ad hoc representatives of states, such as, for example, delegates to international conferences, members of international tribunals. Indeed the problem of immunities was considerably complicated by the establishment of the League of Nations, of which the permanent staff as well as the delegates to the meetings of various organs enjoy diplomatic immunities while on such missions (art. 7, sect. 4 of the Covenant of the League of Nations). In view of the increasing number of the staff of the Secretariat the recent tendency to restrict diplomatic immunities in general has manifested itself with particular emphasis in respect to League officials and officials of other international organizations. The complication that has arisen in respect to representatives of Soviet Russia has been due not only to certain political considerations but to the extended commercial activity of a nationalized industry and commerce carried on abroad through numerous diplomatic agents, to whom the western states have found it undesirable to accord these immunities without restricting the number of persons who are entitled to them or without defining the extent to which these immunities shall go.

It seems in general that the whole issue of diplomatic immunities is in the process of clarification and rationalization. The tendency is doubtless toward a restriction of immunities which have been perhaps accorded to a greater extent than the unhindered performance of a diplomatic representative's duties necessitated.

This tendency is manifested in discussions by text writers and is followed with increasing frequency by courts in continental Europe in confining the immunity merely to acts performed by the diplomatic representative in his official capacity, excluding acts which have no relation to his character as a diplomat, such as acts connected with a business conducted privately. The League of Nations Committee of Experts for the Progressive Codification of International Law included diplomatic immunities in the list of subjects which it held ripe for codification, but this subject was not included on the agenda of the First Codification Conference held at The Hague in March, 1930. It is possible, however, that in the near future the law applicable to this question will be embodied in a multipartite convention. The Institut de Droit International suggested as early as 1891 and revised in 1929 a draft convention relating to this subject. At the conference of American states in Havana in 1928 a convention applicable to the relation of American republics was signed. The most carefully prepared suggestion for codification has been that made by the Harvard Research in International Law and published in the supplement to the *American Journal of International Law* (vol. xxvi, 1932).

FRANCIS DEAK

See: DIPLOMACY; SOVEREIGNTY; EXTRITERRITORIALITY; CAPITULATIONS; ASYLUM; CONSULAR SERVICE; IMMUNITY, POLITICAL.

Consult: Phillipson, Coleman, *The International Law and Custom of Ancient Greece and Rome*, 2 vols. (London 1911); Gentili, Alberico, *De legationibus libri tres*, text and translation by G. J. Laing, *Classics of International Law*, no. xii, 2 vols. (New York 1924); Bynkershoek, C., *Traité du juge compétent des ambassadeurs* (The Hague 1723); Nys, Ernest, *Les origines de la diplomatie et le droit d'ambassade jus qu'à Grotius* (Brussels 1884); Satow, E. M., *A Guide to Diplomatic Practice* (2nd ed. London 1922); Secrétan, J., *Les immunités diplomatiques des représentants des états membres et des agents de la Société des Nations* (Lausanne 1928). Good bibliographies of the exceedingly voluminous literature on diplomatic immunity are to be found in Hershey, A. S., *The Essentials of International Public Law and Organization* (rev. ed. New York 1927) ch. xviii.

IMMUNITY, POLITICAL. Legislative bodies are among the agencies by which expression may be given to the needs of the various groups constituting the state. In the public interest safeguards must be designed to insure the full independence and functional freedom of these bodies. Political immunity implies that legislatures have an inherent right to protect their



dignity and that members must be exempt from arrest or molestations which might interfere with the exercise of their public functions. Freedom of speech for legislators is essential to insure criticism of public policies without fear of punishment or discipline.

The theory of political immunity can be traced to the early history of the English Parliament, a body which originally had both judicial and legislative functions. Underlying Parliament's claims of privilege from earliest centuries to modern times was the conception of Parliament as the highest court of the realm, entitled to peculiar protection and dignity and transcendent in its jurisdiction. Whatever the political exigencies of Parliament as a supreme legislature in Tudor and Stuart times, it defended its claims to immunity on the theory that it acted in its old judicial capacity in matters of privilege. Its members enjoyed special protection from arrest, interference and molestation of every kind and were free from the orders of other courts. Interferences with the freedom and safety of members or with the dignity of Parliament were prevented by the right to commit offenders and hold them in contempt.

Although there are earlier cases, controversies over privilege between Parliament and king, the law courts and individual subjects became numerous and important only after 1640 when Parliament became more active as a legislative body. Parliament's new legislative supremacy was frequently defended by appeals to its traditionally recognized judicial supremacy. Parliament in claims of immunity acted under the special *lex et consuetudo parliamenti*, regarded for centuries as above the law of the land. No abuse of Parliament's privileges could be examined in the ordinary courts because the law of privilege was an exception to the common law. Judges who took a different view encountered the punitive powers of a parliament house. Privilege was the last of the mediaeval liberties to be reduced by common law. The inevitable result of this conception of parliamentary privilege was a long conflict between courts and Parliament. During the Stuart period the issue between royal prerogative and the growing legislative powers of Parliament became acute since both privilege and prerogative claimed to be exempt from the ordinary course of the law. Interference on the part of the inferior courts was bitterly contested by the House of Commons as long as the whole membership of the House of Lords, by virtue of its position as the supreme

appellate court of the realm, was enabled to pass upon the political immunities of the lower House.

Parliamentary privilege, which under the Stuarts had been a weapon against arbitrary despotism, later became itself a serious menace to the liberty of the subject. For three quarters of a century after 1688 the House of Commons exercised as great an independence of popular rights and as great an irresponsibility toward them as had the Stuart kings. The reporting of debates was punished as a breach of privilege or was permitted as a vehicle of slander against individuals; petitioners were treated as criminals and disputed elections were decided by mere party votes. Under the guise of privilege exceptions were made to the law of the land. Ordinary cases of trespass and petty thefts—breaking a fence or stealing timber on a member's land or catching fish in his pond—were punished not by the ordinary courts but as breaches of privilege. "Protections" were issued to members' servants and others who had no connection with either House, and under this abusive form of parliamentary indulgence the offender was removed from the jurisdiction of the law courts and under the *lex parliamenti* the victim was left without a remedy.

From the fifteenth century through the nineteenth the conflicts over the extent and operation of privilege were fought out in cases involving assaults, libels and threats against members, bribery, tampering with parliamentary witnesses, freedom of speech, jurisdiction over election cases, freedom from arrest and molestation—which for a long time applied to members' property and servants—and in controversies over the duration of privilege, which Parliament never accurately defined but which always included the time of going to and returning from a session. The Bill of Rights of 1689 gave statutory recognition to immunity for debates and proceedings in Parliament and later statutes provided other delimitations of privilege. Many privileges still rest on the law and custom of Parliament. The houses of Parliament retain their powers to commit for violations of privilege, to compel the attendance of witnesses and to protect officers executing the orders of the House.

The precise jurisdiction of the courts of law in cases of privilege is an extremely complicated matter and precedents and decisions differ. Nevertheless, it may be said now that the *lex parliamenti* has become part of the all embracing, fundamental common law of England. Great constitutional changes like that in the appellate

jurisdiction of the Lords and in the democratization of the House of Commons made this solution easier to accept. Today practically any process that does not affect the person of a member or prevent his actual attendance in Parliament may be issued. Neither House can any longer create a privilege by mere resolution and courts may of necessity be compelled to pass upon the validity of the claim. Officers of Parliament may be exposed to the censure of the law should it develop that their orders were based on an unjustifiable interpretation of political immunity. There is no privilege at present which is not pleadable at law or examinable by the courts should it come before them in a judicial way. Moreover the claim of privilege has always been legally limited in England to civil causes. Cases of "treason, felony and breach of the peace" have always been excepted. Members of Parliament are never outside the law, although private interest must yield to public interest while the legislature is in session.

Procedure in the British dependencies and dominions naturally follows the precedents of the "mother of Parliaments"; but it has been repeatedly held by the courts and the British Privy Council that the privileges of assemblies must be justified by the strict rule of necessity and are not to be compared with those of Parliament, which acts by a peculiar law and in a judicial capacity. Colonial legislatures have never been clothed with those general powers of commitment and punishment enjoyed by the English Parliament. In the United States the federal constitution defines the privileges of Congress and makes each body the judge of its elections. Authoritative American opinion follows the theory that the power to punish contempts is an auxiliary power by which Congress is able to make its deliberations effective and which follows from the broad grant of power to legislate. Congress has no discretionary power to declare contempts but it has repeatedly punished offenders who molested members, refused to witness before committees or in other ways menaced the honor and dignity of the legislative body.

The English conception of political immunity spread to other countries with the introduction and growth of parliamentary government. At the time of the French Revolution fifty-two of the *cahiers* issued to the French estates for the elections prior to the outbreak of revolution demanded that representatives be inviolable and some included immunity during the continuance of the session for civil cases as well. Under the

lead of Mirabeau the National Assembly of 1789 by formal resolution introduced parliamentary immunity into France. Later constitutions restated the principle in various forms. In 1790 protection against molestation outside the walls of parliament was included in order to counteract the operation of *lettres de cachet*. The *loi constitutionnelle* of 1875 restated the privileges of the French parliament. Although the chambers make their own rules of procedure and enforce discipline upon their members they do not enjoy the broad power of commitment for contempt which the British Parliament possesses. Each chamber is the judge of the eligibility and election of its members and members enjoy the ordinary guaranties of freedom of speech. No member may be arrested on a criminal charge during the session without the authorization of the chamber to which he belongs. This immunity does not apply to petty offenses against police rules but only to cases *criminelles et correctionnelles*, and immunity ceases even during the session in *cas de flagrant délit*.

The French procedure of the early nineteenth century was incorporated in the Belgian constitution of 1831. The Swiss procedure is much the same although there are a great many minor differences in the various cantons, which follow both French and German precedents. The issue has had little practical importance in Switzerland and six cantons are able to dispense with any formal statement of immunities. Present day procedure in Italy, Greece, Spain, Japan and the South American countries follows in broad outlines the French model.

In Germany immunity for representatives was unknown in the seventeenth century and members of assemblies who offended their rulers by their actions and speeches were often wilfully punished. German publicists in early years were content in such cases to plead for a legal trial to supersede the arbitrary punishment of irritated rulers. As the ideas of the French Revolution penetrated Germany parliamentary immunity made its appearance in the Bavarian constitution of 1818 and in the Prussian constitution of 1850. English and French precedents were followed and although prosecution for speeches made in parliament was generally prohibited, exceptions continued to be made for insults to the royal person or family. The constitution for the unified empire of 1871 went back to French precedents and the demands of the liberal Frankfort Assembly of 1848.

The German republican constitution of 1919

provides that election disputes are to be settled by a committee of Reichstag members and a number of judges of the Reichsverwaltungsgericht holding public sessions. Full immunity is guaranteed at all times for votes and official utterances of all members of legislative bodies, federal and state, but this does not apply to private press interviews or speeches at conventions. No member may be arrested during the session for any punishable offense without the permission of the Reichstag, unless seized at the time the offense was committed or not later than the first day following. All illegal acts may be prosecuted but not during the session unless the Reichstag permits. Confidential information received by a member in his capacity as a representative is also completely privileged. Austria follows German and French precedents. The Yugoslav constitution of 1931, on the other hand, provides that members may be tried by ordinary courts, without the previous consent of the parliament houses, in case of injuries, calumnies and crimes.

CARL WITTKER

See: LEGISLATIVE ASSEMBLIES; CIVIL LIBERTIES; FREEDOM OF SPEECH AND OF THE PRESS; DEBATE, PARLIAMENTARY; IMMUNITY, DIPLOMATIC.

Consult: May, Thomas Erskine, *A Treatise on the Law, Privileges, Proceedings and Usages of Parliament* (12th ed. London 1917); Redlich, Josef, *Recht und Technik des englischen Parlamentarismus* (Leipzig 1905), tr. by A. E. Steinthal as *The Procedure of the House of Commons*, 3 vols. (London 1908); Wittke, Carl, *The History of English Parliamentary Privilege*, Ohio State University, Contributions in History and Political Science, no. vi (Columbus 1921); McIlwain, Charles H., *The High Court of Parliament and Its Supremacy* (New Haven 1910) p. 229-46; Pollard, A. F., *The Evolution of Parliament* (2nd ed. London 1926); Muralt, Johannes von, *Die parlamentarische Immunität in Deutschland und der Schweiz* (Zürich 1902); *Die Verfassung des Deutschen Reiches vom 11. August 1919*, ed. by F. Giese (7th ed. Berlin 1926); Laband, Paul, *Das Staatsrecht des Deutschen Reiches*, 4 vols. (5th ed. Tübingen 1911-14) vol. i, sect. 37; Esmein, A., *Éléments de droit constitutionnel français et comparé*, 2 vols. (8th ed. Paris 1927-28); Pierre, E., *Traité de droit politique électoral et parlementaire* (5th ed. Paris 1919-26) p. 1203-1308, and *Supplément*, p. 871-921; Alexander, De Alva S., *History and Procedure of the House of Representatives* (Boston 1916).

**IMPEACHMENT.** An impeachment in the widest sense of the term is a criminal accusation brought in a legislative body. Although popularly used to embrace the proceeding in its entirety the term does not in strictness include the verdict or the imposition of sentence.

Although impeachment is of course a modern

institution, the ancient Greek *eisangelia* bore a close resemblance to it. A Greek citizen could be impeached before the political assembly in certain cases, and the method was frequently used when there was misconduct in public office.

Impeachment originated in England as an outgrowth of the plenary judicial functions of the Curia Regis. These functions passed to the House of Lords after the separation of Parliament into two houses. Developed as a means of enforcing the responsibility of the higher officers of the crown to Parliament, impeachment was undermined in the land of its birth by the introduction in 1700 of the removal of judges upon address of both houses of Parliament; soon after the beginning of the nineteenth century it was rendered practically obsolete by the development of the doctrine of ministerial responsibility. The impeachment of Warren Hastings brought the institution into discredit, and it was last used in the case of Lord Melville in 1806. Used sporadically in one or another of the colonies, it found place in the first constitutions adopted by Massachusetts, Virginia and South Carolina. Incorporated in the United States constitution, it has since become part of the constitution of every state except Oregon. In manifold variation of form it has been adopted also by a great many other nations, including France and several of the smaller European states, Mexico and South American countries generally. Known in many German states before 1919, the Weimar constitution introduced it into the national public law.

In England impeachment will in theory lie against all kinds of crimes and misdemeanors, even though wholly unrelated to the public service, and against offenders of all ranks. Historically after its earliest stages it has been reserved almost exclusively for high officers of state and for offenses in or relative to their office. Under the federal constitution impeachment is available against "the president, vice president and all civil officers of the United States" (art. II, sect. 4). That members of Congress are not "civil officers" within the meaning of this provision is the accepted view, although never unequivocally decided. In the state constitutions a wide variety of provisions is found, the usual effect being to include all state executive and judicial officers except minor judges. In France it is possible for any individual to be impeached before the Senate for a crime so grave that it endangers the safety of the state. The general tendency in most other European countries and in South America is to confine impeachment to

officers of ministerial rank but to extend it to all offenses against the constitution or laws.

In its development in England as a crude and cumbersome means of enforcing ministerial responsibility to Parliament impeachment of a minister for having been guilty of bad judgment (technically, giving bad advice to the king) was regarded as entirely proper. In the Constitution of the United States "treason, bribery, or other high crimes and misdemeanors" are the sole impeachable offenses. In the state constitutions in addition to these one finds not uncommonly such offenses as malfeasance, gross misconduct in office, negligence and corruption. Whether it is necessary that the offense be one indictable under a statute is unsettled; as to federal impeachments the best opinion is in the negative.

Whether misconduct of an officer in a private capacity, but of such a character as to indicate unfitness for office, is ground for impeachment in the United States depends primarily on the offenses declared impeachable by the constitution; so also as to misconduct prior to assuming office. Under the federal constitution neither point has been expressly decided but authority favors the affirmative on both. In New York in 1913 Governor William Sulzer was impeached and removed from office on two charges, one based on alleged acts prior to his assuming office. The importance of this case as a precedent is, however, greatly diminished by the fact that New York is one of the nine states in which the constitution specifies no ground for impeachment (Connecticut, Idaho, Georgia, Maryland, New York, North Carolina, South Carolina, Texas and Oregon).

In England, the United States, France and almost all South American countries the function of accusation is vested in the lower house of the legislature and the function of trial and sentence in the upper house. In New York the judges of the highest court of the state are added to the upper house. In Nebraska trial is by the courts upon charges preferred by a joint convention of both houses. In most European countries the collaboration of legislative and judicial branches in the impeachment process is also found in various forms. The trial takes place before some high court, such as the high court of state (as in Germany) or the court of cassation (as in Belgium)—arrangements that bespeak a growing conviction that the trial of an impeachment should be as nearly as possible a judicial process. In the United States the usual requirement as to vote is that of the federal constitution—a major-

ity vote in the lower House (although seven states require a two-thirds vote) and a two-thirds vote in the upper house. This is not the case in the British House of Lords. Since ordinarily no separate findings of fact are made, a judgment of acquittal on a particular article of impeachment fails to dispose of the question of the legal sufficiency of such article.

The provision in the federal constitution that "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law" (art. 1, sect. 3, par. 7) is followed in substance in virtually all the state constitutions and represents the prevailing tendency in most countries. It represents a complete break with the English tradition, which recognized no limitations on the penalty which might be imposed, death and forfeiture of property being found among the penalties in historic cases. Whether such a provision precludes the impeachment of one no longer in office has apparently but not unmistakably been decided in the affirmative under the federal constitution. Most state constitutions are silent on the point, but those of Georgia, New Jersey and Vermont specifically include former officers.

The cumbersomeness of the machinery of impeachment under the federal and state constitutions and the tendency to restrict its application to cases in which the offense is very grievous and to draw the rules of evidence and proof from the criminal law have resulted in its relatively infrequent use. In all there have been impeachments of nine federal officers (six of them judges), of whom three were convicted. No complete list of state impeachments exists, but the total number doubtless does not much exceed one hundred. In addition to Governor Sulzer three other governors have been impeached: Ferguson of Texas in 1917, Walton of Oklahoma in 1923 and Johnston of Oklahoma in 1929. Although impeachment is susceptible of abuse for political ends and has undoubtedly been so used in a few cases in the United States, the extraordinary majority required for conviction ordinarily bars the possibility of such abuse.

LEWIS MAYERS

*See:* PUBLIC OFFICE; EXECUTIVE; COURTS; LEGISLATIVE ASSEMBLIES; INVESTIGATIONS, GOVERNMENTAL; CHECKS AND BALANCES; DEMOCRACY; RECALL.

*Consult:* Bonner, R. J., and Smith, G., *The Adminis-*

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IMPERIAL PREFERENCE. See COLONIAL ECONOMIC POLICY; COMMERCIAL TREATIES; TARIFF.

IMPERIAL UNITY. Empire has become so much associated in contemporary thought with imperialist conquest and coercion that it is easy to overlook the fact that an essential element of empire is cooperation and consent, based on unity—ethnic, economic and ethical, racial, regional and religious. This unity appears in its simplest expression in the earliest imperial concentrations of local communities under a central control; in more complex and cryptic forms it penetrates profoundly the structure of modern empires.

The earliest known civilizations, those of the Nile, Euphrates, Indus and Yangtze valleys, all reached the empire stage in much the same manner and at much the same epoch. In Egypt the nomes, or local communities, first concentrated into the national kingdoms of Upper and Lower Egypt; these two nations then federated into an ethnic empire as an economic entity although retaining their distinct character. A similar coalition occurred on the Euphrates between the kingdoms of Akkad and of Sumer, while on the Indus there was apparently a junction between the regional centers of Harappa and Mohenjo Daro. Thus the genesis of empire appears in voluntary association for the establishment of racial and regional unity. Religious unity came at a later stage as a result not of internal consensus but of conquest from outside by a simpler, less settled society. For whereas the valley civilizations under their diarchies of prince and priest had developed very diversified nature re-

ligions in connection with their diverging occupations as artisans and agriculturists, the more primitive pastoral tribes of the grassland borders between valley and forest had all alike adopted a uniform monotheistic sun worship. It was the conquest of urban and rural civilizations and of their nature idolators by these simpler pastoral puritans, of local deities by an abstract divinity, that gave the empires a new unity. In spite of the superficial union of the two Egyptian kingdoms under the god-emperor pharaohs there was no political peace until the conquest by the Hyksos about 1675 B.C. Until Sargon of Agade led northern sun worshipers to the conquest of the superior Sumerian civilization, there was no permanence of peace and progress in the economic entity that later became the Babylonian Empire. Similarly northern Aryans and Turanians seem to have unified the Dravidian civilization of the Indus and the civilization of the Chinese Yangtze. Thus did these earliest empires acquire the religious factor to complete the three essentials without which even today no empire can long endure. In later periods a new creed has either been adopted and adapted by an existing empire, as Christianity by the Roman Empire, or has asserted by arms an imperial unity of its own, as in the establishment of the Islamic empire.

The evolution of empire exhibits excellently the two focal points of law and liberty around which the spiral of political progress ascends in ever shorter and swifter pendulum swings. The imperialist introduction of universal sun worship into Egypt raised the first liberal individualist leader, the pharaoh Ikhnaton, in revolt against clerical conservatism. The rise of a ruling class and religion in the Euphrates valley produced the first lay legislator, Hammurabi. Thus the establishment of larger entities of society such as empires has brought in the first place the emancipation of mind from magic with the establishment of a balance between reason and religion, and in the second place the emergence of a new basis for the state in the consent and cooperation of the individual. Each extension of the larger unity of empire over competing communities, whether Egyptian nomes or modern European nations, is an indispensable preliminary to a period of progress. As soon as the energy of a new race, the economics of a new region or the ethics of a new religion establishes an empire there is an expansion of prosperity and progress.

The golden ages of the world, the epochs

when the state gave the greatest good to the greatest number, seem always to have been during the first imperial alliance of a religious reform with a ruling race. There was such a union during the Asokan age of the Buddhist Indian Empire, the Antonine age of the Christianized Roman Empire and the Abbasside age of the Islamized empire of the caliphate. The unity of these empires has left an inheritance of international idealism. The Asokan age still lives in local legend and inspires the ideal of a new confederated and cooperative Indian empire. The Roman Empire still lives in international law and national legislation and has inspired all too many mistaken militarist ambitions for the imposition of world peace. The Islamic state is at the present moment in a crisis of collapse; but its basic principle, the reconstruction of society by a ruling race under a religion regulating the economic energies of every individual and institution, has been adopted so far with success by the newest of empires, the Union of Soviet Socialist Republics. One reason for the success of these empires lies in the fact that although they did not have the externals of democracy, as they are now conceived in polls and primaries and presidents, they had its essentials. There were in them a contact between rulers and ruled, a consonance between reason and religion, a compromise between revolution and reaction, that are sought by democratic ideals and not always secured by democratic institutions. There were moreover that control at the center, that cooperation by an inner circle of the civically conscious and that consent by a mute and unmovable mass that must exist before any group can form or function.

The very different origin of sea empires in early history and the different operation of sea power from that of land power explain why sea empires focus mainly around liberty and land empires mainly around law. Although sea empire began with the commercial and colonizing activities of trading communities like Phoenicia and Crete, it soon entered by way of piracy a phase in which the unifying factor was mainly conquest. So out of the individualist anarchy of the Aegean ascendancy of the tyrants, ruling over insular nations, arose the first sea empire based on mercantile profit and marine police—that of Athens. The mercantilism of the metropolis became increasingly compounded with militarism until eventually the sanction of co-operation and consent was lost and the control collapsed, a history that has since repeated itself.

Nevertheless, sea empires just because both from their political development and from their geographical dispersion they must be unified by consent rather than by coercion must also be in character rather international than imperial. The conditions of sea power always were—and still are—such that if a sea empire became too militarist and monopolizing it could be successfully resisted by a seafaring people of much smaller population and power. Thus did the British and Dutch assert the freedom of the seas against Spanish supremacy.

In a sea empire the ethnic factor, in a land empire the economic factor, will predominate; while the continuance of empire and its contribution to peace and progress will depend on its possession and proportion of the third factor, that of a revitalized—possibly revolutionized—religion. Religion here represents any expression or exploitation of supernatural "magic," rather than of the so-called scientific mind. For example, belief in a mahatma or in a five-year plan is a far more effective factor in the unification of an empire than any belief in heaven or hell.

Unification is obtained and maintained by conquest, by commerce with or without colonization and by consent with or without cooperation. It is the factor of cooperation and consent which makes for permanence in empire, if only because it makes for imperial peace and progress. It is obvious that colonial and commercial empires will contain a considerable element of co-operation and consent until they become respectively too mercantilistic or monopolistic; acceptance will be accorded them in consideration of the advantages they afford, such as the abolition of tariff walls or piratical tolls. Conquest, however, creates very little of this factor of unity, since except in so far as it may bring internal peace it only benefits a ruling minority at disproportionate cost to the progress and prosperity of the ruled.

If this analysis of the unity of empire be accurate it makes possible an estimate of the permanence of existing imperial systems. Such an examination will reveal that an empire lives only as long as it is united, and it is united only as long as it shows it is alive by peaceably and progressively developing both the rights and responsibilities of constituent races, regions and regimes as well as their relationship to the central authority. Thus an empire such as the United States, based on a written and rigid act of union and in process of increasing centralization, may be in a more primitive and less progressive stage of unity

than an empire like the British, in which the relationship is being rapidly reduced to one of sentiment.

The French empire is still predominantly militaristic, mercantilistic and monopolistic. The French nation itself is really an empire-union of four race stocks welded together by war, first against the English and then against the Germans. Its colonial empire is mainly a territorial expansion southward across the Mediterranean over savage Berber and Negro tribes, which it exploits as a mercenary soldiery for the defense of its European frontiers. Its colonial administration is militaristic and frankly mercantilistic; and the principle of unity is that of the discipline, the devotion and the domination of a Roman foreign legion. It provides a Roman peace and a romanesque prosperity both to the burghers and to the barbarians within its borders. But when the French Revolution offered the nation an opportunity to unify Europe in a larger and more liberal empire of confederation and cooperation it failed to achieve more than a brief blaze of conquest. Since then it has learned nothing and forgotten nothing. Indeed its devotion to an out of date ideal of empire unity has become an obstacle to the unification of Europe and will be the origin of the untimely dissolution of its own empire.

The German continental and colonial commercial empire was of much the same character, although on more liberal lines. The unity of its continental corpus held fast under a forging in the furnace of war that found it a reconstituted Holy Roman Empire and will finish it into a corporative commonwealth. But its effort to establish a new European empire of conquest failed as calamitously as did that of the French and for the same reason.

In the United States is also an empire that in its first stage was welded by war into a national unit. There followed colonization of the west from the Nordic east to the exclusion of the French north and the Spanish south. Finally came a national commerce and culture that made the region an economic and ethical entity. But the principle of unity was originally that of an empire, for the political union was created out of sovereign states by the Revolutionary War, while its ethnic and economic unity was a century later imposed by war on the divergent economic interests, ethnic institutions and ethical ideals of the slave states. It may be that the imperialist North thereby established national union at the cost of a larger imperial unity. For

a confederation of northern, southern and western American federations might have been joined by Canadian, West Indian and Mexican federations. Such a commonwealth of North American nations might moreover have found easier of solution that imperial issue, the color question, which now menaces national unity, and that international issue, the question of America's relation to Europe, which now menaces the unity of civilization. The United States is still an empire of conquest in its relation to its overseas dependencies, and in the development of this relation from one of control to one of co-operation it is apparently making the same efforts and the same errors that the British Empire has made.

The internal, imperial and international relations of the British Empire are the most intricate and also the most instructive of any as to the nature and necessity of imperial unity. The ruling island center was based on a union between the English, Scotch, Welsh and Anglo-Irish, with the Irish as a non-consenting minority. In this inner empire the peak of centralization was reached about the middle of the last century. Then came decentralization and after fifty years of conflict the Irish were brought into cooperation as a Free State. Meantime in the less dependent American overseas colonies decentralization had started a century earlier with an economic revolt against the mercantilism and monopolism of the mother country. The secession of the American colonies in spite of the strong religious and racial relationship and the failure of coercion converted the principle of imperial unity and the policy of imperial unification from one of control to one of consent; coercion was replaced by concession as soon as any serious conflict arose. Thus there evolved without much conscious constructiveness except in emergency improvisations a whole congeries of compromises ranging from dominion sovereignty and self-determination to dependencies administered under royal charter or orders in council, with very perplexing and paradoxical results, such as the fact that early racial rivals for empire, like the Portuguese in India or the French in Canada, have become champions of British control. But the British conservatism of all parties has in some cases so delayed concession as to cause conflicts that have carried the non-consenting community into separatism and secession. This may be the case with India. On the other hand, the Boers, Afghans, Egyptians and Irish have in spite of wars of independence been

rewelded through concession into an imperial unity.

Within the central body the growth is still decentralizing, with Scotch, Welsh and some Irish aspiring to the commencement or completion of self-government. But within the newer dominion federations the tendency is toward centralizing power in the federal government as in the United States. Again within the empire as a whole the political tendency is still for decentralization, and the dominions in the Statute of Westminster have assumed sovereign status even as to judicial matters, while mandated dependencies like Iraq are loosing their leading strings by treaty. In India both tendencies are operating simultaneously. Nevertheless, at the same time there is being created within the empire as a result of the economic crisis in capitalist civilization a centralizing movement for cooperation in production and consumption and for control of capital and currency. Although the imperial land power of this commonwealth of nations will never achieve that complete cooperation of its constituents and that cordial consent of civilization which has made its sea power the basis of a future international command of the seas, yet its ununified unity will serve as a bridge between simpler more self-centered national communities and that commonality of nations that is the only hope of the future.

The most recent and revolutionary of empires, the Union of Soviet Socialist Republics, while still in embryo, has passed through the life history of the imperial unit as above outlined. Its unity was first that of the French Empire, the rallying of a country and class to a revolutionary religion against reaction and repression. Then as in America it became the confederation of sovereign states for defense and development, and the Russian act of union was almost a reproduction of the American document. Thereafter in three years by an extraordinarily rapid evolution of experiment in coercion and concession it grew into a complex of dominions and dependencies resembling in structure and reproducing in system that of the British Empire. Moreover its rapid growth both political and economic are along the same line of economic and ethical unity as that along which capitalist empires are moving.

Imperial unity far from being an antithesis to internationalism has thus far been the only effective executive expression of the international ideal. It is an intermediate stage in human progress from those national units that a scientific civilization has dangerously outgrown to the

unification of civilization now made possible by science.

GEORGE YOUNG

See: EMPIRE; IMPERIALISM; CONQUEST; COLONIES; COLONIAL ECONOMIC POLICY; MERCANTILISM; FEDERALISM; DOMINION STATUS; GOVERNMENT, section on BRITISH COMMONWEALTH OF NATIONS; INTERNATIONALISM.

IMPERIALISM is a policy which aims at creating, organizing and maintaining an empire; that is, a state of vast size composed of various more or less distinct national units and subject to a single centralized will. The conception of an empire as a state composed of many nations leading diverse lives but united by a common ruler goes back to the idea of Alexander the Great of a European-Asiatic empire ruled by a monarch indifferent to the distinctions between Greeks and barbarians, who would be looked upon by both Persians and Macedonians as their own king. National diversity—not national uniformity—and size make an empire, which in addition needs some sort of spiritual cement, be it the personality of a deified emperor, a universal faith (as in the church after Constantine) or the knowledge of a common past and the desire for a common future, often including the consciousness of a "mission." Empires generally break up with the snapping of such spiritual links. In the modern period a new element has come into the conception of empire: the ideal of economic self-sufficiency and "splendid isolation," which cannot be realized within the narrow limits of a merely national state without great sacrifice of material well being but which, it is thought, might be achieved by a judiciously assembled imperial conglomerate of nations.

Empires can be created by voluntary association or by forceful annexation. The process of creating an empire through federation can be called imperialism only if the voluntary act of consolidation has been preceded by the use of more aggressive methods. The reorganization of an existing empire by federative adjustments, a process which is also sometimes called imperialism, is, however, something very different from imperialism as a method of widening a national state into a supernational empire. Although the latter is accomplished chiefly by conquest and annexation, conquest and territorial expansion are not identical with imperialism. Neither the Norman Conquest nor the annexations of Frederick the Great nor the expansion of the American pioneers into the western plains



can be called imperialism; it is the annexation of one nation or state by another with a consequent modification of the structure of the original state in the direction of becoming more or less composite which constitutes the essence of imperialism.

As the use or threat of force is the main method of imperialism, the philosophical justification of the institution presupposes the view that force is an ethical factor. The imperialist creed is founded on the assumption that power is of divine origin and that its wielders are obliged to make humane or semidivine use of it. Thus imperialism, sometimes merely a creed of superior strength, has also been envisaged as an obligation imposed upon those of superior strength, to be used for the benefit of those whom they are enabled to conquer by transferring to the conquered the institutions and teachings with which Providence has endowed the conquerors.

The word imperialism is occasionally used to denote a system of government by coercion under which an emperor—a heaven born or heaven sent leader—rules by a sort of divine right based on heredity and success. It is the element of coercion, the way of governing rather than the aims of government, which may justify this use of the term.

The word has been used in a more specific sense by those followers of Marx since Rosa Luxemburg and Lenin who consider that the capitalist system resists immanent tendencies toward socialism because of its chance to develop non-capitalist areas into capitalist areas. This, they assert, is the result accomplished by imperialism, which is a composite of political pressure and economic penetration made possible by the exploitation of native races. Imperialism thus conceived is a continuation of capitalist exploitation in an age when capitalism is fighting through and for monopoly without having succeeded entirely in wiping out remnants of free competition. Based on the necessity of the export of capital to undeveloped countries, since capital at home no longer yields sufficient profit, it is not a policy to be taken up or dropped at will but an essential aspect of capitalism in its latest—the monopolistic—stage. This view sees the essence of imperialism as the exploitation of native races by foreign capitalists rather than foreign domination of dependencies or the conquest of land by feudal aristocracies, although either or both of these latter conditions may also be present.

Imperialism can best be understood in con-

trast to such policies as that of a national state which objects to expansion and is content with its native territory and a system of rigid self-sufficiency or that of a state which, while willing to exchange products and services for those of other similarly situated states and to base growth and wealth on such commercial intercourse, remains satisfied with its boundaries. There are then two main contrasting systems of national growth: one by territorial expansion and domination (*Herrschaftspolitik*), another by trade (*Handelspolitik*).

Modern imperialism was born with the break up of mediaeval universalism. The states which arose from the disintegrated Holy Roman Empire felt keenly their fragmentary character, and the rise of national self-consciousness brought a desire for expression in a wider sphere. With the Renaissance came the conception of a new man made state which could grow into an empire by following the prescriptions drawn from the Roman Empire by Machiavelli. Although population was not yet superabundant, there was often overcrowding in the big cities and schemes for constructive colonization (the creation of a new society faithfully modeled after that from which it had sprung or of a more perfect commonwealth, some sort of *civitas Dei*) filled men's minds. Such ideas are expressed in Bacon's *An Essay on Plantations*; they are apparent in the various plantations of Ireland and figure vaguely in the aspirations of the Pilgrims. The desire for territorial expansion on the part of the new national states differed essentially from earlier expansionist desires in that conquest no longer served the purpose of achieving private wealth and private fortunes, but that of widening the state boundaries and creating empires by offering new territories to land hungry knights and adventurers.

As discovery and conquest were directed to lands usually inhabited by peoples considered heathen by the conquerors, the missionary idea in the widest sense of the word was not wanting. Not only did the invaders endeavor to convey to the natives the blessings of the Christian religion (an endeavor doubly important since the Reformation had added a competitive note to missionary activities), but they more or less consciously tried to foist upon the natives their own social and cultural systems by "Hellenizing the barbarians" in a particular and national rather than in a universal way. Rivalries waxed strong; each modern nation wanted to extend its newly established nationality overseas in a New Spain, a

New Holland, a New France or a New England by sending out colonists or by assimilating in some degree the native races.

The discovery of the routes to India and America was from one point of view a response to a desire for new commodities, for the satisfaction of new appetites. A money economy arose and with it hunger for gold and silver. To secure gold and silver or goods which would command them became the policy of every government. But purely commercial considerations in the modern sense of the term were not wanting. The desire for a regular flow of goods for home consumption and trade originally dominated; in an age of scarcity monopolies in the spice or fur trade were more important than "open doors," and the chartered companies sought trading profits rather than markets. But as time went on safe access to markets became increasingly important. The winning of the *asiento*, the right to supply Spanish colonies with slaves, in the Peace of Utrecht, was considered one of the greatest achievements of British policy.

While the empire of Charles v, on which the sun never set, was an accidental and short lived conglomeration, the colonial empire which Spain retained was the first realization of modern imperialism. It was organized as a sort of huge mediaeval city-state covering half the universe. The Spanish Empire was to be self-sufficient; the policy of *los abastos*, the aim of which was the prevention of scarcity, was its guiding principle. Trade was rigidly controlled and restricted to the intercourse of metropolis and colonies; foreign traders were considered interlopers. The merchandise of the mother country had the monopoly of colonial markets and the produce of the colonies was destined for the mother country. Control of the precious metals of the New World enabled the Spanish government to carry off the first victory for the nation and for the Catholic church. It was this aim of monopolistic exploitation in the colonies of Spain (and to a lesser degree in those of Portugal) that forced competitors along the path of imperialism. They tried not only to break the Spanish trading monopoly by demanding the right to exchange goods directly with Spanish colonies but also to found colonial empires of their own. Ignoring the Treaty of Tordesillas of 1494, whereby the Spaniards and Portuguese had divided the New World among themselves, the Dutch, the French and the English all laid the basis of colonial empires in West and East.

The mercantilist theory clearly reflects the

twofold desire to support trading rights and to build an empire. Its name implies the view that trade and exchange, not conquest and domination, are natural sources of additional wealth. Its advocates assert repeatedly that countries can become rich in precious metals by the flow of a well regulated trade without assuming responsibility of territorial political annexation. Such trade, controlled by government action or by monopolistic chartered companies, is coercive rather than competitive; and as monopoly seemed to increase profits, coercion and domination came basically to affect relations originally conceived as purely commercial. The Dutch monopoly of the spice trade could not be created without complete domination of the islands where the clove trees grew; trading undisturbed by the whims of native despots was feasible only if the European "factories" were properly protected; out of charter privileges grew intimate financial relations between trading companies and native princes which ended in some sort of protectorate; ultimately came annexation. Although trade and not territory was the aim in these cases, the outcome was empire, the more or less forceful acquisition of new dependencies. The growth and expansion of such empires enabled their rulers to look beyond the profits of trade to those which could be made from exploiting native labor.

There arose a conscious desire to make the empires self-sufficient by a division of labor among the different parts, an aim realized to a considerable extent by the *pacte colonial* and in the early organization of the British Empire, under which England monopolized shipping and the production of wool; Ireland, linen; the plantation colonies, tropical produce; and the northern colonies, lumber and tar. Trade was carried on under a system of preferential duties which favored imperial products; prohibitions and inhibitions restricted foreign commodities, especially foreign ships. True, colonial markets were unable to take over the entire surplus production of the motherland and unwilling to give up cheaper supplies from more profitable markets in foreign countries, while the mother country could neither renounce foreign markets nor refuse additional or essential supplies from them. Nevertheless, there was a fairly well developed imperial scheme embracing various nationalities (although scarcely races, since this first British Empire was, apart from slaves, Anglo-Saxon) and aiming at self-sufficiency by regional economic adjustments. Before its complete break-

down Adam Smith designed a project of empire including the constitutional reorganization of the relations of motherland and colonies by means of an imperial parliament.

The artificial man made mercantilist state collapsed in France not so much because of faulty construction as because of the strain put upon it by French policy. Its failure gave birth to the physiocrats' system, antagonistic to state intervention, colonial acquisition and foreign trade. In England, by that time in possession of the most valuable French colonies, the attack against the colonial system was directed especially against the monopoly of the colonial trade, the chartered companies, which mixed trade with sovereignty, and the military and financial burden laid on the mother country by colonies. While in order to be profitable trade must be free from coercion, coercion of some sort was the mainspring of imperialism. If it could no longer be exercised because colonies would no longer submit to rule by the home government without being properly represented, colonial empires must go to pieces. While the metropolitan democracy fought for responsible government and a wider franchise, the colonial democracy demanded independence. From 1776 to 1822 nearly all colonial empires inhabited by whites were dissolved; conquest and domination were hotly denied as legitimate sources of government. The Monroe Doctrine stopped once and for all the making or remaking of empires on the American continent. Imperialism as a policy of territorial expansion suffered a severe defeat. As a commercial policy it persisted until the industrial revolution enabled the Manchester school of liberals to launch against it a vigorous attack based on a systematic, practical anti-imperialist philosophy. Colonies, the result of conquest and domination in the interest of ruling feudal classes, could be held only at the price of military preparedness and naval supremacy—a costly and aggressive foreign policy. Colonial monopolies must be abolished and free trade replace government control which was making for high prices in the interest of privileged domestic or colonial groups. The battle of the Anti-Corn Law League was less a struggle for cheap bread than an attack on feudalism and all it stood for.

Experience had shown clearly that a successful colonial plantation was unwilling permanently to remain a dependency offering a protected market or furnishing special supplies to a mother country. Imperialism as a commercial policy had failed and was rated so low that even Disraeli,

archimperialist of a later epoch, called the colonies "millstones round our neck." It was succeeded in England by the idea of free exchange making it profitable for new countries to produce raw materials and foodstuffs for the open markets of older countries and to purchase manufactured goods from the old countries rather than to proceed to premature industrialization.

Territorial expansion was not completely stopped. England gained new dependencies in the treaties ending the Napoleonic wars; France annexed Algeria partly to show her people that the splendors of the First Empire had not completely disappeared; masses of Russian peasants surged over the steppes to Siberia; pressure of population started modern mass emigration. The Ricardian theory of land monopoly, that landed interests levied a tribute on all other classes, suggested a solution of difficulties by extending territory overseas, thus reducing rent and exploitation. There arose the idea of directing the stream into the newly acquired virgin lands, which had first served as penal settlements, in order to create a daughter in the image of the mother state. The experiment was tried by the Wakefieldians in South Australia and New Zealand. The lesson of the American Revolution bore fruit: it was necessary to entrust white communities with responsible government if imperial links were to be preserved. The mother country must give up intervention; financial policy and the control of customs and tariffs must be entrusted to the colonists. The hope for universal free trade facilitated this change, which began with the grant of responsible government to Canada. Regional self-government became possible, enabling a daughter state to remain within the empire, politically dependent on the home country but paying no tribute to it, growing up under the empire's powerful protection at the expense of the taxpayers. Empire was conceived as a confederation of scattered states each enjoying responsible government under a constitution evolved by its own people and ratified by the mother country; free nations each at liberty to develop its own national or racial characteristics, all united voluntarily under the leadership of a mother country, in whose most central institutions—sovereign, foreign affairs, defense and supreme law court—they participated in ever changing ways. Apparently the miracle of *imperium et libertas* had been achieved. Although laissez faire and "trust the people" had made possible the development of a Greater Britain, public opinion took comparatively little pride in

the work achieved and political leaders seeing the burdens rather than the benefits doubted the possibility of holding together an empire bound by such loose ties. Expecting dissolution sooner or later, they tried to lessen their responsibilities wherever possible and leaned to the ideal of a socially happy and contented "Little England" waxing rich from unhampered foreign trade and secure in the affections of its inhabitants and in the good will of its neighbors.

In fact *imperium et libertas* had not succeeded completely. While liberty held the daughter states within the political ring of the empire, economically it failed completely. Nearly every young commonwealth tried to bring about its industrial development by high protective tariffs aimed chiefly at imports from the mother country. While enjoying complete liberty of access to English markets it admitted English goods only when it suited its convenience. Economically the empire had split; even the conception of an economic entity composed of various economic provinces joined and developed for the purpose of imperial self-sufficiency had evaporated.

The empire moreover was composed of two completely different elements: on the one hand, the self-governing daughter states and, on the other, countries such as India inhabited by native races. The latter were ruled by a white bureaucracy which strove to administer the surging masses in the way of enlightened eighteenth century despotism, moved often by true missionary spirit which sought not only to free the natives from the fetters of oriental superstition and misrule but to Europeanize them. The natives were moreover taught to believe that penetration and permeation of the alien European civilization were essential to their well being and might lead ultimately to self-government. The growth in England of liberal ideas of justice and economy and the development of democratic institutions made such alien rule appear irrational to rulers as well as ruled, and it was philosophically justified only as a sort of temporary control at the end of which stood independence or partnership.

After 1848 new forces came into motion. Although the subject nationalities which had risen against their masters in central Europe were defeated in 1848 (and again in Poland in 1863), the new nationalist movement could not be stopped. The Austrian Empire was deprived of its Italian provinces and ousted from the German confederation, so that it was no longer supreme

among the Germans and thus no longer able easily to control its various nationalities. The subject races of Turkey revolted to form more or less stable national states. And the Irish, the one people which had withstood the assimilating power of the British Empire, evolved a new nationalism after the horrors of the famine. Liberalism now received a definite setback through Bismarck's phenomenal rise. Once again power, domination and coercion proved themselves reliable instruments of policy in the hands of a master. Force instead of being a method to be used shamefacedly and to be excused only by dire necessity became again an openly acknowledged instrument of policy. The old philosophy which looked upon force not as a last remedy evil in itself but as a method of action glorious in itself was revived.

Aggressive nationalism democratic in its instincts and an equally aggressive statesmanship of dictatorial and despotic origin both needed the development of all economic resources within the confines of their power. Neither could rely on international economic intercourse, in which nations depended on each other for mutual exchange, as such exchange although more profitable in peace than the artificial development of sheltered industries exposed nations threatened by war to grave economic and political risk. The apostles of free trade were discredited and protectionism as a combination of national sentiments, lust for power and individual industrial greed again became rampant. Aiming at a high development of the national agricultural and industrial apparatus, it could not hope to achieve self-sufficiency on the level of a standard of living high enough to keep the industrial masses satisfied without some overseas expansion and colonial exploitation.

The new imperialism differed in many ways from that of the mercantilist period. Although its chief beneficiaries were old established colonial powers, countries hitherto largely without colonial power entered the field. In the cases of Russia and the United States overland expansion across more or less empty spaces had reached natural barriers and became transformed into movements of conquest and annexation of other races. Other states—for example, France in Algeria under the Restoration, in China and Mexico under the Second Empire and in Tonkin and Tunis under the Third Republic—turned to colonial expansion largely to demonstrate to their people that the path of profitable glory was still open. Italy, Germany and finally Japan en-

tered the contest late. Unification or modernization suddenly gave them enormous strength and accelerated their industrialization without enabling them to provide for ever growing populations. Emigration increased; and although many foreign countries were glad to receive white immigrants, the latter were doomed to be lost to the mother country through assimilation. Markets needed for an ever growing surplus of production had become insecure since the decline of free trade. Industries, dependent on supplies from countries subject to foreign domination and heading toward either industrialization or monopolies of raw material, might easily be throttled. Experience seemed to show that trade between mother country and dependencies grew much more rapidly than other trade, and the percentage held by the mother country in imports and exports seemed more secure in more or less nationalized markets. Trade moreover was no longer in cottons or glass pearls but had become a matter of large scale enterprise carried on under contracts and concessions granted by governments and open to nationals by means of properly weighed tenders, even if equal treatment by tariffs was stipulated. Business by concession had become monopolistic.

For the security of capital, which was emigrating in ever increasing amounts to backward countries, open or disguised political control was essential. Moreover a nation without a colonial empire was considered second rate. The control of dependencies to which emigration could be directed might enable a Germany or an Italy to repeat the great feats of the Anglo-Saxons in America and Australia. This romantic idea disappeared rather quickly, for the lands acquired by new colonial powers were inhabited by native races whose collaboration was essential to success. Modern imperialism became more and more a policy of control of native races by conquest and administration (political colonization) and by financial reorganization and capitalistic development (capitalistic colonization). Both forms of control relied on the superior strength or wisdom—of technical skill can be called wisdom—of the ruling race. The stronger dominated, ruled and exploited the weaker in open contradiction to the principles of Christianity and democracy expounded at home. The required philosophical justification of the new order of things was found in theories of biological evolution. The notion became popular that as superiority enabled a race to survive, survival was a God given proof of superiority; ruling na-

tions were superior nations with a right to rule and exploit and to raise the standards of the whole human family. Lust for power and greed of wealth were not absent in this appeal to a natural law, which had changed its meaning somewhat since the day when settlers naïvely assumed that backward people must die out when brought in contact with superior races. Provided they were willing and capable workers they were now made to breed as fast as they could for the benefit of their masters. Imperialism thus justified biologically and morally was not only a policy and a creed; rulership and exploitation became moral obligations. Kipling spoke of "the white man's burden," United States Senator Albert Beveridge proclaimed that "God has made us adepts in government that we may administer government among savage and servile people."

The growth of this biological nationalism meant that imperialism was no longer based on a philosophy of uniting in a common bond of imperial statehood diverse races with equal rights, but rather on a philosophy of tribal supremacy which assumed the existence of racial characteristics largely unchangeable unless through miscegenation. The ruling race might spread the outer technique of its life; the ruled race was unfit to understand its inner quality. Missionary activity, long an integral part of imperialism, lost its soul.

Old saturated powers disinclined to shoulder new responsibilities were often led to do so lest the advent of a new power to the borders of an old possession be more dangerous and more expensive than the expansion of existing frontiers. The result was a scramble for the non-occupied parts of the world, which resulted in the partition of Africa and the distribution of those Pacific islands which had not yet found a master. To cover their rivalry countries went back to some of the time honored political dodges of the mercantilist age, forming private chartered companies to establish rights of sovereignty as a preliminary to government action. The presence of capable native races made settlement colonies impossible. The only choice lay between a native dependency, in which colored people were ruled by a white bureaucracy, and the settlement in climatically favored spots of a planter aristocracy on which depended a small white middle class devoted to commerce and some skilled white labor, while the manual work including small farming was done by the natives. These "mixed colonies" became the social danger

spots where racial animosities and conflicts were bound to arise.

The method of squeezing out an income for the mother country by producing valuable commodities with forced labor, originally perfected by the Dutch in their East Indian colonies, was again adopted. Rivalry in the Congo basin led to the founding of an international private company, the Congo State, controlled and later ruled by the king of the Belgians as a private venture. The Congo basin was internationalized to give equal trade opportunities to all nations signing the Congo State Act. This new international state, precursor of the mandate system, produced an almost unbelievably bloody reign of capitalistic exploitation defended on the ground that the black man must be taught the dignity of labor.

Imperialism is not restricted to expansion of sovereignty or territory. Trade too is developed imperialistically whenever political coercion is used to foster it. When the maritime powers forced the door open in Japan, in China and earlier in the Mohammedan countries of the world and compelled native governments to create treaty ports in which foreigners could trade with natives without being subject to native law, their trade policy was coercive and not competitive, political rather than commercial—in brief, imperialistic. Where native governments weakened, protection of European traders, missionaries or creditors led to the assumption of a protectorate and finally to annexation. International jealousy prevented the annexation or partition of Egypt, Turkey, Morocco, Persia or China. Plans for partition were frequently drawn up, spheres of interest demarcated and non-alienation agreements with native governments entered into so as to postpone such events. In the meantime these governments were reorganized and allowed to live. When backward states disintegrated politically, the ousted rivals among the colonial powers forced the principle of the open door on the winner of the spoils. This obligation, first clearly pronounced by John Hay in 1899 to protect American trade against discriminations in respect to tariffs, harbor and railway rates, was cumbrously elaborated for Morocco by France and Germany in 1909 to include loans and concessions as well. Most governments have insisted on the principle of the open door where they had no chance of exclusive control; wherever partial or full control has been offered them, their attitude has changed. When in 1910 the United States government se-

cured the participation of American capital in the construction of Chinese railways, it substituted for the principle of equal treatment for all that of more or less equal participation of the great powers.

Capitalistic colonization expanded and tended to monopoly. Economic wealth as a form of power became as important as military pressure. To develop their resources native governments needed money or were forced to resort to concessionaires. Lending to native governments created intimate financial, economic and political relations. The creditor country might secure orders for its industries, support for its armament work and employment for civil, financial and military experts. For some time the battle over loans was bitterly fought by bankers through their national diplomats in Turkey, China or the Balkans. Creditors' councils often representing different nationalities in proportion to the sums due were entrusted with the financial reorganization of bankrupt native governments. Certain revenues were handed over to them for the service of the loan (the debtor and the creditor were to share surpluses), and European technical "advisers" were placed in charge of the native administration. Egypt under Lord Cromer was the classical example of this system, which originated in Turkey and was applied internationally in China, Tunis, Morocco, Persia, Turkey and Liberia. In the Central American republics the United States, converted to "dollar diplomacy" as a corollary to the Monroe Doctrine, used it intensively, forbidding European creditors to interfere.

Financial control has enabled foreign powers to run native states without directly assuming political responsibility. The organized but unseen forces of governments are put at the disposal of "visible business." Business enterprises wrest concessions—for railways, for mines, for oil—from native governments, which they keep in power by lending financial support contrary to the interests of the native masses. Occasionally its own capitalistic citizens may embarrass the home government, which in its public policy may prefer friendly political relations and a slower social development to the hidden control of native governments and rapid profitable exploitation of native races.

The World War was called an anti-imperialist war and, especially by President Wilson, a war for the self-determination of nations. The peace put an end to Germany's imperialistic aspirations by depriving her of a colonial empire as

well as of her non-German nationalities. It "liberated" the subject nationalities of the Austrian Empire and tore the Baltic states and Poland from Russia. It limited Turkish sovereignty to the lands of the Ottoman race and expelled the Greeks from Asia Minor. Although the victors divided among themselves the colonial inheritance of the vanquished, the imperialistic system all over the world has quavered ever since. The revived creed of the Manchester school, that the era of domination had passed for ever, had inspired Wilsonian doctrine; the establishment by the League of Nations of the theoretical legal equality of all nations gave flat denial to imperialist claims of superiority. Mandates were created for most colonial territories lost by Germany and for those fragments of the Turkish Empire which although inhabited by separate nationalities were supposedly unable to stand alone. Mandatory powers were entrusted with the government on the theory that they would administer it in the interest of the inhabitants and of the members of the League of Nations, to which equal opportunities in trade were to be offered. Practise has infringed upon the theory of the mandatory system, for egoism or lack of administrative capacity has led mandatory colonial administrations into carrying on and permitting imperialist methods despite international control. The theory of mandates and even of colonies nevertheless continues to maintain that the rule of advanced nations over backward populations is a conditional, transitory trust.

The change of imperialism into a kind of tribal nationalism among rulers raised a similar tribalism among the ruled, who began to deny the superiority or value of the culture of the imperialist powers and to strive to get rid of them. The anti-imperialist crusade against the Central Powers gave them a good chance. The ambition of subject nationalities to be free of their masters could no longer be stifled after the masters had waged a world war theoretically for the acknowledgment of the right to complete liberty. These subject nationalities claimed those very rights for the defense of which they had been asked to enlist. Political imperialism had become self-contradictory. Ireland and Egypt broke away from British rule; India demanded complete self-government; even the dominions insisted on unlimited sovereignty as equal partners with the motherland; and in nearly all European dependencies with the exception of backward Africa there were uprisings for national independence.

All over the world a period of countercolonization began, and decolonization is rapidly proceeding. This movement is not restricted to the struggle of subject dependencies for self-government but is apparent in such former colonies as the Baltic States and Mexico, where natives are ousting from economic and political power the descendants of alien conquerors. It is strongest in countries like China, where imperialism, capitalistic rather than political, had induced or compelled native governments to hand over the administration of customs and taxes or the exploitation of railways and mines to foreigners, whose interests were protected by low treaty tariffs and who were allowed to live in privileged settlements under their own law. In Turkey, China and Egypt attack is directed against privileges for foreigners which were originally exacted from the natives and against foreign capitalists as the chief beneficiaries of these privileges.

In 1927 at a congress in Brussels attended by representatives of radical parties and groups of thirty-seven countries there was founded the League against Imperialism and for National Independence, which issued a call for united mass action and continues to carry on organizational and propaganda work. Anti-imperialist movements have enjoyed the support of the revolutionary Communist International, with which their more radical leaders sometimes cooperate. Since the extortion of high rates of exploitation and the accumulation of great profits are made possible only by paying extremely low wages and keeping the native masses on a low subsistence level, the passions of the newly enslaved victims of the machine against foreign masters and foreign ways readily become the basis of more than nationalist movements. Faced with the opposition of native bourgeois elements who have themselves acquired vested interests in imperialism, such movements respond to Communist influence and are transformed into anti-capitalist movements directed not only against imperialism and capitalistic foreigners but against the inequities of the capitalist system in general. The Marxist-Leninist sees all efforts to mitigate the oppressive effects of imperialism upon native masses as ineffective, and as futile all attempts to deal with the contradictions and war dangers which imperialism creates among capitalist imperialist rivals, on the one hand, and between imperialist and anti-imperialist forces, on the other. This view argues that objectively such attempts are tantamount to support of im-

perialism since they are based upon the assumption of preserving capitalist society. Imperialism and its consequences contribute to the creation of an objective situation ripe for revolution, the only method for terminating imperialist aggression and its attendant evils.

That the imperialist spirit is by no means dead is demonstrated by the desires for conquest and exploitation shown by many nations, especially such hemmed in countries as Japan. The substitution of monopoly for free competition has assimilated the views of the commercial classes to those held formerly by feudal aristocracies. Even the Soviet Union might conceivably use coercion to exploit a backward region. It is the system of imperialism as such — the annexation and rule of dependent nationalities, the policy of creating national wealth by foreign conquest or political and economic pressure — which is being called into question by those who fear that colonial powers are not sufficiently strong or rich to risk imperialist wars against natives who have learned political cohesion and modern military organization. The costs of imperialism have risen enormously; the possible benefits have decreased correspondingly. But while new ventures in imperialism may be of doubtful profit, imperialism may long continue as a policy of consolidating existing empires, perhaps with a view to economic self-sufficiency, wherever the ruling race can eliminate tribal or racial prejudices and is willing to let the subject races share in the empire as partners enjoying legal equality without sacrifice of national characteristics. Capitalist imperialism restricted to mere business aims may still have a long life; but the eclipse of political imperialism is probably final, for there are no new continents on which colonial empires, twice lost, could be raised for a third time.

MORITZ JULIUS BONN

See: EMPIRE; IMPERIAL UNITY; GREAT POWERS; COLONIES; CAPITALISM; INDUSTRIALISM; ECONOMIC POLICY; COLONIAL ECONOMIC POLICY; MERCANTILISM; RAW MATERIALS; FOREIGN INVESTMENT; BACKWARD COUNTRIES; NATIVE POLICY; FORCED LABOR; RACE CONFLICT; EUROPEANIZATION; NATIONALISM; FEDERALISM; DOMINION STATUS; LEAGUE OF NATIONS; CONQUEST; ANNEXATION; PROTECTORATE; SPHERES OF INFLUENCE; CONCESSIONS; OPEN DOOR; MONROE DOCTRINE; FAR EASTERN PROBLEM; MANCHURIAN PROBLEM; INDIAN QUESTION; EGYPTIAN PROBLEM; MOROCCO QUESTION.

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IMPORT DUTIES. See CUSTOMS DUTIES.



IMPRESSMENT was employed in England from the time of the Plantagenet kings up to 1815 to supplement voluntary recruiting for both army and navy. Soldiers and sailors were thus secured by irregular conscription in the reigns of Richard II and Philip and Mary. Under Elizabeth local justices of the peace were required (5 Eliz. c. 5) to return a specified number of able bodied men for the navy. Charles I and Parliament used the press during the Civil War and Cromwell raised his New Model Army by the same means. Impressment for the navy, however, was far more important and widespread than for the army.

In the usual procedure in naval impressment an order in council was issued authorizing the lord high admiral or the commissioners of the Admiralty to institute impressment proceedings. The Admiralty would then issue press warrants to naval officers. Equipped with these warrants and bearing bludgeons and stretchers, press gangs forcibly seized able bodied men in streets and taverns. Sailors, watermen and dock side laborers were most highly valued. Sometimes a returning merchant ship was boarded and a large part of the crew pressed. In 1776 and again in 1779 a general press of rogues and vagabonds in London and other centers was found necessary because of the great difficulty in recruiting sailors for the Revolutionary War. Occasionally youths were kidnaped by agents in the service and secretly confined until they could be slipped aboard. The East India Company also frequently made use of this method. An act of Parliament in 1795 supplemented these methods by a quota system, whereby each English county and seaport town was required to furnish a specified number of men. When the floating supply of rogues, criminals and gypsies had been exhausted, local authorities offered cash bounties to complete the quota. In 1803 the gangs were required to raise 10,000 men within a fortnight; the ensuing general press stripped every merchant ship in London of its hands and carried off all available watermen.

With certain exceptions all Englishmen were subject to the press any number of times. Men of property, trade apprentices and youths under eighteen who had been apprenticed to the sea by parish authorities were legally exempted, as were the masters of fishing boats and a limited number of their apprentices. In 1740 an act of Parliament exempted all men under eighteen and over fifty-five, all foreigners serving in British ships and all sailors during their first two years of

service. An act of Parliament (6 Anne c. 37, sect 9) exempted American colonials, but it was occasionally disregarded and was repealed in 1769. A general press of sailors, ship carpenters and laborers in Boston in 1747 was followed by three days of rioting which forced the colonial governor to retire from Boston for safety.

The press was not directed against religious or political nonconformists as such. It did, however, offer countless opportunities for settling personal grudges and for petty extortion. Theoretically, men who felt that they had been illegally impressed were given an opportunity to state their case. Actually, if friends ashore or a bribe to the press officer had failed to free an impressed man, there was scant opportunity thereafter for escape. On the whole therefore the evils of impressment were those of arbitrary impersonal power which struck haphazardly at the liberty of individuals.

The paradox of impressment in a country which was already beginning to think in terms of natural liberties is partly explained on grounds of expediency and economy. As long as the security of the crown rested on a full exchequer it was wasteful and even dangerous to maintain the fighting forces at full strength in peace time. Even after Walpole had restored national finances to a sound basis, however, impressment was not abandoned. Although the greater frequency and intensity of foreign wars might have justified larger permanent fighting forces, public opinion continued to associate a large standing army with tyranny. The Opposition in Parliament made full political capital of this prejudice. Furthermore the general prosperity of agriculture and the expansion of trade and industry offered employment far more lucrative and regular than service in His Majesty's forces. Most Englishmen who sought seafaring careers in the eighteenth century preferred the mercantile marine to a man-of-war. Although attempts were made to attract volunteers through patriotic placards and alluring promises, the greater proportion of men had to be secured by impressment.

While British courts never specifically legalized impressment, Sir Michael Foster [Broadfoot's case, *Foster's Crown cases*, 154 (1743)] stated: "The right of impressing mariners for the public service is a prerogative inherent in the Crown, grounded upon common law and recognized by many acts of Parliament." Later Lord Mansfield [Rex v. Tibbs, 2 Cowp. 512 (1776)] deplored the practise but justified it as

necessary for the safety of the state, and Blackstone characterized it as "only defensible from public necessity." In all wars of the eighteenth century impressment was strongly endorsed by both political parties for both the army and the navy. It was ardently defended by statesmen and diplomats in the lengthy controversy with the United States as both legal and necessary. Generally speaking, impressment also enjoyed the sanction of public approval.

Deplorable filth, foul rations, inadequate pay, irregular terms of service and scanty shore leave made service aboard an eighteenth century man-of-war anathema to voluntary recruits. Naval service was rendered even more unpopular and dangerous by the presence of impressed rogues and vagabonds; condemned criminals, who, given the choice of service or the gallows, had taken the former; absconding debtors and prisoners for debt, who so long as they did not owe more than £20 to any one person could escape prison by enlisting in the army or navy. The enforced enlistment of criminals of the worst category created new problems of morals, health and discipline. Outstanding naval officers, such as Admirals Hawke, Vernon and Nelson, branded impressed men as unclean, vicious and potentially disloyal. The disease and filth from jails and slums added to insanitary conditions aboard ship caused serious epidemics which undermined on occasion the effectiveness of entire squadrons. Herded together on the lower gun decks, impressed desperadoes formed gangs to steal, to connive at desertion and occasionally to take part in mutinies, several of which took place in the years from 1797 to 1801. Army officials found impressed men so dangerous that impressment for that branch of the service was abandoned by 1800. In spite of its evils, however, impressment for naval service was continued throughout the Napoleonic wars.

At the outset of this protracted struggle with France, Great Britain had difficulty in keeping her fleets manned even with inferior material. British seamen too were deserting in large numbers to the American mercantile marine, where higher pay and better working conditions obtained. In an effort to secure sailors the British resorted to the practise of stopping neutral vessels even on the high seas and searching them for deserters and for native born British to be pressed into service. British diplomats and statesmen rested their right to do so partly on the logic of necessity but largely on the doctrine of perpetual allegiance, whereby no citizen or subject

of a state could divest himself of his original citizenship without his country's consent, and on a denial of the principle that ships on the high seas compose a part of the territory of a nation. The United States, on the other hand, stoutly asserted full jurisdiction over its ships on the high seas. The situation was aggravated by the continued impressment of native American citizens. The British claimed that the similarity in appearance and language together with the lack of adequate proof of native citizenship and the heavy traffic in birth certificates and "protection papers" made it impossible in many cases to distinguish between native born and naturalized Americans. The number of Americans impressed is difficult to determine; on the basis of the available records Zimmerman estimates the total number of native and naturalized at slightly less than ten thousand. Many of these were released shortly after impressment. The humiliating search of the United States frigate *Chesapeake* in 1807, a peacetime year, and the removal therefrom of several "deserters" accentuated the importance of impressment as an outstanding diplomatic issue between the two countries. American diplomacy hampered by divided public opinion and an inadequate navy failed to secure a satisfactory settlement of the impressment issue. Madison's war message of June 1, 1812, listed impressment as the principal reason for going to war with England. Modern historians, however, have tended to question the fundamental importance of the issue as a cause of the war. Certainly the peace settlement carried no hint of its solution. For some thirty years thereafter the issue continued unsettled. The question lost its practical interest after 1815, however, when Great Britain ceased to impress although without renouncing impressment in principle.

Impressment therefore was abandoned rather than abolished. Great Britain's position as mistress of the seas and of a far flung empire now necessitated large naval forces of a permanent character manned by voluntary recruits. The service became more popular as the causes which had made impressment necessary were gradually removed. From its inception in 1756 the Marine Society had sought to mitigate the worst evils of impressment. The same group of philanthropists who effected prison reform also succeeded in ameliorating conditions aboard ship. Following the War of 1812 seamen were paid regularly in money and at a higher rate, shore leaves were more generously granted and steps taken to eliminate filth, disease and over-

crowding. In 1835 enlistment was placed on a five-year basis with provision for renewal. When at the outbreak of the World War conscription was again resorted to (Military Service acts, 1916-18) it was impartially executed on a nation wide basis.

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See: CONSCRIPTION; WAR; CITIZENSHIP; ALLEGIANCE; SEAMEN; MERCHANT MARINE.

Consult: Lecky, W. E. H., *A History of England in the Eighteenth Century*, 7 vols. (new ed. New York 1892-93), especially vol. iv, p. 340-47; Mahan, A. T., *Sea Power in Its Relations to the War of 1812* (Boston 1905); Hutchinson, J. R., *The Press-Gang Afloat and Ashore* (London 1913); Zimmerman, J. F., *Impressment of American Seamen*, Columbia University, Studies in History, Economics and Public Law, vol. cxviii, whole no. 262 (New York 1925); Masfield, John, *Sea Life in Nelson's Time* (London 1905).

IMPRISONMENT is the most severe means used by society to curtail the freedom of certain classes of its members. It involves confinement in a prison which places the prisoner under the constant and immediate control of the authority imposing it. It has been and is widely employed for the detention of persons who while not convicted of crime cannot, it is thought, be allowed to remain at large and for the punishment or corrective treatment of convicted offenders against the criminal law. In one of its oldest forms, the origin of which is lost in antiquity, it is used for the custody of persons accused of offenses against custom or statute law. In some states this remained until relatively recent times as almost the only form of imprisonment. As late as 1771 the French jurist Jousse stated that prison was used only to hold criminals before trial and not to punish them even in case of crime. The social significance of such imprisonment is obviously great, particularly since in most localities courts are not always in session. John Howard in his investigation of English prisons in the eighteenth century found prisoners who had been confined for seven years awaiting trial. The average length of confinement for this purpose in the jails of the United States may run into weeks and in isolated instances into a year or longer. Imprisonment is used also for the detention of material witnesses, whose presence at trial can be assured by no other means.

The fact that sentences cannot always be executed immediately upon conviction has necessitated the detention of prisoners until the execution of sentence. This form of imprisonment, also ancient, is most conspicuously illustrated in the death houses of state prisons in the United

States. In case of sentences to forced labor detention is incidental and is usually necessary to assure the execution of the primary penalty. Instances of this form of imprisonment may be found in ancient Egypt and Rome and in more modern civilizations in connection with sentences to the galleys. In substance of course slavery has often been accompanied by imprisonment; the road gangs of the southern states of the United States are strongly reminiscent of this type of detention. Debtors have frequently been subjected to imprisonment in order to compel payment. Particularly during that period of legal history when composition took the place of bloody private vengeance it often became necessary for the aggrieved party to assure the payment of the bot by securing control over the person of the debtor and if necessary by forcing him to work off his debt. Later when the state took firmer hold of the administration of justice, imprisonment of private debtors was frequently allowed and has persisted until recent times. When the bot to the injured party gradually evolved into a fine to be paid to the state by the offender as a punishment for a breach of the peace, imprisonment gradually arose as a means of compelling payment. As such it is still common, having definitely become transformed into a substitute penalty. Imprisonment has also been used to force obedience to judicial decrees as in cases of non-payment of alimony or as a penalty for disobedience against violators of labor injunctions. It is employed occasionally to assure the execution of certain judicial or administrative orders, as, for example, those pertaining to the deportation of undesirable aliens.

Dangerous or undesirable persons have frequently been subjected to imprisonment. Such treatment was not unknown in the Middle Ages and was definitely incorporated into the legislation of the sixteenth and succeeding centuries. In recent decades it has become particularly important, especially outside the United States, as a measure of security (*mesure de sûreté*; *Sicherheitsmassnahme*) against abnormal or habitual criminals, being imposed as subsequent to the completion of punitive imprisonment. Imprisonment has also been used as a primary punishment for convicted criminals, at first probably as a commutation penalty substituted for a death sentence by an act of sovereign grace but later as a punishment recognized by law—a form of imprisonment which is today perhaps the most important if not the most common of all legal punishments.

Punitive imprisonment appears to have been used in China, India, Assyria and Babylon and Egypt. In ancient Greece and Rome it was all but unknown but with the coming of the Christian era its use increased. The church early recognized its value as a penitential punishment for certain offenses against the canon law. Reserved for delinquent members of the monastic orders and the clergy as early as the fourth century, it was soon extended to the laity under the jurisdiction of the church.

From canon law it was gradually translated into civil law. It appeared in England as early as the reign of Alfred (871-901) as a penalty for juvenile delinquents. Among the Lombardians a law of Liutprand in the year 726 decreed from two to three years' imprisonment for theft. It appeared as a subsidiary penalty for failure to pay bot in Lübeck in 1160 and at Brinn in 1243. Imprisonment was, however, rarely used as a primary punishment until the thirteenth and fourteenth centuries. A Nuremberg ordinance of about 1300 punished certain sex offenses with five years' imprisonment and a Cologne ordinance of the same period decreed a year's imprisonment for the breach of a peace order. A number of English statutes of this period also recognized imprisonment for certain types of offenses. In Italian cities it came into use in cases of petty crime during the Renaissance. At this early date it seems to have been employed as a mark of deference to their sex in the cases of certain women offenders and also of nobles as applied to some offenses for which the common man suffered corporal and capital penalties. These distinctions remained until the century of Enlightenment, when the principle of equality of all men before the law was established. Even where it had found hospitable reception in legislation punitive imprisonment was not used to any great extent until the middle of the sixteenth century in England and the beginning of the seventeenth century in continental Europe, and it was reserved for petty offenders. Not until the beginning of the nineteenth century did it succeed in displacing the capital and corporal penalties for serious crimes.

Imprisonment as a punitive measure had to await the development of a social philosophy which considered such a penalty more effective or suitable than others established by custom or law. It could hardly gain much popularity so long as punishment was considered a private matter. Even when the growing power of the state took charge of the administration of the criminal law,

centuries passed before imprisonment was promoted to a place of honor among these penalties. Its use may have been suggested by the right of asylum in ancient cities of refuge or by the practice of the detention of debtors, as contended by Wilhelm Wundt; it may also have been the natural outgrowth of the use of the pardoning power in commuting death penalties and of the preventive detention of dangerous or habitual offenders at the order of the sovereign, as G. Bohne and others have asserted. Whatever may have been the causes for the use of imprisonment in the ancient world, its introduction in mediæval and modern Europe was undoubtedly in large measure due to the influence of the church. By the time of the Renaissance, the individualistic philosophy of which Bohne emphasizes, imprisonment was firmly established as a penalty in canon law. The Reformation, the revolutionary economic changes in the Europe of the fourteenth, fifteenth and sixteenth centuries, which transformed the nature of criminality, and the growth of a humanitarian philosophy which culminated in the egalitarian doctrines of the eighteenth century combined to effect the disappearance of bloody and crippling penalties. To the freeman imprisonment was presumably the most severe of punishments and therefore the most deterrent. To the enlightened legislator imprisonment commended itself by the ease with which punishment could be adjusted by the length of the sentence to the guilt of the criminal and to the degree of enormity of his crime. To an industrial society it seemed eminently suitable as a means of combining punishment of criminals with profit to the state resulting from penal labor; to the humanitarian it appeared as a great advance over the cruelty of older laws and as an opportunity for human salvage.

It is difficult to say when the reformatory or corrective attitude became merged with the concept of punitive or deterrent imprisonment; evidence of this tendency is to be found, however, in documents of ancient China and in the writings of Plato. It was dominant in the canon law; in civil law it appears most definitely in the corrective imprisonment prescribed at the end of the sixteenth century in Elizabethan England and in Holland, whence it spread rapidly. Such legislation considered primarily the youthful petty offender of both sexes. Moral philosophers of the eighteenth century began to demand that imprisonment should always be used as a means of securing the moral regeneration of the prisoner. The climax of these demands is to be found

in the penitentiary movement of the last century.

Despite its conspicuous position in modern criminal law imprisonment is, generally speaking, a punishment reserved for the most serious crimes, and even for some of these crimes many countries are beginning to employ in part other measures of punishment. It is still generally used to detain persons arrested and held for preliminary hearing or for trial who either cannot find bail or are accused of non-bailable offenses; almost three million people pass annually through the police lockups and jails of the United States. Imprisonment as a form of punishment is not only losing ground in some countries, but in late decades sentences have in most jurisdictions grown shorter, indicating a lack of confidence in their efficacy. French judicial statistics, the oldest consecutive series in the world, show that between 1826 and 1830 the annual average of prison sentences expressed in percentages of total sentences was 99.3 for the *cours d'assises*, 18.0 for the *tribunaux correctionnels* and 4.9 for the *tribunaux de simple police*. In 1927 the corresponding percentages had changed to 98.0, 52.0 and 2.2, indicating that most of the serious crimes are still punished by imprisonment; that over half the serious misdemeanors are now so punished; while imprisonment for petty misdemeanors has almost disappeared, there being only 15,000 such punishments out of 704,000 cases in 1927. In all French courts in 1927, 14.8 of the sentences were prison sentences as compared with 13.7 in the years between 1826 and 1830. While the popularity of imprisonment as a form of punishment appears unchanged in France for over a century, the length of imprisonment has changed. Between 1826 and 1830, 2.3 percent of the prison sentences were over seven years in length, 27.5 percent between one and seven years and 70.2 percent one year or less. In 1927 the corresponding percentages were 0.3, 3.6 and 96.1. Furthermore in 1927 20.6 percent of these sentences were never executed. The statistics of Scotland show close similarity to those of France, except that the fine is not so frequently used. Between 1872 and 1876, 37.4 percent of all sentences were prison sentences; between 1917 and 1921, 38.0. In Germany in 1886, 69.4 percent of all sentences for offenses against the imperial laws were prison sentences; in 1928, 30.6 percent. A progressive shortening of the sentence is also evident. In England in 1866, 97.6 percent of the convictions in assizes and quarter sessions were followed by imprisonment, while in lower courts 21.3 percent of con-

victions had similar consequences; the corresponding figures for 1929, 72.7 percent and 4 percent, indicate considerable modification in law and judicial practise. In Canada in 1880, 16.9 percent of all sentences resulted in imprisonment; in 1930, 7.4 percent.

In New York in 1926 a study of felony convictions in representative counties indicated that 69 percent resulted in imprisonment. In Indiana in 1929, 74 percent of the felony convictions were so punished. The superior courts of Maine sent 43 percent of their convicted defendants to prison in 1930. The following table derived from a pioneer study of the Johns Hopkins University Institute of Law shows the percentage of cases for which higher courts in Ohio and Maryland, dealing with the more serious offenses, specified imprisonment as a penalty in 1930:

|                            | Ohio | Maryland |
|----------------------------|------|----------|
| Homicide                   | 84.5 | 89.5     |
| Rape                       | 83.2 | 77.2     |
| Robbery                    | 82.4 | 92.8     |
| Aggravated assault         | 72.0 | 79.8     |
| Burglary                   | 68.0 | 84.3     |
| Automobile theft           | 63.4 |          |
| Minor assaults             | 63.6 | 86.9     |
| Forgery and counterfeiting | 35.2 | 67.2     |
| Embezzling and fraud       | 64.0 | 74.2     |
| Carrying concealed weapons | 50.3 | 72.0     |
| Sex offenses, except rape  | 64.7 | 71.1     |
| Offenses against family    | 70.6 | 20.1     |
| Liquor law offenses        | 29.8 | 8.0      |
| All offenses               | 7.4  | 29.4     |
|                            | 55.0 | 54.3     |

The absence of adequate judicial statistics in the United States makes a study of the trends in sentencing policies almost impossible. Statistics published by the United States Bureau of the Census, in so far as they are comparable, indicate that the sentences of prisoners received in federal and state prisons and reformatories for adults in 1923 were of an average minimum length of 2.37 years and a maximum of 7.69 years for males and .9 years minimum and 4.49 years maximum for females. The corresponding figures for 1927 were for males 2.12 and 7.66 years and for females .67 and 4.30 years. Although the data are too meager to permit any conclusions, there is reason to believe that even in the United States imprisonment has progressively declined as a punishment for minor offenses and that even in the case of felonies other forms of treatment, such as fines, probation and suspended sentences, have in recent decades become widely employed. Imprisonment is still the preferred punishment for felonies in all civilized nations;

comparative studies of criminal law show, however, that in so far as its application to specific crimes is concerned no uniformity whatever exists, because of the fact that the concern with which a given type of offense is regarded by a given community is determined by that community itself and usually on emotional and irrational grounds.

Imprisonment is widely defended for its deterrent value and its importance in restricting the liberty of dangerous criminals. A study of the records of recidivism of prisoners throws serious doubt on the former contention. Statistics indicate furthermore that the indeterminate sentence, parole and judicial discretion in assigning definite sentences have resulted in relatively short periods of punitive confinement for all but certain groups of offenders. In 1927, for instance, the average time served by prisoners discharged from federal and state institutions for adults was only 2.18 years for men and 1.33 years for women. Recent researches into the careers of prisoners after their release from prison also challenge the reformatory powers of this penalty, and while the validity of the source may be questioned, autobiographical records of erstwhile prisoners lend strong support to the claims of penologists. Many of these have come to suspect that social virtues can never be taught in the repressive atmosphere of the traditional prison and that even at its best a prison offers slight opportunity for rehabilitating criminals in the face of inadequate financial appropriations, the general apathy and even hostility which meet the prisoner on his release and the progressive shortening of sentences; this last development while perhaps beneficial to the prisoner in view of the present status of prisons makes the process of socialization in the institution increasingly difficult.

Some states have provided funds for the indemnification of persons who have been wrongly imprisoned; others occasionally meet a particular case by the enactment of a private law. In most states, however, no provision has been made to compensate such persons for loss of time, liberty and social prestige—a survival of an old doctrine that the sovereign can do no wrong.

THORSTEN SELLIN

See: PENAL INSTITUTIONS; PRISON REFORM; PUNISHMENT; CHIME; CRIMINOLOGY; FINES; DEBT; CONTEMPT OF COURT; ARREST; BAIL; HABEAS CORPUS; PARDON; PAROLE; INDETERMINATE SENTENCE; RECIDIVISM; PRISON LABOR.

Consult: Hippel, Robert von, "Beiträge zur Geschichte

der Freiheitsstrafe" in *Zeitschrift für die gesamte Strafrechtswissenschaft*, vol. xviii (1898) 419-94, 608-66, and *Deutsches Strafrecht*, 2 vols. (Berlin 1925-30) vol. i; Bohne, G., *Die Freiheitsstrafe in den italienischen Stadtrechten des 12. bis 16. Jahrhundert*, 2 vols. (Leipzig 1922 25); Sengels, G., *Die Entstehung der Freiheitsstrafe*, *Strafrechtliche Abhandlungen*, no. 242 (Breslau 1928); Dolzsch, von Dolzsch, F., *Die Entstehung der Freiheitsstrafe unter besonderer Berücksichtigung des Auftretens moderner Freiheitsstrafe in England*, *Strafrechtliche Abhandlungen*, no. 244 (Breslau 1928); Krauss, F. A. K., *Im Körper vor und nach Christus* (Freiburg 1895); Hiss, R., *Geschichte des deutschen Strafrechts bis zur Karolina* (Munich 1928); Exner, F., *Studien über die Strafzumessungspraxis der deutschen Gerichte* (Leipzig 1931); Bar, K. L. von, and others, *Handbuch des deutschen Strafrechts* (Berlin 1882), tr. as *A History of Continental Criminal Law*, *Continental Legal History series*, vol. vi (London 1916); Wundt, W., *Völkerpsychologie*, 10 vols. (vols. i-iv 3rd ed., vols. v-vi 2nd ed., Leipzig 1911 20) vol. ix; Sieverts, R., *Die Wirkungen der Freiheitsstrafe und Untersuchungshaft auf die Psyche der Gefangenen* (Mannheim 1929); Beltrami-Scalia, M., *Sul governo e sulla riforma delle carceri in Italia* (Turin 1867); Kahn, L., *Étude sur le délit et la peine en droit canon* (Nancy 1898); Stephen, J. F., *History of the Criminal Law of England*, 3 vols. (London 1883); Ives, G., *A History of Penal Methods* (London 1914); Leonard, E. M., *The Early History of English Poor Relief* (Cambridge, Eng. 1900); Robinson, L. N., *Penology in the United States* (Philadelphia 1921); Barnes, H. E., *The Evolution of Penology in Pennsylvania* (Indianapolis 1927); Glueck, S. S. and E. T., *Five Hundred Criminal Careers* (New York 1930); Sellin, Thorsten, "Dom Jean Mabillon—A Prison Reformer of the Seventeenth Century" in *American Institute of Criminal Law and Criminology, Journal*, vol. xvii (1926-27) 581-602.

INAMA-STERNEGG, KARL, 'THEODOR VON (1843-1908), Austrian economic historian and statistician. Inama studied political science, history and jurisprudence in Munich and was appointed professor of political science at the University of Innsbruck in 1868. There he devoted himself primarily to the opening up of new sources of economic history and prepared the publication of *Die tirolischen Weistümer* (3 vols., Vienna 1875-80) for the series of *Österreichische Weistümer*, a collection of customary laws which had been undertaken by the Vienna Academy of Sciences. As a preparatory work to this he published *Untersuchungen über das Hofsystem im Mittelalter* (Innsbruck 1872) and "Die Entwicklung der deutschen Alpendörfer" (in *Historisches Taschenbuch*, 5th ser., vol. iv, 1874, p. 99-106). He also published studies *Über die Quellen der deutschen Wirtschaftsgeschichte* (Vienna 1877) and "Über Urbarien und Urbarialaufzeichnungen" (in *Archivische Zeitschrift*, vol. ii, 1877, p. 26 52), which were of use in agrarian historical research, and laid down his

interpretation of the agrarian history of the early Middle Ages in *Die Ausbildung der grossen Grundherrschaften in Deutschland während der Karolingerzeit* (Leipzig 1878). In 1879 appeared the first volume of his *Deutsche Wirtschaftsgeschichte* (3 vols., Leipzig 1879-1901; vol. 1, 2nd ed. 1909), a pioneer contribution to the discipline of economic history, which was then in its beginnings, the subsequent volumes of which dealt with the latter Middle Ages. Inama represented from the very first an evolutionary point of view in that he considered all the conditions of the present to have grown gradually out of those of the past. In accord with the general view of the time agrarian history was for him the most important phase of economic history. A leading representative of the *hofrechtliche Theorie*, Inama stressed the fundamental significance of the manorial system (*Grundherrschaft*) for the economic and social organization of the Middle Ages and traced the origin of early mediaeval industry and the rise of towns, markets and guilds to the institution of the manor. A few years before his death he founded the *Österreichische Urbare* (1904), published by the Vienna Academy of Sciences, which reproduces the sources of agrarian history of the Middle Ages with explanatory tables and maps.

Inama entered an entirely new field of activity when he was appointed to the direction of administrative statistics in Vienna in 1881. As president of the Central Statistical Commission from 1884 to 1905 he directed the Austrian national censuses of 1890 and 1900 and essentially improved statistical methods, introducing for electrical tabulation a machine of Austrian invention which was superior to that of the American Hollerith. He widened the scope of statistical inquiry, founded the *Österreichische Statistik*, of which seventy-six volumes appeared during his tenure of office, and established the annual *Österreichisches statistisches Handbuch*. He collected Austrian city statistics according to a unified plan in the *Österreichisches Städtebuch* and the statistics of the autonomous local governments in a separate publication. Inama also founded a research seminar in statistics at the University of Vienna, where he taught as honorary professor of statistics; the seminar functioned as a training center for the entire pre-war generation of Austrian statisticians.

ALFONS DOPSCH

*Consult:* Mischler, E., in *Schnollers Jahrbuch*, vol. xxxiii (1909) 129-59; Rauchberg, H., in *Zeitschrift für Volkswirtschaft, Sozialpolitik und Verwaltung*, vol.

xviii (1909) 1-28; Below, G. von, in *Biographisches Jahrbuch und deutscher Nekrolog*, vol. xiii (1908) 116-24, listing Inama-Sternegg's works, and in *Vierteljahrschrift für Social- und Wirtschaftsgeschichte*, vol. vii (1909) 167-71; Juraschek, Franz von, "Vierundzwanzig Jahre der statistischen Zentralkommission Österreichs unter von Inama-Sterneggs Leitung" in *Statistische Monatschrift*, vol. xxxii (1906) 1-13.

INCEST is illicit sexual relationship between persons within the degrees of consanguinity excluded from such relationship by socially determined regulations. The penalizing of some forms of incest is characteristic of all human societies; the varying intensity of the punishment is largely determined by the degree to which the practise of incest interferes with the social obligations essential to the maintenance of the social structure. The law against incest is rarely enforced in modern societies with the vigor with which the correlate amongst many primitive peoples is enforced, for no modern society is based upon affinal obligations to the same degree as are most primitive societies. In many of the latter the consanguine group, small or extended, of unilateral or of bilateral descent lives sundered from other similar groups except for the interrelationships that attend intermarriage. In the absence of a highly developed political organization social organization depends on the performance of the obligations attached to relationship. A separation of affinal relationship from consanguineous relationship assures a wider recognition of social obligation, for the former relationship carries with it such obligations as alliance in war and cooperation in hunting and in mourning ceremonial. Any incestuous alliance between two persons within a single consanguineous group is in so far a withdrawal of their consanguineous group from the alliance and so endangers the group's survival. Because in modern society the obligations attached to affinal kinship are not extensive and those attached to consanguineous kinship are restricted, rules against incest such as those contained in the Anglican prayer book are not all enforced by the state; but incest between consanguineous kin who are still within the restricted circle of real obligation remains liable to severe penalty. Aristocracies are an exception; although they require, when impoverished, affinal association with the wealthy of other classes, they nevertheless do not frown upon sexual relations considered incestuous by other groups.

Theorists as diverse in outlook as Freud, Westermarck, Brenda Seligman and Briffault

have dealt with the theory of incest from the point of view of the internal organization of the procreating group. Freud takes the family as it is constituted in modern European society and draws a picture of a belligerent father opposing a son's incestuous desire for the mother. The son's incestuous desire is suppressed and the force of the revulsion drives the son's desires away from home. The dynamics of these forces are supposed to be rooted also in a primitive society in which the father possessed many women and drove the sons from home by his own main force, an apocryphal state of primitive society which has never been actually described in fact. Malinowski has given a description of a meek father in a matrilineal society, a fairly frequent primitive type, which negates Freud's theory.

Westermarck's theory of incest is that inbreeding is biologically harmful and that there is in the human race an instinctive aversion to incest, which is aroused by familiarity through the close proximity of members of a family. Inbreeding, however, is not known to be biologically harmful except amongst stocks which are too poor to stand an accentuation of their qualities. Furthermore, while it may be true that familiarity does not arouse sexual desire, such familiarity must be of a non-sexual character. If, for example, brothers and sisters in any society were encouraged to sexual familiarity in childhood there is no evidence that sexual aversion would develop between them. Brother and sister are, however, encouraged to sexual aversion from early childhood in most societies. In some societies a stringent avoidance between brother and sister is set up in childhood and maintained throughout life; this would lead to sexual attraction, were Westermarck's theory correct. Actually the avoidance functions effectively in prevention of incest. Once the terms of a familiar relationship are set up, further familiarity develops the relationship whether it be sexual or antisexual. Westermarck appeals to knowledge of a familiar relationship that is culturally antisexual to derive a theory of natural sexual antipathy within it. But the antipathy is a cultural product just as a complete avoidance between brother and sister is a cultural product. In modern society a complete avoidance between brother and sister is not enforced in childhood as it is, for example, in the Trobriands and in Samoa, because in modern society sexual habits are not allowed free expression and early formation. Westermarck therefore in urging an influence of familiarity presupposes the terms of

the familiarity which are socially determined in an antisexual direction, and which are not an explanation but a subject for explanation.

Brenda Seligman like Freud bases her case on the constitution of the family. The father protects his sexual rights in the mother from the son. The mother protects her sexual rights in the father from the daughter. The parents, prevented by each other from incest with a child of the opposite sex, prevent the children from incest with each other. A father, for example, who is denied incest with his daughter denies his daughter to his son. Incest is held to destroy discipline between the generations by arousing jealousies and competition in place of authority and cooperation. Briffault presupposes a universal primitive matrilineal state. Mothers loved their sons and required their children to cleave to them, as occurs in any matrilineal society. The mothers were successful in keeping their daughters at home and in preventing their sons from loving any women but those at home. The sons to gratify sexual desire had to break with the mother and so married away from home. The jealous mother in this theory replaces Freud's jealous father.

All of these theories revolve about the internal constitution of the biological family of parents and children, which is found very widely in different societies, although not so universally as the prohibition upon incest. Where the biological family and the prohibition of incest are both found it is rare for the field of the latter to be confined to the former. If the prohibition of incest is to be explained in terms of family jealousies or aversions it must be assumed that the range of operation of these jealousies and aversions is expanded beyond the family—on occasion into a unilateral clan or gens, sometimes into an extended bilateral kinship group and occasionally into three out of four or into seven out of eight classes of consanguinity. The inference is that neither jealousies nor aversions are the prime determinants of the social forms concerned in the regulation of incest. The founding of a theory of incest upon the supposed effects of the practise upon the internal structure of the procreating group is a theoretical overelaboration of the restricted range of incest which is found in modern society. In practically all societies, however, penalties upon incest are not motivated by the damage done within the incestuous group by the incest. The penalties are imposed upon the offenders by the wider society as a protest against the offense of disturbing social cooperation; there



are usually no such penalties imposed on other analogous provocations to jealousy in families.

The marriages of kings often differ considerably from the marriages of commoners in regard to what is considered incest. The king represents a social group much wider than his actual consanguine group, although in some societies all of a king's subjects are reckoned as his consanguine group. There was royal incest in Egypt and in Hawaii, although in Hawaii the king married twice, once incestuously, the second time further afield than his subjects. In incestuous marriage the king indicates the independence of his blood and of his kingdom. In marriage further afield than is the custom of his commoners the king acts like any one of his subjects in the latter's more restricted orbit; he makes an alliance between his own group and another group. When a king fails to make this latter type of marriage, his marriage is usually regarded as morganatic. There is greater similarity from this point of view between the morganatic marriage of a king and the incestuous marriage of a subject than there is between the incestuous marriage of a king and the incestuous marriage of a subject, for a morganatic marriage fails to produce an expected alliance between social groups just as does the subject's incestuous marriage.

In unilateral societies where social organization divides a kin into different social groups which may then often be reunited by affinalties, marriage is frequently contracted between the children of siblings of opposite sex, where sexual relations between the children of siblings of the same sex are regarded as incestuous; for the children of siblings of opposite sex belong to different groups whether marriage residence be patrilocal or matrilocal and social organization patrilineal or matrilineal. Bilateral social organization, which involves a wider consanguine group in the relationship function, commonly makes all sexual relationships within the bilateral group, except that of husband and wife, incestuous.

#### REO FORTUNE

See: SOCIAL ORGANIZATION; KINSHIP; MARRIAGE; FAMILY; TABU; SOCIAL SANCTIONS.

Consult: Freud, Sigmund, *Totem und Tabu* (3rd ed. Vienna 1922), tr. by A. A. Brill (new ed. New York 1927) ch. i; Westernmarch, E., *The History of Human Marriage*, 3 vols. (5th ed. London 1921) vol. ii, ch. xix; Seligman, B. Z., "Incest and Descent, Their Influence on Social Organization" in Royal Anthropological Institute of Great Britain and Ireland, *Journal*, vol. lix (1929) 231-72; Briffault, Robert, *The Mothers*, 3 vols. (London 1927) vols. i and iii; Malinowski,

Bronislaw, *The Sexual Life of Savages in North-western Melanesia* (London 1929) chs. xiii-xiv, and *Sex and Repression in Savage Society* (London 1927); Crawley, A. E., *The Mystic Rose*, ed. by Theodore Besterman, 2 vols. (new ed. London 1927) vol. ii, p. 205-20; Frazer, J. G., *Totemism and Exogamy*, 4 vols. (London 1910); Boas, Franz, "The Origin of Totemism" in *American Anthropologist*, vol. xviii (1916) 319-26; Sumner, W. G., and Keller, A. G., *The Science of Society*, 4 vols. (New Haven 1927) vol. iv, p. 860-79; Ellis, Havelock, *Sexual Selection in Man*, Studies in the Psychology of Sex, vol. iv (Philadelphia 1906) p. 204-07; Durkheim, Émile, "La prohibition de l'inceste et ses origines" in *Année sociologique*, vol. i (1898) 1-70; Lowie, R. H., *Primitive Society* (New York 1920) p. 15-16, 104-05, 408; Ruglau, F. R. S., "Incest and Exogamy" in Royal Anthropological Institute of Great Britain and Ireland, *Journal*, vol. lxi (1931) 167-80; Nieuwenhuis, A. W., "Die psychologische Bedeutung der Inzesterscheinungen in Australien" in *Internationales Archiv für Ethnographie*, vol. xxx (1929) 1-52; Többen, Heinrich, *Über den Inzest* (Vienna 1925); Howard, G. E., *A History of Matrimonial Institutions*, 3 vols. (Chicago 1904) vol. i, p. 121-32, vol. ii, p. 177-78, 212-15; Corbett, P. E., *The Roman Law of Marriage* (Oxford 1930) p. 47-51; Mielziner, Moses, *The Jewish Law of Marriage and Divorce* (2nd ed. New York 1901) ch. v; *A Manual of the Law of Marriage from the Mukhtasar of Sidi Khatib*, tr. by A. D. Russell and A. A. Sulrawardy (London 1913); Banerjee, Gooroodass, *The Hindu Law of Marriage and Stridhana* (Calcutta 1896) p. 60-72; Freisen, Joseph, *Geschichte des canonischen Eherechts* (Tübingen 1888) p. 575-87; Ayrinhac, H. A., *Marriage Legislation in the New Code of Canon Law* (New York 1918) p. 166-74; Coudert, F. R., *Marriage and Divorce Laws in Europe* (New York 1893); Keezer, F. H., *A Treatise on the Law of Marriage and Divorce* (2nd ed. Indianapolis 1923) ch. ix.

INCOME consists of services, which can be defined as desirable events or the avoidance of undesirable events. Under services may be included benefits from a property right, such as the interest yield of a bond; the benefits derived from objective instruments, such as the shelter afforded by a dwelling, or from the cooperation of individuals with such instruments, as the transportation service of a railway; and the services rendered by individuals whether they be manual laborers or professional men. The value of an income is the value of the services of which it consists; it is measured for practical purposes in terms of money.

Since income in general is a set of services, any particular kind of income is merely a specific collection of services selected in accordance with certain principles for a definite purpose. Thus the total income of an individual is the total money value of the services received by him from all sources including his own activity, while the dividends during a certain period of

time yielded by a certain preferred stock owned by him is a definite separable set of items out of his total income. Similarly a person's net money income is the sum of all his money receipts, less the money invested. 'This is equal to the money he spends; for all money received must be either spent or invested.

'The income of society as a whole is the total money value of all the services received by the members of society from all sources. The concept of social income, however, does not, as might at first be suspected, involve double counting; for in the summation of any group of income items many items will be found to be negative debits instead of credits. Certain events, which may be called interactions, are at the same time services and disservices, according to the point of view. These cancel out automatically (in cases where both points of view are included) under the principles of double entry bookkeeping. For instance, when yarn from a spinning mill is transferred to a weaving mill to be woven into cloth, the value of the yarn is credited to the spinning mill as a service and debited to the weaving mill as a disservice, or cost. To the owner of the spinning mill the transfer is income; to the owner of the weaving mill the same item is outgo, or negative income. If the same man owns both mills, the interaction between the two mills counts both ways and is canceled out of his accounts. So also it cancels out in society's collective books.

Most events are interactions; so that in a comprehensive view most services are also disservices and cancel out, leaving as a final uncanceled fringe only the psychic experiences—enjoyable or distasteful—of the consumer. When everything is included, every item except these experiences of the consumer appears as two, pairing off as an interaction, and automatically cancels out. If this theoretical bookkeeping were to be carried to the bitter end, it would be necessary to include items in private life which cannot be reduced to money valuations. But for practical purposes it may be possible to exclude from this accounting the events in the private life of the consumer. Thus instead of pursuing him into his dining room and recording in the theoretical accounts every process of his eating and drinking, the economic observer may be content to stand outside and keep account only of the food as delivered by the grocer; he will record the money valuation of the food although he can not appraise its later consumption. This restriction does not alter fundamen-

tally the principles of summation; it simply leaves uncanceled a different fringe. Instead of the highly theoretical psychic satisfactions emerging in a complete analysis the net result now turns out to be the highly practical "real wages" of the laborer or more generally the "real income" of an individual; that is, the value of his expenditures for food, clothing, shelter, amusements and other miscellaneous services representing the last stage measurable in money before the state of private consumption.

Real income may be said to be the peg on which all other valuations hang. All interactions anticipate real income and by the process of discounting derive their valuations from it. Thus a capital balance sheet at any given date is obtained by discounting (capitalizing) expected real income. It is made up of assets and liabilities. Each separate asset consists of the present value of a separate bundle of services expected in the future. Each liability consists of the present value of future disservices. Capital is simply the algebraic sum of a given collection of assets and liabilities; that is, of positive capital and negative capital. To be complete the collection should also include goodwill in the technical sense of the excess of the valuation of the prospective services of the enterprise considered as a whole over the mere sum of the valuations which are assigned to the assets when considered separately.

One important result of these principles of income computation is the exclusion of capital gain from income. The capitalization at any point of time of future expected income is not itself income, and by the same token an increase in this capitalization from one point of time to another is not income—except potentially. Thus if \$1000 in a savings bank is earning \$40 a year and if the depositor actually withdraws his interest earnings every year, the actual income from his savings bank account is \$40 a year and the principal sum is the capitalization of this income in perpetuity; but if he does not withdraw the interest this amount is merely accrued and becomes capital gain, or savings, rather than income. If the interest accruing at the end of the first year is left in the bank, the interest earned every year thereafter would be \$41.60. The depositor's actual income is then zero the first year and \$41.60 thereafter (if he withdraws it) and not, as often carelessly thought, \$40 the first year and \$41.60 thereafter. That is, at the end of the first year \$1040 is the then discounted value of the \$41.60 a year thereafter; and at the

beginning of the first year \$1000 is the then discounted value of this same \$41.60 a year without counting any income in the first year at all. The amount of \$1000 is certainly not the discounted value of an income of \$40 the first year and \$41.60 the second and every subsequent year thereafter. The accrued \$40 is not income but the difference between two capitalizations; namely, \$1040 at the end of the first year and \$1000 at the beginning. It was only potentially income; that is, it could have been withdrawn without diminishing the value of the original capital. The depositor had to choose between taking it out as income or leaving it in as capital; by preferring the second alternative he increased his capital at the expense of present income. No essential change is introduced if the depositor actually takes out the accrued interest and then immediately redeposits it. If its receipt was income, its redeposit was certainly outgo; so that the net income is still zero. Nor will it make any difference if the amount is redeposited not in the original bank but in another from which he receives \$1.60 a year interest thereafter. Merely to use two banks does not change the net effect.

It is right and proper, however, that accountants should set up ideal standards and reckon potential as well as actual income. Such standards are often more useful to business than the exact recording of actualities with all their irregular fluctuations. Indeed much of an accountant's work consists in smoothing out irregularities. To absorb the shock of unusually big items he spreads these over long periods by means of reserve accounts, sinking funds and other accounting devices; also unusually small items may be eked out. Potential income is so convenient for comparison as to merit being called income so long as it is made clear that this income is not actual.

From the point of view of the stockholder stock dividends and some split ups do not represent income, for a stock dividend is equivalent to a money dividend actually received and then immediately reinvested in the new stock. It is true, of course, that a stock dividend, especially if received regularly, may be sold in the open market and turned into income exactly comparable to cash dividends. But such realization of the potential income represented by the stock dividend is possible only at the expense of investment by someone else, the buyer of the new shares received as dividends. Whether capital gain and stock dividends are income is not sim-

ply a question of theory; it has important practical consequences in connection with the income tax (*q.v.*) and under certain conditions it has been a rather important factor in stock market movements.

Certain peculiarities attach to income from labor as contrasted with income from property. Thus in computing the income of a servant girl it would be necessary to include not only her wages but also her perquisites—board and lodging—for these are a part of her compensation in addition to money wages. On the other hand, from this total should be subtracted a valuation of disservices, the irksomeness of her toil; practically this would be as difficult, of course, as directly to value psychic satisfactions. Furthermore accountants do not usually depreciate the income of a working man as they depreciate that from a work animal or a machine; for they cannot easily appraise the value of a human being. So that, whereas the accountant's standard of income from capital is a perpetual annuity, his standard for a human being is the current income earned. Because of these difficulties the income from labor as stated in terms of money is always larger than it would be if the computation of income from property were taken as the standard procedure: it does not allow for the depreciation of a human being as a source of labor power nor for the negative value of distasteful experiences connected with labor. If accountants could put a money value on psychic phenomena and human wear and tear, it would be more readily recognized that the grand total of all incomes is simply satisfactions less the efforts of obtaining them.

The concept of income developed above is most closely identified with the work of Irving Fisher. It incorporates into a self-consistent theory the accountant's and business man's view of income and capital; and it can be easily articulated with theories of value and distribution which represent a specific adaptation of the marginalist approach to the usages of a highly developed business economy. While it is coming to be more and more accepted by economists and accountants it cannot be said as yet to represent the *communis opinio* of all or even most students. Like many other concepts of general familiarity and fundamental importance in economics, income is still a controversial subject; and the fact that income must be defined for taxation purposes and actually has been so defined in many jurisdictions in a variety of ways

does not help matters. For the kind of income that is to be taxed is largely determined by the economic organization of a country and the fiscal needs of its government. Even the economist's view of income is influenced to a certain extent by the type of economic activity which he observes about him. It is not to be wondered at therefore that the mercantilist's notion of income resembled the balance of profit on the merchant's books at the close of the year and that the physiocrats boldly identified it with the *produit net* of the progressive agricultural entrepreneur. Adam Smith's classic definition of "gross revenue" as "the whole annual produce of . . . land and labour" and of "net revenue" as "what remains free . . . after deducting the expense of maintaining first . . . fixed and secondly . . . circulating capital" (*Wealth of Nations*, bk. ii, ch. ii) is in its turn suggestive of the attitude of a competent man of affairs in the period of incipient industrialism.

The thought expressed in the second part of Smith's definition of net income—"what without encroaching upon their capital they can place in their stock reserved for immediate consumption"—was widely accepted during the nineteenth century as the most essential characteristic of income. Its identification of income with the measure of ability to pay taxes seemed particularly opportune at the time when the faculty doctrine and the income tax were becoming increasingly popular. For practical taxation purposes this definition, however, was not sufficiently precise, and numerous efforts were made to clarify it. For example, it left unsettled the question whether chance gains such as legacies, gifts, lottery gains and the like were to be properly regarded as income and taxed as such. The answer was sought by some in the direction of restricting the definition. Income was made to include only those accessions which a rational economic subject might treat as properly available for consumption; or only such receipts as might be expected to recur regularly (Gustav Cohn); or accruals from permanent sources which by their very nature promise a regular and fairly even yield (Adolf Wagner); or in an even more generalized form the product of gainful activity. Other authorities sought a broader definition which would include aleatory gains under taxable income. Perhaps the extreme of this school of thought is represented by G. Schanz, who regards as income the entire difference between the value of assets at the end of the fiscal period and their value at the beginning, thus

including every accretion—in money or kind, regular or irregular, from continuous or temporary sources—deducting only interest payments and capital losses. A more general phrasing of the same thought is the concept current in the German literature at present according to which income is the increase in the economic power of the individual or corporate entity during the period in question. Whatever the value of these concepts for taxation purposes, it is fairly clear that they fail to establish the distinction between income and capital; the broader definitions do not even attempt to draw such a distinction and the narrower concepts depend upon a conventional definition of capital for this distinction. Nor do any of them offer the possibility of a unified treatment of all economic phenomena from the point of view of the flow of services and disservices and its capitalization in time.

IRVING FISHER

See: NATIONAL INCOME; DISTRIBUTION; UTILITY; VALUE; COST; CAPITAL; SAVINGS; CORPORATION FINANCE; INCOME TAX.

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INCOME, NATIONAL. See NATIONAL INCOME.

**INCOME TAX** is a tax on the income of the taxpayer. The term, however, is used in two senses. It may refer to a tax on the income from a special source like wages, interest or rent or to a tax on the entire income from whatever source derived. In the one case it is called a partial income tax, in the other a general income tax. A general income tax, like a general property tax, is a personal tax, or a tax on the person, whose ability is measured in this case by his entire income, as in the other case by his entire property. A partial income tax, like a specific property tax, is indeed paid by some person—the recipient of the income or the owner of the property—but only in relation to a particular source of income or a specific piece of property. For a partial income tax there is no generally accepted name. Both the specific property tax and the partial income tax are really semi-personal taxes as distinguished on the one hand from the purely personal taxes, where there is no reference to any particular thing, and on the other hand from the impersonal taxes, like a tax on tobacco, where there is no reference to any particular person.

The income tax is generally regarded as a direct tax. In the United States the constitution requires direct taxes to be apportioned according to representative population. The term was therefore long interpreted to mean only poll and land taxes; the Civil War income tax was accordingly classed as indirect. When, however, the income tax of 1894 was adjudged to be a direct tax (*Pollack v. Farmers' Loan and Trust Company*, 157 U. S. 429, 158 U. S. 601), it required a constitutional amendment to make an income tax possible.

**History.** The income tax is an essentially modern phenomenon. Its origin is closely associated with the development of commerce and industry, with the widespread diffusion of the money economy and the consequent emergence of new forms of wealth which could not be reached by older forms of taxation. In early communities ability to pay taxes is measured in terms of property. As real estate was supplemented by personality the original specific land tax everywhere became a general property tax. Under modern conditions of industrial life property no longer suffices as a criterion of taxpaying ability. The merchant relies to an increasing extent upon the rate of turnover; the entrepreneur is influenced by speculative and other aleatory gains; the laborer, now divorced from the means of production, is dependent solely on his wages; the salaried and professional classes live on their

earnings; the wealthy learn to distinguish between varying rates of return on their investments. The test of ability is shifted from property or capital as a fund to income as a flow of wealth. Income becomes the paramount criterion of prosperity. The general property tax decays, until it is replaced by the general income tax.

The adoption and successful administration of the income tax further presuppose a fairly advanced stage of political organization and the existence of political institutions which are conducive to the development of a considerable degree of cooperation between the community and the state. Accordingly the income tax is found for the first time in the commercial democracies of mediaeval Italy. But with the victory of the later feudalism and the downfall of democracy the income tax soon disappeared. In its modern version the tax did not appear until the end of the eighteenth century.

The modern income tax has traversed four stages: (1) as a sporadic resource in war, (2) as a temporary addition to regular revenues, (3) as a permanent source of revenue and (4) as the chief reliance of the fiscal system.

The first important example of the general income tax as a sporadic war measure was the so-called compulsory loan in France in 1793. More significant was the British tax imposed by Pitt in 1798 and abolished amid universal rejoicing in 1816, at the conclusion of the war. Of a similar character was the American income tax of 1864, the first of the Civil War taxes to lapse by limitation in 1872.

The income tax in peace time dates from the 1840's. Baselstadt in Switzerland introduced an income tax in 1840. In 1842 Peel reintroduced the income tax for three years in order to compensate for the repeal of the corn laws. Austria followed in 1849 and Italy in 1864.

In Great Britain fiscal necessities caused the periodical reenactment of the income tax, until the question of its permanent retention was fought out in the campaign of 1874. The third stage thus attained in England was reached elsewhere in the next two decades. Democratic Australasia was the first to follow the example. South Australia initiated the income tax in 1884, New Zealand in 1891, Tasmania in 1894. In the meantime Japan had created an income tax in 1887; and the German commonwealths, with Prussia in the lead, in 1891. The Netherlands followed in 1893. The United States enacted an income tax law in 1894, but it was declared unconstitutional in 1895; an income tax was adopt-

ed again in 1913 after the passage of the Sixteenth Amendment.

The income tax reached its highest development during and after the World War. The increased fiscal burdens of the war and post-war period coupled with the outburst of the democratic and socialistic sentiments characteristic of the post-war era led to the adoption of income taxes in all the new states created by the peace treaties and to sharply increased rates in the older countries. Today the income tax has become the sheet anchor of the revenue system in the most advanced countries. In the United States and Great Britain it is by far the outstanding source of revenue. In 1918 and 1920 in the United States the income tax together with the excess profits tax produced about 59 percent of the total ordinary receipts of the federal government. Its yield declined to about 49 percent in 1925 but rose again to 58 percent in 1930. In Great Britain the income tax yielded 29 percent of total tax receipts in the last pre-war year, about 50 percent in 1925-26 and about 43.5 percent in 1929-30. Even in France and Germany, where the war exigencies have compelled resort to the sales tax, it is of the greatest importance. In the post-war years in Germany its yield amounted to about 35 percent of total ordinary receipts, while in France its yield rose from 13 percent of total tax revenue in 1920 to 30.5 percent in 1925, although it declined in 1928 to 21 percent. In post-war Italy the income tax produced from 30 to 40 percent of total tax revenue.

Even in the separate American commonwealths the same tendency is apparent. The primitive general property tax began to disintegrate in the more advanced states a few decades ago. While there are earlier sporadic examples of partial income taxes, the modern movement, apart from the experiment in Wisconsin in 1911, really dates from 1919, when the income tax in New York replaced the general property tax as the important source of revenue. The income tax has since then been adopted in part or in whole in a continually increasing number of states.

*Types of Income Taxes.* There are three chief types of general income taxes, which may be termed respectively the presumptive, the composite and the unitary type.

The presumptive income tax is best illustrated by the first British attempt in 1798. There existed at that time various taxes on expenditure, known as assessed taxes. On the assumption that a man's income can be roughly inferred from his expenditures the law provided a scale of rela-

tion of actual expenditure to presumed income. In class A, comprising persons who owned "establishments" consisting of carriages, horses or men servants, the income was presumed to be from three to five times the expenditures. In class B, comprising persons primarily assessed on houses, windows, clocks or watches, the income was presumed to be from one fourth to five times the expenditures. In class C, comprising persons who paid only on shops or lodgings, the proportion was from one tenth to twice the expenditures. Because of this threefold arrangement the tax was called the triple assessment. The presumption proved to be so inaccurate and the frauds so gross that the tax was abolished after a year to be replaced by a tax resting on actual rather than presumed income. In recent years the presumptive income tax is found only in countries where the economic and administrative conditions render the exact ascertainment of actual income difficult. Thus Greece after experimenting with another type adopted the presumptive income tax in 1921 and Belgium followed suit in 1930. In France this device is utilized only in the case of resident foreigners, where the control of actual income is not easy. The criterion, or presumption, is usually house rent; Belgium also utilizes furniture, servants, horses, automobiles and boats as criteria.

The composite income tax is a tax composed of a series of separate quasi-personal taxes, assessed on the particular sources of income with a superimposed personal tax on the income as a whole. This type of income tax is found in France and Italy.

In France when the old personal taxes were abolished in the revolution they were replaced by semipersonal taxes (*impôts réels*). Taxes were imposed on land, houses, business and the like and although payable by the owner were assessed without reference to his citizenship, residence or personal situation, such as indebtedness or the number of dependents. When the income tax was adopted in 1917 France, adding a few more of the same kind, grouped these specific taxes into six schedules according to the source of income with a different rate on the net proceeds or the income from each of the six sources. These levies constitute a series of so-called schedular taxes. While no attention is paid to indebtedness and little or none to the demands of graduation, a concession is made to considerations of personal ability to pay through exemptions corresponding to the minimum of subsistence and allowances for dependents. It is for this reason

that they may be called quasi-personal taxes; they are not quite personal in character, but almost so. In addition, however, to these *impôts cédulaires* the individual is also subject to a tax on his income as a whole (*impôt général or impôt global*), ascertained by combining the results of the schedular amounts. Here ample attention is paid to personal ability, through a system of exemptions, allowances, abatements and graduation; this is therefore a strictly personal tax.

In Italy, where real estate was still subject to the land tax, the income from other sources was tapped in 1864 by the so-called tax on the incomes from movable wealth (*imposta sui redditi della ricchezza mobile*) arranged in three categories or schedules. These schedules were gradually increased in number; to one of them the income from land was transferred in 1925. At present there are six schedules. In 1919, however, these schedular taxes, which now received the name of normal taxes on incomes (*imposte normale sui redditi*), were supplemented by a complementary tax on the entire income (*imposta complementare sul reddito complessivo*), to which a graduated scale was applied.

The composite income tax possesses the advantage of permitting in each separate schedule the most appropriate method of collection as well as a finer differentiation in rate. But it is rather complicated and suffers from the resemblance of the schedular taxes to the old taxes in rem.

The unitary income tax is best illustrated by the income tax system in the United States and Germany. Here the returns are indeed arranged by categories or rubrics according to the source of the income, but the separate items are then simply added together and the rate applies to the resulting total income. In Great Britain the categories or rubrics are more definitely divided into so-called schedules—A and B comprising income from the ownership and occupation of land respectively; C from public securities; D from trade, industry and professions; and E from public salaries and pensions. But this is primarily an administrative device, intended to facilitate the varying methods of collection. With the exception of a reduction permitted for agricultural incomes there is no difference among the schedules in rates, allowances, deductions and the like. The British tax, although often misinterpreted, is properly to be classed with those of Germany and the United States rather than with those of France and Italy. It is almost a pure personal tax, and not a combination of personal and quasi-personal taxes as in France.

The unitary tax is the most prevalent type of income tax; it is more adequate than the presumptive tax, simpler than the composite tax and is most suited to "tax minded" communities which are willing definitely to accept income as the best test of personal ability. A modified version of the unitary income tax applies in Soviet Russia, where progressive rates imposed on the income as a unit are differentiated according to the class status of the taxpayer.

Of limited application are the partial income taxes. These are primarily subsidiary taxes intended either to supplement the general property tax, as in the Swiss cantons, where the partial income tax is used to reach wages and professional earnings, or to replace parts of the general property tax, as in Massachusetts, where a partial income tax is levied on intangible personality, with a much lower rate on professional or trade incomes. In some countries this form of taxation is applied to reach corporate income. In other countries partial income taxes are used to reach special forms of earnings or profits. In this category there may be included a miscellaneous assortment of taxes, such as taxes on government securities, taxes on chain or department stores when assessed according to net profits and perhaps even taxes on certain forms of real estate levied according to net returns. These taxes, however, are of minor significance and scarcely come within the scope of income taxes in the usual sense of the term.

*The Concept of Taxable Income.* As an economic concept income denotes a flow of wealth during a definite period, as opposed to capital as a fund of wealth at a distinct point of time. It may be defined as the money or money's worth which comes in during a definite period over and above the expenses of acquisition. The fiscal concept of income, however, is still subject to dispute. In the nineteenth century Hermann and Schmoller elaborated the free disposition or consumption concept, which regards as income only those receipts of which an individual can dispose without impairing his capital. More common outside Germany was the periodicity concept, which would limit income to regularly recurring receipts. The broadest definition of income for taxation purposes was formulated by Georg Schanz in 1894 and was independently advanced over two decades later by R. M. Haig, who defines income as "the money value of the net accretion to one's economic power between two points of time." This view is in substantial agreement with the accountant's practise of as-

certaining the annual profit of an enterprise by comparing the balance sheet at the opening and the close of the year. As a reaction to Schanz, Strutz and Fuisting developed the source concept (*Quellentheorie*), which would confine taxable income to receipts from permanent sources.

With the exception of the income taxes in Basel and in Bremen, where the broader concept was almost wholly accepted, fiscal practise at the outset inclined toward the narrower interpretation of income. In the course of time, however, the concept was widened, the characteristic of regularity disappeared, while chance or aleatory receipts were subjected to supplementary taxes. At the present time findings, occasional earnings or lottery prizes are everywhere included in income, while inheritances are separately taxed, in part because they constitute irregular or accidental income. Special taxation of gifts is also widespread but is sometimes frustrated by administrative difficulties, as in the American experiment of 1922. Neither the permanence of the source nor the regularity of the receipt any longer forms a necessary part of the concept of taxable income.

The widening of the income concept, however, brought forth a number of difficult problems. The first problem is that of appreciation in value. Is this income or only addition to capital? In the light of the Schanz concept it undoubtedly is income. Theoretically this view seems sound. The fact that the gains are added to capital account is no objection. All saved income becomes capital; but until it is saved, it is income.

There are, however, some practical difficulties in the way of accepting this conclusion. In the first place an income tax is supposed to be paid out of income. But if the taxpayer's entire wealth consists in the house that has appreciated in value, he has no funds with which to pay the tax. If he is compelled to dispose of the house at forced sale, his estimated gains may vanish. Moreover his paper profits this year may disappear through a depreciation of value next year. If he has to pay a tax this year, he is not reimbursed for his loss next year. This objection might be removed by an adaptation of the American "net-loss" provision. Such losses are now permitted to be carried forward. They might perhaps also be carried backward.

The deduction of losses from income may, however, prove embarrassing in two ways. One of the weaknesses of the income tax is the fact that in periods of depression when the government is in especial need of larger revenues to

meet emergency outlays the yield diminishes. This disparity is accentuated by allowing losses to be deducted. Secondly, it is only human to minimize gains and to accentuate losses in making the returns. Unless there exists an almost perfect system of control, the government stands in the long run to lose more by permitting depreciation than it will gain by insisting on appreciation. To the extent, however, that the administration improves, this argument loses its force. The abundant returns of the American income tax in the years of prosperity were in no small measure due to the capital gains provision.

A further objection is to the effect that in case of a change in the general level of prices the money worth of a commodity at the end of the period may be greater than at the beginning. The owner may then be assessed for what is nothing but a fall in the value of gold. This objection might, however, be removed by reference to an index of prices, as is done in some of the foreign unearned increment taxes.

Finally, as capital gains are usually taxed when realized through sales or other disposition, the tax tends to retard the sale of property and securities in times of inflated prices. In the great American boom of 1929 this perhaps played a part in prolonging the inflation. But this consideration is of minor importance.

While the arguments are very close, the balance from the practical point of view seems to be in the direction of non-inclusion. It is of course not to be denied that capital gains increase the ability to pay and should be reached. But it seems better to tap this increased ability in some other way than by a regular income tax—just as inheritances, which also increase the taxpayer's ability, are taxed by separate death duties. The increased value of real estate is automatically taken care of by a property tax and can be still further reached by the so-called unearned increment tax. If it is desired to reach personal property gains also, this can be accomplished by the so-called increment property tax. Both of these seem preferable to the attempt to reach the gains directly through the income tax.

This indeed seems to be the tendency in fiscal practise of recent years. Most countries refuse to regard capital gains as income. Germany did so in the law of 1920 but abolished the provision in 1925, although the law retained the tax on capital gains arising from speculative transactions and continues to tax gains arising from the sale or liquidation of the entire enterprise. In France the taxing authority formerly included capital



gains in the tax on securities and has continued the practise in the schedular tax, but it refuses to do so for the general income tax. In Great Britain this practise was never followed, although capital gains were included in the Excess Profits Duty of the war. The United States included realized capital gains in the law of 1913 but has been engaged ever since in whittling away the inclusion. The 1921 law provided that the net gain arising from property held for more than two years might at the option of the taxpayer be omitted from his ordinary net income and separately reported for the imposition of a tax at the rate of 12½ percent; and a movement is now on foot further to reduce the rate.

A still more disputed problem is the relation of stock dividends to taxable income. If a corporation in lieu of paying dividends in cash distributes its earnings in the form of scrip or stock dividends, is this taxable income? As far as the corporation is concerned it is clear that if profits have been earned it is immaterial whether they are added to capital or distributed in cash or in scrip. The receipt of income is independent of its distribution. The problem arises with the shareholder. Are stock dividends a part of his income?

On the affirmative side it is urged that stock dividends constitute an accretion to the economic power of the recipient and as such are an element of taxable income. To tax cash dividends and exempt stock dividends is unjust and discriminatory. Furthermore it may enable corporations to allow their stockholders to escape taxation.

The argument against the inclusion of stock dividends in taxable income is that a stock dividend is unrealized or inchoate gain. The recipient is no richer than he would have been if there had been no stock dividend at all, but a simple allocation of the corporation's income to its surplus. The wealth of the stockholder is measured by the product of the number and the value of the shares. If the distribution is made to surplus, each share is worth so much more; if the distribution is made in the form of stock dividends, the number of shares is increased but not the value of each. While in both of these cases the foundation is laid for increase in future income, there is no addition to present income as in the case of a cash dividend. Nor is there separation of gain. Separation is a necessary attribute of income. If capital is the stock which yields the income or if the capital is regarded as the capitalization of present and prospective income, the inflow of enjoyments must in order to

constitute income be separated from the capital while leaving it unimpaired. In a stock dividend there is no more separation of the assets than in the case of addition to surplus, where the shareholder receives nothing. In an addition to surplus there is no separation of gain: it is merged into and coalesces with the surplus. So in a stock dividend, while there are more paper certificates, there is no separation of assets. A stock dividend therefore is only unrealized and unseparated gain, or inchoate income. To make it real income it must be both realized and separated. In the United States the Supreme Court accordingly declared stock dividends non-taxable under the income tax. They should be reached but, like capital gains, under an increment property tax.

Another disputed point is the problem of including savings in taxable income. John Stuart Mill claimed that to include savings in income is to impose double taxation—a tax first on the entire income and then again on the yield of the income that has been transmuted into capital. This contention, which has been renewed in recent years by Einaudi and others, suffers from several defects. First, it rests on a confusion between the receipt and the disposition of income. Income may be either spent or saved; but both these actions are subsequent, not anterior, to the receipt. One must have the income before he decides what to do with it. The concept of income is independent of the use to which it is put. Secondly, the double tax argument is a fallacy. In the first year a tax is imposed on the entire income from whatever source derived; in the second year there is similarly imposed a new tax, which is now increased because of the additional income. This is not taxing the same thing twice, it is levying taxes on different things; namely, the successive and therefore different incomes. If the individual prefers to save rather than to spend his income, his preference is evidently due to the anticipated advantages of his action. But these clearly augment his ability to pay. To refrain from taxing the proceeds of the capital into which the income of the previous year has been transmuted would involve the abandonment not of a double tax, but of a single tax. Thirdly, if savings are not taxed as income then the income tax is transformed into a tax on expenditure, which is the least defensible of all the criteria of ability to pay. While a poor man indeed spends less than a rich man, the disparity in outlay bears no proportion to the disparity in wealth. The richer a man is, the more difficult it is to spend his income and the more automatic his savings

become. To tax both Henry Ford and his seven dollar a day employee on their expenditures would be a travesty of justice: the latter has to spend virtually his entire earnings; the former, even with the best of will, can spend only a fraction of his profits. For these reasons no country has ever seriously entertained the idea of excluding savings from taxable income. The exemption of insurance premiums and the isolated instances of the exemption of certain types of saving deposits may be defended on quite different grounds.

Quite an opposite suggestion was advanced by J. A. Hobson, urging that only so much of income should be deemed taxable as constitutes a true surplus. By surplus Hobson means "all rents and all gains for the use of capital, brains or labor which are not a necessary incentive to secure such use." But the essential vagueness of this concept and the almost insuperable difficulties of application, coupled with the well nigh practical identity of the results with those of the existing system of graduated income tax and exemptions, have combined to prevent any hearing for the suggestion.

Since income denotes net receipts, there are many border line questions as to permissible expenses. Many of these problems have been solved as a result of recent progress in the theory of accounting. But when the income is derived from the use of permanent capital goods, further allowances have to be made for depreciation, obsolescence and, in the case of natural resources, for depletion.

Precise computation of net income depends on the degree to which the returns can be freed from the admixture of capital ingredients. In a city plot this admixture is almost entirely absent. In a house the annual rental includes an element which represents a partial disappearance of capital through use. In any enterprise utilizing capital goods the upkeep of the depreciation account figures among the allowable expenses. In a railroad or industry exposed to rapid change an additional sum must be charged to obsolescence due to the shortening of the economic life of the piece of capital by a new invention or by new economic conditions which result in the substitution of something more effective or more desirable. In natural deposits like mines or oil wells, where the complete exhaustion is only a matter of time, the yearly output includes a much larger fraction due to depletion. An essential attribute of income therefore is that it must be so defined as to exclude the impairment of the capital. Otherwise the so-called income would include a periodic

fraction of the capital, with the result that in the end there would be neither income nor capital.

Fiscal practise as a rule provides for such allowances. As they do not lend themselves to precise measurements the allowances are somewhat arbitrary. In the United States the law provides for a "reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence." In both cases the test is the "useful life" of the asset in question. In oil and gas wells the statutory allowance for depletion is  $27\frac{1}{2}$  percent of the gross income but not in excess of 50 percent of the net income.

Finally, there is the problem of so-called service or satisfaction income; that is, income derived by the farmer who consumes a part of his produce and the home owner who lives in his own house. If a man receives rent for his house, it is undoubtedly income. Consequently if he occupies it himself it would seem that the rental value is likewise income. Similarly farmer A may devote part of his profits from wheat to the purchase of vegetables, while B may plant less wheat in order to raise his own vegetables. In principle the value of B's vegetables ought to be included in his income, but in practise it is not easy to determine their exact worth. As a consequence few countries include house rent and almost none farmer's produce in taxable income. In the United States the farmer's produce occupies a middle position; the part of the crop which is consumed by the farmer is not taxable, but neither can he deduct expenses involved in raising the crop. The universal practise of not including these items in income, while perhaps theoretically invalid, is practically defensible.

In the light of the preceding discussion on the theoretical and practical limits of taxable income the concept can be defined as follows: taxable income is that amount of wealth, in money or easily calculable money's worth, which irrespective of its disposition comes in during a definite period in a separate and realized form over and above the expenses of acquisition and, if derived from capital, without any impairment thereof.

*The Subjects of Taxation.* The problem here is whether taxable income includes more than the income of the individual. There are two chief aspects of this problem: the relation of individual income to the income of the household, and the status of the corporation in income taxation.

The distinction between the income of the individual and the joint income of the house-

hold is of practical importance under a system of rate graduation: the same total income pays a smaller graduated tax with separable liability of the family members than if assessed as a whole. The manner in which such income is to be taxed should depend on the economic and social organization of the respective country. Where the old patriarchal family still survives, the household is obviously the proper tax unit. In modern times, however, adult children have acquired households of their own, so that they are everywhere subject to individual taxation. So far as concerns husband and wife few foreign countries have reached the American position of the well nigh complete economic emancipation of women. As a consequence most foreign countries provide for joint returns, while the American law permits separate returns. It is only in the eight commonwealths of the United States still subject to the survival of French and Spanish legal theories that the institution of so-called community property is found. This contrast between American and foreign practise must be borne in mind in comparing the real burdens of a nominally equal tax rate.

Far more difficult is the problem of corporate versus individual liability. As to the facts, three main systems may be distinguished: a tax on either the corporation or the stockholder, a tax on both or a division of the tax between the two. In practise this results in six types: (1) taxation only of the corporation without reference to the individual, as in the United States from 1909 to 1913; (2) taxation only of the individual, as in those countries where there is a personal income tax but no corporate tax; (3) taxation of the corporation with the obligation to deduct the tax before paying over the dividends to the individual, as in England; (4) taxation of both corporation and individual with the exemption of dividends from normal personal income tax only, as in the American federal tax; (5) taxation of both corporation and individual with the exemption of dividends from both normal and super-tax; (6) taxation of both corporation and individual with no exemption for the personal income tax, as in New York.

This difference of practise arises from the confusion of underlying theories. According to one theory income is a unit to be treated as a whole. The income of a corporation is the income of the shareholders. To tax the corporation is therefore to tax the shareholders, whose dividends ought accordingly to be exempt. Under certain conditions this theory is tenable. If the corporation tax

is levied at the same proportional rate as the personal tax, it is immaterial whether the dividends are reached in the one way or the other. But in a graduated tax it is different. If both the corporate and the normal personal tax are, for example, 5 percent and if the individual's income from dividends would place him in the 20 percent surtax bracket, it is clear that if only the corporation were taxed and dividends were exempt this would mean an indefensible privilege to the security owners. It is for this reason that the second method was adopted.

According to this method income is not treated as a whole, but is subject to partial separation. In both England and the United States the result is reached, although in different ways, that the corporation pays the normal tax while the stockholder pays the surtax or supertax. This method is defensible on the theory, accepted in England, that income is a purely personal, individual matter and that the collection of the normal tax from the corporation is a purely administrative device of reaching the income of the stockholder. But it is not defensible on the theory accepted in the United States, which recognizes the existence of a corporate income—a theory due largely to the fact that the "corporation excise" tax existed from 1909 to 1913 before the advent of the personal income tax.

This consequently leads to a third theory, which is at present only inadequately apprehended—the theory of complete separation. This theory regards the corporate tax as something entirely independent. A corporation tax is a tax on the corporation itself as an entity, a tax in rem. If the tax on the individual is a personal tax, the tax on the corporation is a semipersonal tax. It may be defended legally as a tax paid for the corporate privilege or as a tax on business in the corporate form. A tax on business as such is something quite separate from a tax on personal income. Since the taxes are disparate phenomena, there is no need of any correlation between their rates and certainly no reason why the corporate tax should be deducted in whole or in part from the personal tax. The question of the incidence or effects of a corporate tax upon the income of the stockholder, while indeed to be considered by the legislator in framing the details, is no more germane to the real problem than is the incidence of any other tax.

The conclusion to be drawn is that while in any event the deduction of dividends for super-tax is unjustifiable, the legitimacy of deduction for normal tax depends on the decision whether

it is the policy to have a business tax. Where, as in the United States, this question is virtually being answered in the affirmative, it would seem that the practise of New York state in counting dividends as income is more correct than that of the federal government. There is just as little reason for deducting dividends because corporations are taxed as there is for deducting the income from land because there is a land tax. The business or corporation tax like the land tax is a tax in rem. The income tax is a personal tax on income from whatever source derived.

These considerations should also suffice to solve the problem of partnership income. The difficulty arises from the fact that far less progress has been made in accepting the partnership as an entity separate from the partners. Almost everywhere the taxation of the partnership carries with it the exemption of the partner. Yet in proportion as the business tax is recognized as applicable also to non-corporate business this difference of treatment is bound to disappear.

*The Rate and Amount of Taxation.* The rate and amount of the income tax are influenced by three facts—the acquisition, the possession and the disposition of the income.

Differences in the mode of acquisition are responsible for so-called differentiation of taxation, a feature which occurs in connection with other taxes as well. In the income tax the chief difference referable to the origin or acquisition of income is that between earned and unearned income, or, as it is variously expressed, between precarious and fixed, labor and property, unfunded and funded or temporary and permanent incomes. Gladstone called the second class "lazy incomes."

Differentiation, although urged at the outset of the British income tax and especially stressed by J. S. Mill, was not accepted until 1907. In the United States it was also urged in 1913 but not adopted until 1924. At present the reduction on incomes up to \$30,000 is 25 percent. On the other hand, Italy had adopted the idea in 1864, dividing incomes into capital, mixed and labor incomes. In 1894 a fivefold division was adopted. After further changes in 1919 and 1925 the incomes were divided into six categories with differential rates for each. In France the same result is reached by the sixfold schedular taxes. In Germany and some other countries differentiation is achieved by adding to the uniform income tax a small property tax, thus subjecting incomes from property to an additional burden. It has been suggested that the United States accept the

Franco-Italian method at least in part by intercalating between earned and unearned incomes a third category of mixed incomes.

The rate of the income tax is also affected by differences in the amount of income in the possession of the taxpayer. Gradation of the rate according to the size of the income is known as graduation or progression. In the taxation of income the entering wedge of graduation is found in the minimum of subsistence. This soon developed, as in Great Britain, into the system of abatements for the lower incomes. A somewhat similar method was introduced in Prussia in 1891 when the rates on incomes below 100,000 marks were tapered down from 4 percent to zero. The progressive scale for normal and higher incomes was not adopted in Great Britain until 1909. In the United States the federal tax of 1913 started out with a slightly graduated scale of rates, the amount of which rose with the size of the income in each succeeding bracket. In France the same result was reached by the law of 1917, which applied the maximum rate to all incomes over a certain sum with a deduction of one twenty-fifth of taxable income for each successively lower bracket. The war everywhere witnessed an extreme development of the principle, the maximum rate at one time reaching 77 percent in the United States and 60 percent in various other countries. Almost everywhere, however, subsequent legislation reduced the rates.

The graduated principle is less applicable to corporations for the reason that there is a more limited possibility of utilizing the concept of taxable ability. If the corporation tax is regarded as a means of reaching the shareholder, it is obvious that progressive taxation is out of the question. If the corporation be regarded as a separate entity with an independent taxpaying ability, a difficulty arises from the choice between the amount and the rate of the profits as a criterion of this ability. A large corporation will have a larger income; but a smaller corporation may have a much greater rate of return on its capital and in this sense possesses a greater ability to pay. If finally a corporation tax be considered a business tax in rem, there is no more reason for applying the graduated plan to it than to the land tax. It is largely for these reasons that most corporate income taxes are proportional rather than progressive. The state of Wisconsin is a notable exception.

The practise of allowing for differences in the disposition of income started with the exemption of the minimum of subsistence. With the rising

standard of life in modern democracies, however, there has been a widening interpretation of the term minimum, from a bare to a decent living. The entering wedge provided by the exemption of the minimum of subsistence was soon pushed further so as to include expenditures for the wife and children. Wider family considerations led to additional allowances, which have been carried furthest in Great Britain, where they include dependent female relatives, housekeepers and the like. A still more significant enlargement of the doctrine is found in the British allowance for children in college, in the German allowance for doctors' bills and maternity expenses and in the widespread exemption of life insurance premiums with its implication of the social advantage of thrift. None of these is as yet accepted in the United States.

From this it is but a step further to allow for outlays which ought to be encouraged from the broadest point of view of social progress. Examples are the allowance for charitable benefactions (granted in the United States only if not made to individuals, and restricted to a maximum of 15 percent), dowries, gifts to political parties (as in Germany) and interest on war damages. A counterpart to this is the increase of the rate in the case of socially undesirable expenditures of bachelors, divorced persons and childless couples, as found in France.

This interesting development, which is only in its earliest stages, discloses what amounts to a broader concept of income. Just as the refinement of fiscal theory replaced gross by net income, so the pressure of modern public opinion is gradually replacing net by what may appropriately be called clear income. Just as net income is that which comes in over and above the expenses of acquiring it, so clear income may be defined as that which comes in over and above the socially legitimate or desirable expenses incurred while acquiring it. In this sense clear income is just the reverse of the concept suggested by Mill, Einaudi and others. In their view the tax should be remitted on savings; in this view the tax should be remitted on expenditure, to the extent at least that this remission conduces to social progress. Modern democracies steer straight toward the concept of clear income.

*Administrative Methods.* In the administration of the modern income tax there have arisen a number of problems pertaining to methods of assessment, collection, selection of the tax period, time of payment and size of administrative area.

The most convenient method of assessment

and collection is presented by the system of stoppage or collection at source. It was introduced by Pitt in 1799 in order to prevent the wholesale evasion which characterized the tax of the previous year. Under this system the attempt was made to assess the tax as far as possible on the person who paid the money over to the recipient of the income. It was largely for this reason that the schedular system was adopted. As slightly modified in 1803, in schedules A and B the tax was levied on the occupier, who was authorized to deduct it from the rent due. In schedules C and E, interest on public securities and public salaries and pensions, the tax was deducted by the government. Even in schedule D, trade, industry and professions, where the system was not completely feasible, it was introduced as far as possible by having the corporations, bankers and others pay the tax before turning over the dividends or interest to the security holders. This system of hitting as far as possible the payment rather than the reception of income was so successful that when the tax was reintroduced in 1842 the stoppage at source method was again adopted. Where the tax so collected is greater than the total tax liability of the particular taxpayer, he may apply to the government for refund. The British authorities are unanimous in believing that this explains the success of the tax.

When the United States imposed the federal income tax in 1913 an attempt was made to introduce the British system. But the economic conditions proved to be dissimilar. Real estate was far less frequently rented; and the concentration of financial control was such as to impose onerous obligations, with a high cost of collection, on the firms and institutions which handled the machinery for distributing dividends and interest. The system of stoppage at source was therefore soon converted into that of so-called information at source, whereby employers, rent payers, bankers and the like are bound only to report the amount paid rather than to withhold the tax levied. In the United States collection at source is now retained only in the tax free covenant bonds (where the corporation has agreed to pay the tax for the bondholder) and in the case of fixed or determinable, annual or periodic, payments to non-resident aliens. In Germany collection at source is found in the case of wages and the interest on government securities. In most of the American state income taxes even the system of information at source is absent. In New York it is found only in the case of wages.

Where the tax is levied directly on the recipient of the income, the assessment usually takes the form of an individual declaration subject to some degree of official review. Different countries disclose various stages in the development of official scrutiny and control. In some countries, for example France, where the memories of the outrageous abuses of the *ancien régime* are not yet forgotten, this official scrutiny is reduced to a minimum with a correspondingly large amount of evasion. In Italy the situation is still more unsatisfactory. On the other hand, in countries like the United States public opinion now acquiesces in rigid official control which goes so far as to permit domiciliary visits and inspection of accounts together with actually enforced prison penalties for detected evasion. In the United States there is as a consequence little evasion among the wealthier taxpayers, whose income returns, generally prepared by accountants, are carefully checked by government inspectors. The most successful example of the cooperation of official control with the taxpayers' representations is found in the administration of schedule D in the British income tax.

The usual tax period for which income returns are made is the period of a year. A difficulty, however, arises from the fact of oscillating income: where the income of one year is succeeded by a net loss in the following year, the taxpayer receives no rebate; his taxable ability for the two-year period is not faithfully represented. This consideration has led to the adoption by several countries, including England, of the method of taxing the average income received for a definite number of years—generally three, sometimes more. Objections have been raised to the average system on the score of its not representing the actual income. The British income tax commission of 1919 after discussing the arguments recommended that the average system be abandoned and that the basis should be the previous year, but that allowance be made for losses by permitting repayment where the losses for the following six years exceed the income for the taxable year; this proposal, however, was not adopted. In the United States a concession to the theory of average income has been made since 1921 by providing that the "net loss" of one year may be deducted from the net incomes of the two following years.

The choice between the calendar year and the fiscal year as the basis of the return is largely a question of administration versus taxpayers' convenience. From the point of view of adminis-

trative uniformity the calendar year is the simpler; but where businesses have for good reasons adopted another period as their fiscal year, the latter is obviously preferable. Accordingly, several countries, including the United States, permit the substitution of one for the other.

A similar problem of convenience is raised by the choice between the method of accruals and the ordinary method of actual receipts in the computation of income. While corporate accounting has now become fairly uniform in the leading countries, there is still much divergence in the practise of individuals and especially among the professional classes. It does not make much difference which plan is followed, as long as the same plan is followed from year to year. Most countries require such uniformity.

Most countries also permit the payment of the tax in instalments, running up to four or more in number. Insistence on payment in a lump sum may be embarrassing for the government as well as for the taxpayer. Payers who receive their income periodically find it far more convenient to pay the tax as the income is received. Moreover the diversion of the entire tax from the money market on a single day and the presence in the public treasury of a huge and unnecessary surplus may create obvious difficulties.

Almost all countries provide for complete secrecy. The only argument in favor of publicity of returns is that apart from satisfying the curiosity of the public it may possibly serve, through the general knowledge of one's neighbors, as a deterrent from underdeclaration. But with the many possibilities of legitimate avoidance, if not evasion, that are found in almost all income tax laws this argument is deprived of much of its validity. On the other hand, publicity leads to unnecessary disclosure of what are essentially private concerns and intensifies the opposition to all inquisitorial examinations. The experience of the United States with publicity of returns in 1924 and 1925 was not a happy one, and inspection of the returns is now permitted only in the case of the officials of states which themselves have an income tax.

All successful income taxes depend upon central rather than local administration. Local administration of certain taxes has much to recommend it where objects of a local situs or persons with a fixed residence are dealt with, and where the detailed knowledge and experience of local assessors are helpful. But income is difficult to localize and the shifting of domicile from one locality to another is easy. Moreover local assess-

ment is more exposed to the danger of political pressure or favoritism. In federal countries the further problem presents itself as between state and federal administration. In countries, for example Germany, where the paramount question because of reparations is that of federal finance, the empire collects the entire income tax, which is then apportioned in part to the states and subsequently still further to the localities. Even in other countries where the economic basis of income has become national, where the difficulties of double taxation have become acute and where interstate business is constitutionally exempt from state taxation much may be said for federal administration. But where, as in the United States, not all states have as yet adopted the income tax, where the state needs are so diverse and where the feeling of state rights is still so pronounced, it will probably take some time before this administrative improvement is adopted. In the interval a decided improvement can be effected by applying the device already utilized in the inheritance tax; namely, granting to the states that levy an income tax a credit of a certain percentage of the federal levy, the rate of which can be increased for that purpose.

*The Relation of Income to Property Taxation.* In countries which still levy a general property tax or which impose special taxes on real estate there are some important special problems arising out of the relation of income to property taxation.

The first question is: should the income from real estate be deducted from the taxable income? This problem has assumed special importance in the American state income taxes. The argument is advanced that inasmuch as real estate is already subject to the property tax, to include the income of real estate would impose on it a double tax. The contention is invalid. If real estate is exempted from the income tax because it is already taxed as property, then personality must be also exempted, because it is similarly liable to the property tax. The income tax would then become a special tax on labor, thus involving the very opposite of the modern demand to treat "unearned" incomes more severely. But even where personality escapes taxation or where the general property tax has become in practise, as in New York, or by law, as in Great Britain, a local tax on real estate alone, the situation is the same. In both cases it has lost its character as a personal tax and is now a semipersonal tax, called a tax in rem in the one case or rates in the other, just as the land tax has become an *Ertragssteuer* in

Germany or an *impôt réel* in France. It is for this reason that New York follows the system of including in the state personal income tax the yield of real estate subject to a local tax in rem, just as it includes the income from dividends on securities subject to a similar (business) tax in rem. To demand in New York the exemption of land would today appear almost as strange as would a similar demand in Great Britain. In Great Britain, in fact, such a demand never arose, because by the time that the first income tax was imposed rates had already for generations been a local tax on the occupier. The fact that the demand is still found in some American states testifies to the confusion that still prevails as to the distinction between personal and semipersonal taxes and as to the incidence of taxes on land compared with those on capital.

In countries where both the general property tax and general income tax apply demands have been made to allow for the general property tax in assessing the income tax. It is clear that if the general property tax is really enforced, the simultaneous taxation of both property and income involves an additional tax on incomes from property as compared with other incomes. The solution of the problem depends therefore on the intent of the legislation. If this is the avowed object of the fiscal system, the simultaneous taxation of the property and income becomes, as in Germany, a simple way of effecting the differentiation of taxation, i.e. the higher taxation of unearned income. The seeming inequality is thus merged into a higher equality. When this object, however, is not sought, there is occasionally found, as in some of the Swiss cantons or as formerly in Massachusetts, an allowance made in the income tax for the income from property already liable to the general property tax. Such a device is, however, suitable primarily to conditions under which, as formerly in Massachusetts, the income tax is an insignificant supplement to the all embracing general property tax.

Finally, there is the problem of allowing for the income tax in assessing the general property tax. This problem arises in cases where the income tax has begun to assume some significance, but where the general property tax is still the more important. In some of the American commonwealths the amount of the income tax may be set off against the assessment of the property tax. This disposition of the matter, however, is open to serious criticism. In the first place, it still subordinates income to property as the criterion of taxable ability, whereas the modern tendency

is quite the reverse. Secondly, by permitting the deduction of non-property incomes from property incomes it frustrates one of the chief objects of the modern income tax, which is precisely to reach non-property incomes. Thirdly, it retards the development of the property tax from a personal to a semipersonal tax—a development which is rapidly going on in many of the American commonwealths and which has been virtually consummated in New York as it has long since been accomplished in most of Europe. Under this development the general property tax has in practise or by law shrunk to a tax in rem on real estate (still supplemented in a few American commonwealths by a similar tax in rem on certain forms of tangible personalty). In such cases the personal tax has disappeared, requiring the reimposition of a personal tax through an income tax. For these reasons it seems inadvisable to make allowance for the income tax in assessing the general property tax. It is far better to treat them as separate constituents of the fiscal system, to consider the income tax as the personal tax par excellence and to regard the property tax as a transition from the old personal tax on wealth in general to the modern semipersonal tax on the specific form of wealth embodied in real estate.

*The Incidence and Effects of the Income Tax.* The rapid extension of income taxes in modern times has focused general attention on the economic and social effects of income taxation. As in all other taxes, a distinction should be drawn between the incidence and the ultimate effects of the tax.

Income is derived from rents, wages or profits. Since economic rent is a pure surplus, a tax on rent as a constituent of a general income tax cannot be shifted. A tax on wages can normally be shifted to profits only if wages are at the minimum of subsistence. Since, however, all modern income taxes allow for the exemption of the minimum, a tax on wages, salaries or professional earnings is difficult to shift.

More controversial is the problem of incidence on profits. Under the older theory, still often held by business men, profits, like interest, are a normal part of cost, so that a tax on profits will be shifted through an addition to price. Under the newer theory profits, at all events as distinct from interest, constitute a residual income, and prices tend to be fixed at the point of marginal cost; that is, the cost of the marginal producer who earns no profits. A tax on profits is therefore intramarginal and normally not sus-

ceptible of shifting. It is only in cases of a sellers' market that prices may for a time be above marginal cost, but even in such cases where there are marginal profits a tax on profits is still a tax not on the causes but on the result of price. An income tax is therefore in general not shiftable.

Quite different is the problem of the general effects. Every tax tends to engender a new equilibrium of economic forces. An income tax also may ultimately and indirectly affect prices either by leading to a readjustment of interest rates or by retarding the increase of production. An excessive income tax may accordingly interfere with a fall in industrial prices as well as with a rise of wages, thus standing directly athwart the interests of the consumer as well as of the laborer. Even if a general income tax cannot be shifted it may, if immoderate, disadvantageously affect the position of other classes besides the immediate taxpayer. On the other hand, if the rates are moderate and if the proceeds are not wasted or unwisely spent, the effects of an income tax are to be measured in the last instance by the general criterion of the relative desirability of public versus private expenditure.

In addition to these general economic effects the taxation of income gives rise to problems of wider social significance. Under modern conditions, with the system of exemptions and abatements, the income tax is paid by a very small part of the community. There thus emerge the social and political implications of a tax reaching only the few in a state controlled by the many. In this respect, however, the income tax is less vulnerable than the general property tax, which exempts the incomes of all those that have no property because they spend their entire earnings. And yet American experience with the property tax has not disclosed any extreme difficulties, apart from those inherent in the very nature of democracy. The breakdown of the general property tax is due to entirely different considerations. This particular danger of the income tax must therefore not be exaggerated.

An appraisal of the adequacy of income taxation involves the further question: does the income tax distribute the burden of taxation in accordance with the best test of equality, that of faculty or ability to pay? Strictly interpreted, it is clear that income does not afford a perfect criterion of faculty. This is apparent from the following contrast. A is a bachelor living in a small town, in perfect health, enjoying an ample inheritance and miserly in his habits. B, with the same income, is the father of a large family, in-



habiting a great city, in continual need of doctors, dependent on a precarious livelihood, generous and public spirited, talented and needing artistic diversion. Can it possibly be claimed that they have the same taxpaying ability? None the less, the more the theory of clear rather than net income is accepted, the nearer is the concept of faculty approached. Imperfect as it is, income is after all a better criterion than any other test of ability to pay.

While the redistribution of wealth must always be a secondary aim compared to the purely fiscal purpose of taxation, progressive income taxes possess the merit of counteracting the tendency toward a greater disparity of wealth. As a means to this end, however, the income tax is inferior to the inheritance tax; high rates on income may dampen the ardor of private enterprise. But under present day conditions there still seems to be ample margin in the higher reaches of the graduated scale for an application of the purposeful redistribution of wealth.

At the same time certain purely fiscal factors militate against the adoption of the income tax as a single tax or even as the only direct tax. In the first place the income tax is vulnerable in that it is especially exposed to the consequences of fluctuations in prosperity: in times of depression the proceeds fall sharply, just at the time when government expenditures are likely to increase because of the added demands of state aid for unemployment and the other consequences of depression. This objection may perhaps be removed by the inclusion of a system of reserve funds intended to equalize the returns, such as is recommended in the report of the Special State Tax Commission of New York in 1932. In the second place, even in times of prosperity income is not an ideal criterion of ability to pay, so that it needs to be rounded out by the other criteria of faculty. Thirdly, the fiscal relations of the individual to the government are not exhausted by the principle of ability, but need supplementing by the principle of benefits, which realizes itself in quite different forms of revenue. The income tax consequently can never be more than a constituent of a plural tax system.

EDWIN R. A. SELIGMAN

See: TAXATION; INCOME; PUBLIC FINANCE; REVENUES, PUBLIC; TAX ADMINISTRATION; ASSESSMENT OF TAXES; DOUBLE TAXATION; BUSINESS TAXES; CORPORATION TAXES; EXCESS PROFITS TAX.

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INCREASING RETURNS is a term referring to an economic condition which might be better described as decreasing unit cost with increased output. This result may be due to a number of

different circumstances, which are too often confused. It may be produced by more adequate cultivation of the soil, especially that involving greater and better capital equipment; it may follow an increase in output connected with the utilization of hitherto unused capacity; it may reflect internal economies, which become available with an increase in the size of plant, or external economies connected with the increase in output of an industry in a given area without regard to the size of individual plants. The conception of internal economies may be extended to cover the economies of combination, horizontal or vertical; but these are usually regarded as separate facts.

Perhaps the earliest formulation of a principle of increasing returns was made by Quesnay in his essay on grains for the great *Encyclopédie* (reprinted in *Oeuvres économiques . . .*, ed. by A. Oncken, Frankfurt 1888, p. 193-229), in which he set forth the possibility of approximately trebling agricultural output by improved methods involving a doubling of outlay. The condition of French agriculture, starved for lack of capital, gave grounds for this claim. That similar conditions may still exist is evidenced by more recent agricultural reports indicating that the efficiency of the farm is frequently hampered by lack of adequate capital. Another form of increasing return is really implied in Adam Smith's familiar statement that the division of labor is limited by the extent of the market, which indicates clearly that a small output does not make possible as great efficiency as a larger one.

Senior emphasized the contrast between agriculture, subject to diminishing returns, and manufacturing, in which indefinite increase in output was possible, frequently with increasing returns. The contrast is superficial and in part misleading. Manufacturing like agriculture is in general subject to diminishing returns with an increase in any one factor or group of factors when the other factors remain constant; agriculture, on the other hand, is under certain circumstances subject to increased returns, as pointed out above. Increasing returns come, if at all, only when all the factors are free to increase as needed.

While increasing returns as well as diminishing returns are the result of a changing proportion of factors, decreasing unit cost is typically a function of size of the individual plant or of the industry as a whole. This was brought out by Marshall, who also established the distinction between internal and external economies, and it

was emphasized strongly by Davenport. Other aspects of decreasing cost with increasing output—such as the utilization of unused capacity and particularly the fact that certain costs are relatively constant while others vary approximately in proportion to output—have been brought out in studies of the economics of railway rates.

The various types of increasing returns are responsible for a varied array of different economic phenomena and problems. Where the economies of size and the wastes of competitive duplication are so decisive and continue so far that two competing establishments in one market are necessarily and obviously less economical than one, the result is a condition of "natural monopoly." In such cases reliance on competition is abandoned and direct regulation of service and prices is substituted. In the United States, where such regulation is complicated by constitutional safeguards to private property, such industries are given a special legal status as businesses "affected with a public interest" and so exposed to special forms of regulation; but the legal reasoning on which this classification is based runs in terms different from the economics of natural monopoly.

Another condition more common than that of complete monopoly is that in which a few large establishments are able to hold a dominating position in a trade, surrounded by smaller concerns over most of which they have differential advantages. In the United States especially the anti-trust laws tend to prevent large concerns in this position from pushing their advantages to the point of absorbing or extinguishing their competitors. In such a situation, however, some of the smaller concerns actually have costs as low as or lower than the larger combinations, in which not all the productive units can be expected to attain the efficiency reached by the best. In general the costs of the smaller concerns show more variability than those of the larger, some showing high efficiency and others struggling to keep alive, a condition which is explained in part by the simple fact that relatively inefficient concerns do not grow to large size. The dominating concerns thus find themselves protected from the vicissitudes of business fortune, leaving the smaller marginal producers to bear the brunt of conjunctural fluctuations.

The economy of increased utilization of fixed quantities of productive factors has led to the discovery that increased sales at less than previous average costs may bring increased profits. This is the condition underlying dumping of

surplus products in foreign markets and price discrimination generally. Where competitors retaliate and the practise spreads to the whole market, the result may be a state of cut-throat competition in which selling price may be less than cost even for efficient producers. Such price wars have led to pools and other methods of controlling competition, including the informal control described by Marshall as a "sentiment against spoiling the market."

The economics of mass production and of standardization intimately connected with it are unquestionably one of the principal reasons for the high product per worker achieved in American industry as compared with that of other countries. American industry is enjoying not merely the advantages of pioneering in this direction; because the scale of production in many foreign countries is smaller, it is difficult or impossible for them to imitate advantageously the specific technical methods by which American efficiency has been attained.

The external economics of large scale production lead to the geographical concentration and localization of industry; such localization, however, is often difficult to distinguish from that due to the special advantages of particular locations for special varieties of production. Localization of industry gives rise to many advantages, the principal of which are those flowing from the development of auxiliary industries and easy access to a central supply of qualified labor. Advantages of this type afford a basis for the "infant industry" principle—one of the chief arguments for industrial protection.

JOHN MAURICE CLARK

See: COST; DIMINISHING RETURNS; OVERHEAD COST; LARGE SCALE PRODUCTION; LOCALIZATION OF INDUSTRY; MONOPOLY; COMBINATIONS, INDUSTRIAL; CUT-THROAT COMPETITION.

Consult: Marshall, Alfred, *Principles of Economics* (8th ed. London 1922) bk. iv, ch. xiii, bk. v, ch. xii, and appendix II; Edgeworth, F. Y., "The Laws of Increasing and Diminishing Returns" in his *Papers Relating to Political Economy*, 3 vols. (London 1925) vol. i, p. 61–99; Bullock, C. J., "The Variation of Productive Forces" in *Quarterly Journal of Economics*, vol. xvi (1901–02) 473–513; Carver, T. N., *The Distribution of Wealth* (New York 1904) ch. ii; Davenport, H. J., *The Economics of Enterprise* (New York 1913) ch. xxiii; Clark, J. M., *Studies in the Economics of Overhead Costs* (Chicago 1923) chs. iv–vi; Byé, M., *Les lois des rendements non proportionnels* (Paris 1928).

**INDEMNITY, MILITARY.** The device of modern origin by which a conqueror recovers part or all of the costs involved in successful

military operations is known as a military indemnity. Imposed at the conclusion of a war, it is justified by the legal conception of damages collected for injury done. Since the beginning of the last century it has as a general rule been provided for and regulated by the terms of the various peace treaties. The comparative recency of its emergence and recognition is accounted for by the slowness with which the legal doctrine of indemnity became established and also by the long period necessary for the development of international trade and finance on a scale adequate for the transfer of relatively large sums of money.

Although such indemnities must be clearly distinguished from the usual forms of pillage and loot which accompany military conquest, their origins lie in that direction. During the Thirty Years' War conquering armies lived on the country; when they came to a prosperous town requisitions were made, which if not paid were followed by dire consequences. There were, however, a few examples of a tendency toward refinement of this process. The action of Gustavus Adolphus II in exacting from the captured city of Berlin a monthly subsidy for the support of his army anticipates in a rough way the modern indemnity; but because of its indifference to legal considerations it is more properly viewed as a variant of conventional tribute. Wallenstein by orderly and methodical requisitions couched in the form of law anticipated Napoleon's success in making "war support war." The German imperial army was given the "right" to free quarters, and this Wallenstein turned into a money making business by giving localities a choice of making a money contribution instead of furnishing quarters. No pretense was made that these contributions were indemnities, but the quasi-legal forms used in making requisitions were a definite improvement over the earlier practises of loot. The Treaty of Westphalia throws interesting light upon the evolution of the idea of indemnity. That the empire should make compensation in money payments does not seem to have occurred to the representatives of France and Sweden, dominated by the feudal idea that wealth was essentially land and that "satisfaction" should be in the form of annexed territory. The Swedish armies, however, were allowed to retain and collect the money payments they had levied upon the German cities; the gold and silver with which they filled their war chest is sometimes referred to loosely as a money indemnity, but the sums were insignificant in com-

parison with the territorial annexations. Such a situation tended to persist until banking operations became more highly developed, particularly after the establishment of central banks around the turn of the century.

Another marked stimulus to the development of money indemnities was mercantilism. The spread of this new political economy during the latter half of the seventeenth century shifted the emphasis of economic enterprise to the acquisition of gold and silver. The opinions of the rising mercantile interests in England, which since 1630 had become increasingly articulate, were reflected in Cromwell's exaction of one million guilders in the treaty of 1654 concluded at the end of the Dutch war. In keeping with the new economic theories imperialistic policies were formulated with an eye to securing "treasure" as well as land, and the European powers imposed contributions for the common defense upon their American colonies. These payments were sometimes referred to as indemnities, in the sense that they were compensation for the expenses which the mother country had incurred in protecting the colonies or in extending their territories by conquest. This was a fruitful source of controversy between Great Britain and her North American colonies after the peace of 1763; the attempt on the part of the British ministry to place part of the cost of the French war in North America upon the colonies brought on the bitter struggle over taxation which preceded the outbreak of the revolution.

The mercantilistic philosophy was important for the development of the practise of exacting an indemnity, not only because it emphasized the importance of payments in currency but also because it contributed to the making of the modern nationalistic state. In the process declarations of war became more formal, army organizations were regularized and gradually there evolved a new set of standards, incorporated eventually in a formal body of international law. The practises of pillage and loot were generally condemned; rights of private property were given increasing recognition and protection. The commanders of the new national armies were, in striking contrast to the independent personal jurisdiction of the earlier military leaders, under the direction of the king and his ministers; campaigns were guided strictly by the dictates of national policy and national ambition; and their new standing armies paid from the national treasuries and no longer dependent on loot and pillage showed greater respect for the rights of

private property in invaded territories. The national governments, now shouldering the entire financial burden of war, contemplated with growing interest the possibility of sharing this burden with the defeated power by the device of a military indemnity. The comparatively simple logical transition from the concept of private compensation to that of a bill of damages assessed against the enemy afforded a convenient solution. The right to exact such indemnities—the borrowed nomenclature acquiring a formal status—in general peace settlements became generally recognized.

As applied throughout the nineteenth century, however, military indemnity revealed marked deviation from the logic of its inception. Indemnity in law means compensation for damage suffered and involves the idea of justice, while military indemnity came to mean payments levied by the victorious power upon the defeated, the basis of the indemnity being military success, with little regard to the justice of the case. As Napoleon's armies advanced in the Jena campaign they levied in the manner of Wallenstein indemnities upon cities under threat of destruction. In cases where money could not be paid the conqueror took the bond of leading citizens, particularly bankers. By the Treaty of Tilsit, Prussia lost half her territory and had her population reduced to five millions. Upon this mutilated kingdom Napoleon imposed an indemnity of 154,500,000 francs, seized crownlands and insisted that contributions in default be paid, which brought the total to a sum estimated at \$130,000,000. This was an indemnity far beyond Prussia's capacity to pay, since the country was predominantly agricultural and had but a small volume of foreign trade. The emperor probably did not intend that it should be paid. By a convention signed at Königsberg on July 12, 1807, which supplemented the Treaty of Tilsit, Napoleon was given the right to maintain 100,000 men in Prussia at its expense until the indemnity was paid. He thus provided for the maintenance of a powerful force in Prussia, which was within striking distance of Austria and Russia. The convention is important in the development of the practise of keeping troops in the defeated country's territory pending the payment of an indemnity.

With the downfall of Napoleon no indemnity was imposed upon France by the first Treaty of Paris (1814), since the allies wished to make the position of Louis XVIII as secure as possible and since they contended also that Napoleon and not

the French people was at fault. But the return from Elba altered the situation. In the second Treaty of Paris (1815), while still wishing to make secure the position of the French sovereign, the allies insisted that responsibility for the Hundred Days rested with the French people and imposed an indemnity of 700,000,000 francs upon France, in addition to which it was to maintain at a cost of 250,000,000 francs a year an army of 150,000 men, who occupied its chief frontier fortresses for a period of five years.

The most famous indemnity of the nineteenth century was that imposed upon France by the Treaty of Frankfurt in 1871—an indemnity which has often been criticized as introducing the punitive element. France was compelled to pay 5,000,000,000 francs and to support a German army in northern and eastern France until the indemnity was paid. Bismarck and the military party in Prussia thought that this would weaken France financially and keep a German force in France for years. To the surprise of the world the French paid this indemnity in little more than two years. In the payment of such a sum from one nation to another there are two problems. France solved the internal problem by the sale of bonds to her citizens, bonds which were still outstanding and an obligation of the French government when the World War broke out in 1914. The external, or transfer, problem was solved by turning over to the German government banknotes, securities that were acceptable and bills of exchange. The French government through the Bank of France was able to purchase in France about 750,000,000 francs' worth of German banknotes, 1,500,000,000 francs' worth of first rate securities, stocks and bonds with an international market, which the German government sold for marks in Berlin; and finally the remaining 2,750,000,000 francs was used to purchase bills of exchange, the usual method of making international payments, which meant that goods to this value were shipped out of France and the money thus earned turned over to the German government.

The comparative ease with which the French paid this indemnity showed how greatly such payments could be increased by the use of public credit and large scale banking operations. To have attempted to raise this money by taxation in so short a time would have aroused decisive opposition in France, but the sale of bonds to investors was a comparatively easy matter when to the appeal of a good safe investment was added the patriotic one of ridding the country of the

hated German soldiers. The transfer problem too was relatively simple. Even the fairly large payments made in drafts were facilitated by the fact that Germany was at that time a free trade country.

By the Treaty of Shimonoseki in 1895 Japan forced China to cede Formosa, the Pescadores islands and the Liaotung Peninsula, including Port Arthur. But Russia with its own eye upon Port Arthur and the Liaotung Peninsula insisted with support from France and Germany upon the return of this Manchurian territory to China, which by way of compensation added \$22,000,000 dollars to the original indemnity of \$158,000,000, bringing the total up to \$180,000,000, which China paid largely by the aid of European loans.

Before the World War a controversy arose over the economic effects of paying a large indemnity. In *The Great Illusion* (London 1910, 4th ed. 1913) Norman Angell took the position in a chapter on the indemnity futility that in our economically interdependent world the nation receiving a large indemnity would suffer from financial disturbance in the credit of the paying nation, and furthermore with governments adopting protectionist policies it was likely that the payment of a large indemnity would be hampered by raising tariffs against the goods of the paying country. Free traders admitted the disturbance to credit but at the same time were willing to accept the goods, since the payment of an indemnity meant not only the transfer of goods but of purchasing power as well. It was Angell's contention that France was better off in the seventies of last century than Germany, that French industry was stimulated by the payment of the indemnity, while German industry struggled with a severe unemployment problem in 1876-77. This was true enough, but how far the payment of the indemnity was an effective cause is difficult to say. It was a period of severe depression which affected other countries, notably the United States, as much as Germany. H. H. O'Farrell, in a penetrating study made for the Garton Foundation, disagreed with Angell on the specific point that Germany had derived no real benefit from the payment of the indemnity. He quoted with approval Serrigny's opinion that "it permitted Germany to effect a greatly needed monetary reform, and to increase during a long period its military power, without putting any serious strain on the masses of its population." But O'Farrell pointed out that success with an indemnity depended upon three things:

the defeated nation must be sufficiently rich, its defeat must be crushing and complete and the war of very short duration. All three advantages were with Germany in 1871 and with Japan in 1895. In the latter case it is usually conceded that the foreign credits which Japan secured aided in the movement toward the modernization of her industry, but it would be a great mistake to attribute the industrial advance of Japan or of Germany to the payment of indemnities.

By the time the World War ended the term indemnity had lost its original legal connotation and by liberals was classed with annexation as a method of securing loot. The demand for a peace based upon the principle of "no annexations, no indemnities" reflected the distrust associated with the historical use of the word. Therefore the peacemakers of Versailles decided upon the new term, reparations (*q.v.*). This was made to cover actual damage done, separation allowances and pensions. Germany protested vigorously against the last two categories, which she contended were not included in the Armistice agreement. The peace settlement provided for a Reparations Commission, which reported on April 27, 1921, that the total payments required of Germany amounted to 132,000,000,000 gold marks, a sum which obviously had no connection with Germany's ability to pay. The Dawes report changed this sum to an indefinite series of annuities starting at 1,000,000,000 gold marks and rising to 2,500,000,000 gold marks in the fifth, or standard, year. By the Young plan these payments were still further reduced to a definite, terminating series of fifty-nine annuities ranging from 1,641,600,000 gold marks in the first full year, 1930-31, to 2,352,700,000 gold marks in 1965-66, from which point they decline to 897,800,000 gold marks in the last year. The payments of the second year, 1931-32, have been suspended through the acceptance by the Allied Powers of the moratorium proposed by President Hoover, leaving the question of further payments uncertain and unsettled.

Since the period when it first began to engage the interest of eighteenth century statesmen the broad problem of military indemnity as involving two or more nations has frequently been intimately related to the more limited problem of the responsibility of the individual state to indemnify its citizens and communities for property losses suffered at the hands of an invading enemy. The payments from the French treasury in such cases have been designated aids, reliefs or assistances. A law of August 16, 1793, de-

clared in the name of the nation that "it would indemnify all citizens for all losses which they have sustained or may sustain in consequence of the invasion of the enemy." In 1816 the government paid a sum of 100,000,000 francs to the invaded departments as compensation for damage suffered. After the Franco-German War the French passed a law with the following provision: "Compensation will be accorded to all who have been subject, during the invasion, to contributions of war, requisitions, either in money or in kind, fines and material damages." The deputies wanted to use the word indemnity, to fix definitely the responsibility upon the state; but the government to avoid such responsibility wanted to use the word relief, and finally as a compromise the word compensation was agreed to. During the World War the French government constantly took the position that it would compensate the invaded districts as provided by the law of 1871 and added that in the peace settlement it would look to Germany for indemnity. Therefore the French position on compensation to individuals assumed great importance in the reparations question.

The German law and practise have been similar to the French. Austria appointed a commission in 1866 which appraised damage done in the invaded areas and granted adequate indemnity. In the following year Saxony was even more generous. In 1871 the German Empire gave complete indemnity to the people of Alsace-Lorraine on the ground that damage had been caused to their own people by the acts of their own army. This indemnity was paid out of the large indemnity exacted from France. The Germans went so far as to appoint a commission to fix the indemnity due to German shipowners for losses suffered in consequence of the war. The German government's generosity was not challenged, because the heavy indemnity exacted from France made it possible to indemnify German citizens liberally and yet not cause budget difficulties and increased taxation.

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See: REPARATIONS; WAR; MILITARY OCCUPATION; INTERNATIONAL LAW; INTERNATIONAL FINANCE; PUBLIC DEBT; TRIBUTE; REQUISITIONS, MILITARY; MERCANTILISM.

Consult: Great Britain, Foreign Office, Historical Section, *Indemnities of War, Subsidies and Loans*, Handbooks, no. clviii (London 1920); Hofer, Cuno, *Der Schadenersatz im Landkriegsrecht*, Abhandlungen aus dem Staats- Verwaltungs- und Völkerrecht, vol. xii (Tübingen 1913); Heilfron, Eduard, *Die rechtliche Behandlung der Kriegsschäden*, vol. i- (Mannheim

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INDENTURE is one of the devices by which business enterprise or government action has transferred labor to new and developing countries. Like the maritime slave trade and the later system of contract labor, it has found its typical occasion in the presence of undeveloped resources awaiting exploitation; and its typical effect has been to meet the costs and overcome the human inertia that keep labor from flowing rapidly and automatically to such lands. Unlike slavery, however, servitude under indenture is neither lifelong nor hereditary but extends for a limited term of years on a basis which is, at least in form, contractual. On the other hand, it differs from the looser obligation of mere contract labor in that the indentured servant may be compelled to carry out his agreement by specific performance of the work itself. Characteristically also the relationship is attested by a formal document, the indenture; but many indented servants in America occupied that status without such papers and merely according to "the custom of the country."

The first major use of the system was in the British colonies in North America. Resources were abundant, population was scanty and wage earners were hard to hold on any terms in the face of opportunities for independence. Certain colonies offered headrights in land to those who paid immigrants' passages; and, more important, would be employers and particularly farmers and planters in the middle and southern

colonies, where cash crops could be raised, stood ready to pay considerable sums to secure a more permanent working force. On the other hand, there were in Europe, as Sir George Peckham had foreseen even before Jamestown was founded, great numbers of people living "in such penurie & want, as they could be contented to hazard their liues, and to serue one yeere for meat, drink and apparell only, without wages, in hope thereby to amend their estates." The difficulties of the Scotch in north Ireland, the ravaging of the German Palatinate and other special circumstances from time to time increased the supply; but "penurie" was sufficiently general to provide a steady stream of willing migrants, which came almost entirely from the British Isles during the seventeenth century but very largely from Germany in the eighteenth. Thousands of poor men and women were quite ready to bind themselves for longer than Sir George's "yeere" in return for the transportation which was otherwise beyond their reach; and others were willing to go as redemptioners, who hoped to find relatives or friends to pay their passage money after they reached America but if not agreed to serve.

The demand, however, outran even this great supply. Indentures could be sold at the American ports at prices which rose to more than twenty pounds per adult before the colonial period ended and were sufficient to make active recruiting profitable. A host of agents called *Neulanders* used the most extravagant methods of enticement in Germany and elsewhere. Others engaged in the organized trade of kidnaping unwary persons from the streets of the British cities, and the fear of these "spirits" left significant traces upon both the life and the fiction of the period. Ship captains sometimes found it possible and profitable to reduce immigrants who set out with full passage money to the status of servants. Even in America there was some local recruitment; indenture became an alternative to imprisonment for debt and other offenses and there were a few cases of voluntary submission to the status, usually on much better terms than those obtained by the transported servants. In the meantime British government authorities were using transportation to rid their country of numbers of paupers, political prisoners and common felons. In spite of colonial protests perhaps fifty thousand convicts were shipped under indenture to the mainland between 1717 and 1775 and many others to the British West Indies. It was by force and fraud then that many of the indentured immigrants

were brought into contact with the opportunities of the new country; but it seems clear that the voluntary entrants must nevertheless have been in the majority; and in these migrations there came not only peasants and agricultural laborers but also teachers and the more highly prized mechanics of a variety of trades.

Although they varied greatly the most common terms of service under voluntary indenture were four and five years with longer periods for children, while the convicts were usually "his Majesty's seven-year passengers." The master was under obligation to support the servant in sickness and health and to give him at the end of the term his "freedom dues," which in the absence of a definite agreement consisted typically of "apparell," an axe, two hoes and a year's supply of corn or in later years their money equivalents, and sometimes also fifty acres of land. The legal aspects of the relationship were largely worked out in Virginia, where formal indentures were in use as early as 1619. The master's claim was assignable without the servant's consent, and it became settled that the servant could not carry on trade or marry without the consent of the master and that the latter had the right to inflict "moderate corporal punishment." It became moreover the policy of the courts to punish, not merely by whipping but also by lengthening the term of service, such offenses against the master's time as running away or the bearing of children. This indeed was the chief bulwark of specific performance and the closest approach to the conditions of slavery. On the other hand, the magistrates made special provisions for hearing the servant's complaint against "immoderate correction" or breach of contract and occasionally went so far as to free a servant outright in such cases or arrange his sale to another master. As the influence of the freedmen increased and as the economic importance of indenture declined, greater provision was made for the protection of servants, including the ruling that contracts of indenture could not be assigned without the consent of the servant.

Within this general framework the human content of the relationship must have varied very widely. Ill treatment was particularly common during the voyage, and immigrants who did not speak English were easy prey to chicanery. The great number of runaways has been rightly taken as evidence of frequent abuses under indenture but may also suggest the presence of tempting alternatives. A condition which often involved working alongside the master in the fields and



occasionally ended in marriage into his family seems to have carried no great social stigma except where the indentured servant class came mainly from the convict group. Its terms approached those of apprenticeship, from which it developed, more closely than those of slavery, although applying to adults as well as to young persons; and many immigrants found it a useful although arduous way of learning the technique of American farming. After the term was up the former servant suffered no disabilities other than those common to poor persons attempting to make a start in a new country, and his chances depended less upon his previous condition than upon the availability of land for settlement. The careers of certain individuals have been traced from servitude to colonial prominence and even to Congress; on the other hand, it has been suggested that freed servants furnished more than their proportion of the poor whites of the south. It was, however, one of the most significant features of the American regime of indenture that those who passed through it became for the most part indistinguishable from the mass of the free population.

The importance of indenture in the development of the country may be suggested by the estimate that nearly half of the total white immigration to the thirteen colonies came over under this device. After the revolution, however, reliance upon it rapidly diminished. One result of the war itself was to divert the shipment of convicts to another continent and another system. Still earlier the abundant supply of Negro slaves had made indenture of slight importance in the lower south and in the tobacco colonies, to which they had at first been so essential. Even in Pennsylvania, where the system was of much more lasting significance, its traces disappeared shortly after 1830. Stricter regulations of conditions on shipboard and of the terms of servitude had reduced the profits of the trade, and an Indiana decision in 1821 had held indentures unenforceable under a state constitution based upon the Ordinance of 1787 prohibiting involuntary servitude in the Northwest Territory. The principal reason for the decay of the system, however, seems to have been the passing of the urgent economic need: employers with a larger supply of labor at hand no longer found it necessary to advance the costs of passage and commit themselves to long engagements. Business enterprise did not permanently abdicate its role in moving workers across the Atlantic, as is shown by the later history of contract labor and steam-

ship company solicitation; but indenture proper died an easy and a natural death in the United States long before the passage of the Thirteenth Amendment extended the prohibition of involuntary servitude to the whole country.

Just when the system was dying out in the United States, however, it was revived in the British sugar colonies after the abolition of slavery. The problem was similar. White planters had seen their opportunities for profit limited by the scantiness of the native population or by its reluctance to give up the independence of primitive economy, and when the Negro freedmen in large numbers chose to leave the plantations, the owners turned to the expedient of colonization by indenture. In later years the same method was employed in tropical agriculture in various regions and occasionally for other work and drew a greater variety of indentured migrants in larger numbers and to greater distances than in the North American case.

This time it was mainly the Asiatic peoples whose "penurie and want" furnished the source of labor supply. When Mauritius began in 1834 to import indentured coolies from India, it tapped a stream of migration that was to carry a total of some 450,000 Indians to that one small island, over 200,000 to British Guiana, about 150,000 to Trinidad and smaller contingents to Jamaica and others of the British West Indies and that was chiefly responsible for an Indian population in Natal which long exceeded the white and now numbers about 150,000. It also provided substantial bodies of laborers for Réunion and other French colonies during the mid-century and for Dutch Guiana after 1872, and still later it sent thousands more across the Pacific to Fiji. Indenture moreover was one of the devices used in the large movements to the tea plantations within India and to nearby Malaysia. Meanwhile the Chinese, who became the second great source of supply, had long been migrating to neighboring regions, often under a system of debt bondage that somewhat resembled indenture and was later assimilated to it in the legislation of British Malaysia. Occidental exploitation of this opportunity did not begin until the 1840's but proceeded very rapidly. It is claimed that between a quarter and a half million Chinese were carried under indenture to Cuba, Peru, Chile and Hawaii in the years 1847 to 1874. The movement to Hawaii continued throughout the century, reaching a total of about 35,000; and from 1853 on some 16,000 were taken to British Guiana. The gold

mines of the Transvaal employed nearly 50,000 from 1904 to 1907; three times as many were used in France and Belgium during the World War; and since that time indenture has supplied small numbers of workers to the former German islands of Western Samoa and Nauru. Nor does this complete the list of strange transplantations. To Australia, which had already experimented with both white men and coolies under indenture, nearly 60,000 South Sea Islanders were carried for work in the Queensland sugar fields; Javanese laborers have served under the system in both the East and the West Indies; and about 65,000 Japanese and over 10,000 Portuguese and small groups of Germans and Scandinavians were brought to Hawaii from opposite ends of the earth.

The more sinister features of the indenture were in these cases often intensified. Chinese "crimps" in the "pig" markets of Canton and Macao repeated with variations the worst practices of London "spirits," and the "blackbirding" of the Kanakas must have been virtual piracy. Early voyages from China duplicated the horrors of the "Middle Passage"; "the evil reputation of the coolie trade" was "well-earned in Cuba and in the Chincha Islands"; and the death rate of the Kanakas in Queensland was extraordinarily high. Even in the better regulated cases the vast racial differences must inevitably have produced innumerable instances of misunderstanding and abuse. On the whole, however, the terms of the contracts seem to have been more favorable to the laborers than under the earlier American regime, and there was far more governmental and intergovernmental action in their behalf. The commonest period of service in British territory was five years, but wages rather than mere subsistence were almost invariably stipulated; hours, tasks and housing were commonly regulated and flogging forbidden; and in some cases it was made possible for the worker to buy redemption before the end of his term. Government "protectors of immigrants" or similar officials were given considerable power and seem to have had real effect under British, Dutch and Hawaiian rule; recruiting in India and transportation from it became an enterprise of colonial governments rather than a private exploitation, and the Indian authorities more than once used the power to withhold the supply for enforcing better treatment in the country of destination. A crucial point was the fate of the laborer after the expiration of the indenture. Cuban regulations in 1860

forbade his employment in free occupations and gave him no assistance for the return voyage; the effect was to enforce reindenture and lifelong servitude. On the other hand, where repatriation was the general practice or was made compulsory, as in the Transvaal, the system involved the sexual difficulties and deprivations of an overwhelmingly masculine population. The Sanderson Committee in 1910 declared its opposition to emigration under indenture in cases where repatriation was required or to colonies which did not possess agricultural land available for settlement. But where opportunities in free occupations have been open after indenture, the result has frequently been the establishment of permanent settlements of colonists much less poverty stricken than their fellows in the home country. The immigrants have prospered in Hawaii; their occupation of the land has been particularly notable in the Guianas and elsewhere; and it was in part the economic success of the Indians in Natal that led to the restrictions against which Gandhi campaigned.

The termination of these systems has more often been a matter of government action than of mere economic decay. In Hawaii it followed automatically from annexation to the United States; in Australia and the Transvaal it was action taken largely in the interests of the competing white population; but more frequently—as in the 1870's when Chinese treaties checked the trade to Peru and Cuba or in the 1890's when India prohibited emigration to the French colonies—the motive has arisen from the treatment of the migrants themselves. When the system of Chinese indentured labor was abolished in British Malaysia between 1914 and 1916 and emigration under indenture from India was prohibited in 1917, the permanent use of indentured labor on any large scale came to an end. This device then has long since lost its function in the temperate regions and has today been virtually abandoned even for tropical colonization. At least in the latter case, however, spontaneous migration can hardly be counted upon to transfer labor from points of redundancy to points of need. Thus the problem which indenture was employed to meet remains a difficult question for international organization.

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See: APPRENTICESHIP; CONTRACT LABOR; SLAVERY; FORCED LABOR; LABOR CONTRACT; FREEDOM OF CONTRACT; UNEMPLOYMENT; LABOR LEGISLATION AND LAW; IMMIGRATION.

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#### INDEPENDENT LABOR PARTIES. *See* SOCIALIST PARTIES; LABOR PARTIES.

INDEPENDENT VOTING is contrasted with party voting, but there are many marginal cases in which classification is difficult. Voters may reject party affiliation entirely because of ideas of civic duty, but independence generally arises from immediate issues or conditions or from a belief in causes which are placed above party adherence. There are probably few persons who are sustained eclectics in voting, yet most voters are no doubt independent occasionally. In practical politics the factor of interest is not the temperamental inclinations of individual voters, but actual instability in party affiliation in given electoral districts and upon specific issues. Thus in American presidential elections there is an extensive independence in "doubtful states."

Independent voting must be viewed in relation to the circumstances of an election. Periodic popular revolts against the traditional political organizations, or "machines," in American cit-

ies, as, for example, against Tammany, may indicate a temporary independence. If the overthrow of an organization is a result of the participation of a habitually inactive electorate, it is not, properly speaking, independent voting. Independent voters must in the first place be voters, although independence by temperament may be reflected in many cases in non-voting. Non-partisan municipal elections were advocated historically on the basis of the independent spirit; but mere participation in such an election, in which all voting is legally independent of parties, does not constitute independent voting.

The independent attitude in politics may be either organized or unorganized. The individual independent is not a threat to the party system, since the unorganized independent vote is divided between competing party organizations. On the other hand, an effective and relatively permanent organization of independents may become a political party. Whether organized independency, so-called, which offers a "Good Government" or "Citizen's League" ticket in a local election, is a local party or is simply organized independency presents a marginal case of some difficulty. Subjectively, it is probably independence, since the voters in the association regard it merely as a means of combating a temporary evil in local government while retaining their party adherence in state and national elections. More objectively, it is probably independence, since such associations have little organization in the party sense and such organization as they do have is temporary and rudimentary.

The organization of independency need not be exclusively against the party. The protest against "bossism" may assume the character of independency even in a non-partisan electoral district if a number of voters normally supporting the organization or organizations controlling local politics rebel and establish an independent organization. On such occasions the organized protest also hopes to draw to the polls a considerable percentage of non-voters. Independency may be solely in favor of a particular cause, such as the abolition of slavery, the enactment of "dry" legislation or progressivism. Organizations not essentially political in their functioning, such as the American Federation of Labor, may adopt political independence to secure political measures auxiliary to their principal activities. All such organizations must constantly weigh the candidates and platforms of the different parties; the American Federation of Labor, for example, maintains an elaborate record system

for this purpose. Such organizations must also weigh the desirability of organizing their own more or less permanent local and even national parties.

Representative democracy implies the existence of political parties, since in order to function the electorate must have leadership acting through organization. The traditional theory of democracy asserts that the elector in order to be effective must support some political party. In this view independency is an unexpected tendency in democracy, just as is non-voting, although both are perhaps inevitable. Independency is to be associated frequently with abnormal conditions in politics. In national, state and local elections it is accentuated during periods of corruption and party irresponsibility, although in national and state elections sustained independency or instability in party affiliation probably indicates a transition in party life or a new party equilibrium rather than independent voting. As long as party lines are distinct, independency is clear in the oscillation of the political pendulum; but if the instability becomes so great that party organization deteriorates, as in the American "era of good feeling," it can hardly be called independency, which is ordinarily of a temporary or a specialized character. A new political party is based on the willingness of voters to shift their allegiance in the face of new issues, and its lack of tradition makes it subject to heavy political reversals, such as the British Labour party experienced in 1931.

Under the present one-party system of Russia, Italy and China, for example, independency must be reflected primarily in abstention from political life. In the American two-party system in national politics, where the parties are in large measure national federations of state organizations, independency is singularly ineffective, except in "doubtful states" and when there is important "bolting" from the party, such as the Progressive movement of 1912 and the La Follette movement of 1924. The Democratic and Republican organizations are traditionally strong. The position of the Democrats as a minority party means that its victories are based on a temporary drift in support of normally Republican voters. American minor or third party movements constitute a type of affiliation in which issues alone are important, but because of the character and relative permanence of their organization they are not independent but party movements. The multiparty system of most European and parliamentary countries blunts

the clarity and traditional stability of party differentiation, making a transfer of allegiance easy. Under the multiparty system independency less organized and less extensive than in the United States can hope to influence the parliamentary situation; but it is also much more difficult to recognize. In normal times in the United States independency is little in evidence in national elections, and it is widespread only on issues which arouse the deeper convictions and antagonisms of the electorate. In the latter case so many non-voters participate in elections that it is difficult to estimate the force of independency.

The adoption of the direct primary for the nomination of state officers, the presidential preference primary, the initiative, referendum and recall, non-partisan local and judicial elections and emphasis on the conception of public administration as the management of public business, as in the city manager movement, have in their totality been an important stimulus to independency. Defenders of the direct primary, especially the "open primary," and of non-partisan elections believed that the regime of the party would be brought to an end by these reforms. National elections have been little influenced by independency as a result of these measures; and in states predominantly Democratic or Republican, where a one-party system has existed in fact, it may be doubted whether an effective independency has been created by regulation and alteration of the party system. The non-partisan ballot in a predominantly Republican city election, for instance, may do little more than eliminate any clear consciousness of the party.

The defense of independency in politics is finally simply a plea for a spirit of public criticism on the part of the voters. Reformers have argued that progress in government can come only with a citizenship capable and willing to judge party candidates and platforms independently and without prejudice. They have felt that the historic parties are essentially organizations rather than "brokers" of candidates and issues, as A. L. Lowell spoke of them. The party adherent in reply has pointed to the futility of independency and asserted that active participation in politics through the party will attain much more in the elevation of politics than will a repudiation of party regularity.

FRANCIS G. WILSON

See: PARTIES, POLITICAL; MACHINE, POLITICAL; CORRUPTION, POLITICAL; PUBLIC OPINION; CIVIC ORGANIZATIONS; VOTING; LOBBY.

**INDETERMINATE SENTENCE.** A definite sentence of imprisonment pronounced by a court at the conclusion of a criminal trial fixes within the limits set by the law the exact number of days, months and years which the convicted offender must serve as punishment for his offense. By contrast the indeterminate sentence—or the indefinite sentence as it has been called also, although neither term is adequately descriptive—does not specifically designate the length of imprisonment. Usually the court names minimum or maximum limits or both, but occasionally it merely commits the prisoner to an institution, the time limits mentioned being specified by laws governing the administration of such institutions or of parole. The actual time of release is in such cases usually determined by administrative agencies.

The indeterminate sentence originated as a means of securing social protection against habitual offenders; it was occasionally used in the Middle Ages and seems to have been introduced for this purpose into the *Carolina* (1532), the *Theresiana* (1768), the colonial laws of Connecticut (1769) and the Prussian *Landrecht* (1794). In some of these laws it appears in connection with primary penalties, but in Prussia it was used for the preventive detention of certain dangerous offenders who had completed a fixed penalty for certain specific crimes. In the Prussian decree of 1799 it was employed as a primary penalty for thieves and robbers; in Feuerbach's monumental achievement, the criminal code of Bavaria (1813), and in the code of Oldenburg (1814) patterned upon it the use of the indeterminate sentence ended.

under very long terms of imprisonment. It is not known how far it was employed elsewhere on the continent; but the courts of Spain and its West Indian colonies must have used it, since royal decrees of 1772 and 1786 prohibited it. By the middle of the nineteenth century it had disappeared, however, even from German criminal law, where it had survived longest.

Some of these early laws appear to have had not only preventive but also reformatory aims. The Prussian decree of 1799 specifically prescribed detention until the prisoner showed signs of reformation or until he could pursue an honest trade. Article 12 of the Bavarian code stated that under sentences of imprisonment for an indeterminate time the prisoner retained the opportunity of earning his liberty through actively expressed reformation. When indeterminate confinement for minors appeared in connec-

tion with juvenile reformation—as in the House of Refuge of New York City in 1824—the reformatory aim of this type of sentence was clearly shown.

The extension of the indeterminate sentence to adults for corrective purposes received its greatest impetus in the United States, although legal and social philosophers and medical scientists in many countries prepared the way for its acceptance. These men realized that automatic and uniform penalties failed to take into account the individual differences among prisoners and could not utilize the incentives to reformation found in a device which places in the prisoner's power some means of shortening the duration of his confinement. A number of such devices were put into practise during the nineteenth century (see COMMUTATION OF SENTENCE). Inspired by the theoretical validity and the practical success of these devices, the prison reformers of the United States during the middle of the last century began under the leadership of E. C. Wines, Louis Dwight and Zebulon Reed Brockway an agitation for an indeterminate sentence which would permit a better individualization of prison treatment. In his paper before the National Congress of Penitentiary and Reformatory Discipline in 1870 on "The Ideal of a True Prison System for a State" Brockway stated that criminals should be treated "in such a manner that they shall either be cured, or kept under such continued custodial restraint as gives guarantee of safety from further depredations." He furthermore proposed that "all persons in a state who are convicted of crimes or offenses before a competent court shall be deemed wards of the state, and shall be committed to the custody of the board of guardians of penal and charitable institutions until in their judgment they may be returned to society with ordinary safety and in accord with their own highest welfare." This idea he embodied in part in the Michigan law of 1869, later declared unconstitutional, which governed the commitment of certain offenders to the Detroit House of Correction. He wrote it into the bill which he drafted in 1877 governing the administration of the then recently established Elmira Reformatory in New York. The New York legislature refused, however, to accept an indeterminate sentence without time limits and compromised by adopting a sentence with a maximum penalty as already prescribed in the penal code of the state for specific offenses. In 1889 New York extended the indeterminate sentence to state prisons; and although other states

were at first reluctant to follow this example, the twentieth century saw a rapid growth in such legislation. Thirty-six states now carry indeterminate sentences in their statutes with little uniformity in their form and application. Life prisoners; recidivists; criminals above a certain age; or those convicted of certain types of crime, such as murder, treason, arson and rape, are frequently excluded from the operation of the indeterminate sentence laws, which are on the whole reserved for first offenders or for those who have committed less serious crimes. The indeterminate sentence is rarely applied in cases of misdemeanants—it was, however, so applied in New York in a statute passed in 1915—and its use in connection with more serious offenders is increasing. In 1928 of a total of 48,212 persons admitted to state prisons and reformatories, whose time sentences are known, 26,555 were received under indeterminate sentences.

There has been a great deal of opposition to the indeterminate sentence. It has been claimed that it violates the public's sense of justice, which demands that penalties should be measured by the gravity of the offense; that it violates the civil right of the citizen to know definitely when his punishment must cease; that it transfers judicial power to administrative agencies. It has also been asserted that although the indeterminate sentence may under ideal conditions be valuable it presupposes the existence of successful methods of reformation in institutions and proper facilities for parole supervision and that neither has yet been properly demonstrated. The constitutionality of these laws has not been successfully challenged, nor have American legislatures so jealously guarded the prerogatives of the judiciary as have some other countries. The advocates of the indeterminate sentence have contended that scientific penology makes it necessary; that proper individualization of prison treatment and organized supervision on release in the form of parole require it; and that its deterrent power is at least equal to that of definite sentences. The extremists among them believe that the goal to be sought is an absolutely indeterminate sentence which would completely transfer the power of determining even relatively the time of release from the trial court to some other agency, preferably administrative in nature.

The purpose of the indeterminate sentence has frequently been practically nullified either by the courts or by those who have administered its execution. In many jurisdictions where the

former have been able to exercise discretion in its use the minimum has sometimes been fixed either close to the maximum or made identical with it, reducing the law to a fiction. Prison or parole administrators have frequently been unable or unwilling to accept the implications of the sentence. In many states the prisoner's release at the expiration of the minimum time has been almost automatic; only in a few states have provisions been made for adequate parole supervision, which has commonly come to be regarded as a necessary adjunct to the law. In spite of this fact, however, the average length of time served under indeterminate sentences appears from almost all state studies to be greater than it was under the preceding definite sentences.

In recent decades the indeterminate sentence has reappeared in the criminal law of continental countries and elsewhere; it was adopted by Norway in 1902, by New South Wales in 1904, by New Zealand in 1905 and by England in 1908. These enactments are comparable in type to those in the United States but were adopted as "measures of safety" against habitual and dangerous criminals. Spain and Sweden in 1928, Yugoslavia in 1929 and Denmark in 1930 added similar preventive detention laws. Austria in 1928 and Denmark in 1930 also extended the indeterminate sentence to juvenile or adolescent delinquents for corrective purposes, a reform likewise included in the German penal code project. A number of European legal and penological authorities have become strong adherents of the principle; in 1910 and 1925 the International Prison Congress officially adopted it by resolution.

THORSTEN SELLIN

See: IMPRISONMENT; PRISON REFORM; CRIMINOLOGY; CRIMINAL LAW; PUNISHMENT; COMMUTATION OF SENTENCE; PAROLE; PARDON; PROBATION; RECIDIVISM.

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INDEX EXPURGATORIUS. *See* BLACKLIST; CENSORSHIP.

## INDEX NUMBERS

PRICE INDEX NUMBERS. *History.* In its broad and generic meaning an index number is an average of relatives or variations. If the variations measured are those of commodity prices, an index number of prices is obtained; index numbers of wages, interest rates, profits, production and of a large number of other measurable phenomena have also been computed. Each of the applications of index numbers may be subject to peculiarities of its own; and in every case the average is drawn for a certain purpose for which it should be appropriate. Index numbers were first used to measure the rise or fall of prices, i.e. the inverse movement of the general exchange value of money; and the term itself was coined in this connection. In 1838 Porter used the term index prices, and in 1869 the London *Economist* called the sum of relatives of twenty-two prices which it compiled the total index number. Jevons took over the term index number and it quickly came into general use. It was incorporated into most foreign languages to denote either the prices of individual commodities averaged at each period or their total sum or an average of them, the last meaning gradually coming to be the most common. Axiometry, the measurement of the general exchange value of money, is the most important field in which index numbers can be used; it should not be merged and lost in the wider study of index numbers. In this section attention will be confined to axiometry.

Since money is used as the measure of the exchange value of other commodities and as the standard of deferred payments it ought to be stable in value. All "weights and measures" must themselves be measured in order to be kept stable. Money needs this most of all, since it is a notoriously unstable measure and misleading unless its own variations can be allowed for. The measurement of the changes in the value of money began early in the eighteenth century after a long continued rise of prices. Previously

there had been only desultory estimates, as, for example, those of Bodin. Locke and other early writers would have compared money with a single commodity, the commonest food, as being more stable over long periods of time and therefore better serviceable as a standard. Later it came to be more or less consciously perceived that all commodities cannot either rise or fall in their mutual exchange values and that therefore all commodities constitute the standard; in default of all, many preferably to a few, and a few preferably to any one. At first only a few were used, and since then one line of progress has been the extension of the number.

The earliest systematic use of several prices is to be found in Flectwood's *Chronicon preciosum* (London 1707); his work was rough, as he found all his prices to have risen nearly alike. Soon it was found that prices had risen unequally and needed to be averaged. The arithmetic average was used as a matter of course. Dutot in *Réflexions politiques sur les finances et le commerce* (2 vols., The Hague 1738; vol. i, p. 365-77) simply averaged prices as quoted, which meant haphazard weighting. Carli in 1764 employed even weighting by calculating percentages of the price variations and averaging these (*Scrittori classici italiani di economia politica*, vol. xiii, Milan 1804, p. 299-366). Evelyn (in Royal Society of London, *Philosophical Transactions*, 1798, pt. i, p. 133-82), attempting to measure "the depreciation of money," modified this method by multiplying the results by 100 and, lumping together several less important articles, invented a rough weighting by classification. Arthur Young in *An Enquiry into the Progressive Value of Money in England* . . . (London 1812, p. 66-135) improved upon the weighting by counting the more important articles several times. Lowe (*The Present State of England* . . ., London 1822), writing at a time when prices were falling, recommended listing the quantities of many commodities consumed by the people (the estimates to be changed every five years) and setting down their prices from year to year, so that changes in the total sums spent on them might indicate inverse changes in the "power of money in purchase." His scheme was called the tabular standard by Scrope (*Principles of Political Economy* . . ., London 1833, p. 405-08), who followed him in wishing to measure the variations that occur in "the general exchangeable value" of money. In 1859 Newmarch originated the useless practise, since become not uncommon, of starting from a plural base of prices

averaged over several years. In 1864 the *Economist* commenced an annual review of prices, comparing them with Newmarch's base (1845-50), and in 1869 began to add up the prices of twenty-two articles for comparison with their total price of 2200 at the base. Jevons in a pamphlet on *A Serious Fall in the Value of Gold* . . . (London 1863) and in an article in the *Journal of the Statistical Society of London* (vol. xxviii, 1865, p. 294-320) opened the theory of the subject. He set the problem of determining the preponderance of opposite variations but did not solve it, being misled by some false analogies, which caused him to neglect weighting. He adopted the geometric average and alluded to the harmonic, while Laspeyres (in *Jahrbücher für Nationalökonomie und Statistik*, vol. iii, 1864, p. 81-118, and vol. xvi, 1871, p. 296-314) defended the arithmetic. The controversy between them was futile because, paying insufficient attention to weighting, they unwittingly used different kinds. Yet Laspeyres admitted the propriety of uneven weighting and suggested using the weights of the base period. Pasche in a study of price movements published in the same magazine (vol. xxiii, 1874, p. 168-78) used the weights of the later periods. Meanwhile Drobisch (in *Königlich-sächsische Gesellschaft der Wissenschaften, Mathematisch-physische Klasse, Berichte über die Verhandlungen*, vol. xxiii, 1871, p. 25-48; and in *Jahrbücher für Nationalökonomie und Statistik*, vol. xvi, 1871, p. 143-56, 416-27) advised using both and thereby introduced double weighting. Later Messedaglia (in *Archivio di statistica*, vol. v, 1880, p. 177-224, 489-528) treated of averages in connection with this subject and recommended the harmonic.

Two lines of development may be traced through the further epochs of falling prices after 1873 and of rising prices after 1896. On the one hand, practical workers not only made more thorough investigations concerning prices in the past but undertook systematic measurements of price variations as they occurred from year to year; annually and at even more frequent intervals they published index numbers in statistical journals, following the example of the *Economist*. The making of index numbers spread from country to country and has finally been taken over by governments. On the other hand, theoretical workers have continued to probe into the theory of the subject with a view to improving the methods in use. In 1887 the British Association for the Advancement of Science appointed a committee to investigate "the best methods of

ascertaining and measuring variations in the value of the monetary standard." The secretary of the committee, Edgeworth, did most of the work on its several reports and appended to them three important memoranda (1888-90). Hitherto most writers had treated of methods only incidentally, rarely according them more than a page or two, although Drobisch, Messedaglia, Lehr and Walras gave them somewhat more attention. Edgeworth's memoranda were the first treatises devoted to the general methodology of the subject, but unfortunately he obscured it by bringing in extraneous matter. He took advantage of the ambiguity of the term "value" to extend the inquiry to the methods of measuring values other than exchange value, despite the obvious consideration that any question as to the kind of value in which money ought to be stable should form a distinct investigation. Edgeworth also set up various quæsitæ, asserting that "for different purposes different formulæ are appropriate." Since then attention of research students has been divided between formulæ for "measuring prices," for indicating "the trend" or "drift of prices," for "correcting the instability of trade," for serving as a "barometer of business" and the like. One of Edgeworth's aims was to solve the purely mathematical question of finding on the analogy of errors of observation the price variation from which the actual price variations least depart; to this end he recommended the geometric average with weighting inversely proportional to the size of the variations, here adopting a casual suggestion put forth by Jevons. Since for this purpose the quasi-average, called the median, as well as the mode is also suitable, he introduced them in axiometry; after much wasted discussion they have at last been abandoned.

Progress in the right direction was made by Westergaard (*Die Grundzüge der Theorie der Statistik*, Jena 1890, p. 218-20), who noticed that the simple geometric average had the merit, not possessed by the other simple averages, of making exactly the same measurement between distant periods directly or indirectly through intervening periods. Thus he set up for the first time a condition which formulæ ought to fulfil and a criterion or test of a good formula. In 1901 Walsh published *The Measurement of General Exchange-Value* (New York), in which after distinguishing the various kinds of value he examined the nature of exchange value and the nature of averages applied to variations, with the aim of solving the problem regarding the preponderance of opposite variations left unsolved



by Jevons. He discovered several conditions or tests and modified Westergaard's into the circular test. The final result was the demonstration that several formulae are very accurate, although none is perfect. Somewhat later Fisher in *The Purchasing Power of Money* (New York 1911, 2nd ed. 1920) emphasized the correlation of price indices and quantity indices and the consequent fact that every price index can have an antithetical form, except certain ones which are their own antitheses. He also classified and named the tests, doubling them by applying them also to the quantities; among them he included the circular test, but later he abandoned it at least in theory and introduced a new one. In a later work, *The Making of Index Numbers* (New York 1922), he investigated in a somewhat mechanical manner all possible kinds of index numbers, formulating more than a hundred. He recommended one of the price indices which are their own antitheses as the best, calling it "the ideal index number," a name by which it is now generally known. More recently W. I. King in *Index Numbers Elucidated* (New York 1930) rejected all the principal tests and then used the circular test (p. 89, 94).

*Theory.* The immediate object of general price index numbers is the measurement of the general exchange value of money, or its general purchasing power. Money has a particular exchange value in each of the things exchanged for it, and this varies proportionally with the amount obtained and therefore in inverse proportion to the price. General exchange value is a composite of all particular exchange values. If all the particular exchange values of money remain constant (all prices unchanged) or if all vary alike (all prices inversely), the general exchange value of money remains constant or varies to like extent. If one particular exchange value falls, the general exchange value falls but not to the same degree; and vice versa in the case of a rise. If one exchange value of money falls and another rises at the same time, these opposite variations may compensate each other and money remain stable in general exchange value. If many fall and many rise, the one set may preponderate over the other or it may not. Jevons confessed that "the exact mode in which preponderance of rising or falling prices is to be determined is involved in doubt." This is the problem which Jevons failed to solve because he neglected weighting. It still calls for solution.

The problem of general exchange value index

numbers is preeminently that of averaging and weighting price variations. A price variation is a ratio and can be represented by a fraction, such as  $p_1/p_0$ , where  $p_1$  is the price in the current period and  $p_0$  the price in the base period. Averages are functions of several magnitudes that lie not above the greatest nor below the least. When dealing with only two magnitudes, they are properly called means. Their formulae are subject to these conditions: (i) if all the magnitudes are equal, the average must be equal to them; (ii) if a magnitude equal to the average is added or withdrawn, the average must be unaffected; (iii) if a magnitude unequal to the average is added or withdrawn, the average must change. The arithmetic is the highest of the three classic averages, the harmonic the lowest. The geometric mean of two unequal magnitudes is the geometric mean of the arithmetic and harmonic means of the same; but the geometric average of three or more unequal magnitudes is not the geometric mean of the arithmetic and harmonic averages of the same, although when the magnitudes are numerous and not very divergent—and with price variations this is usually the case—their geometric average is then always very close to the geometric mean of their arithmetic and harmonic averages. If two or more of the magnitudes averaged are equal, the expression can be reduced and then the average is said to be weighted, the weights being the repetitions of the individual equal magnitudes. There is really no unweighted average, since the magnitudes must have at least the weights of one; the difference is only between evenly and unevenly weighted averages.

Of all the averages the geometric seems best suited to the measurement of price variations. Prices can rise more than 100 percent but cannot fall more than 100 percent. Obviously a rise of 100 percent is much less than a fall of 100 percent; rather it is equivalent to a fall of 50 percent, for the doubling of one price is counterbalanced by the halving of another, provided the two are prices of articles of equal importance over both the periods compared. The mean which indicates this is the geometric. But when two articles of unequal importance or more than two even of equal importance are involved, the rise and fall of prices may not compensate with absolute accuracy according to the geometric average, although in ordinary cases the geometric properly weighted makes a close approximation.

The next problem is that of proper weighting. A commodity which forms one item in a list of

price variations is simply one name for many units of the same commodity, and the price variation connected with it is not a single magnitude among the price variations listed. The only proper unit in axiometry is an exchange value unit, say a dollar's worth. Therefore price variations should be weighted according to these units which the commodities contain; that is, according to their relative values, which are unaffected by the physical units employed. For if  $p$  represents the price,  $q$  the quantity of the physical unit and  $v$  the value of the commodity, then  $v = qp$  and a change of the physical unit merely makes  $p$  and  $q$  change inversely. Commodities are considered important according to their values; hence the common statement that weights should be according to the relative importance of the commodities. There is, however, a difficulty about the weighting of price variations because of the fact that two periods are compared each with its own relative weights, although it is neither the commodities nor their prices but their price variations that are the magnitudes to be weighted. Evidently the weights at either of the two periods compared are no better than those at the other, and of course no others come into question. Therefore, as criterion IV, the weighting of both periods should be used and of these only.

Another test springing from the nature of the subject, criterion V, is that changes of the physical units must not affect the result, since such changes affect neither the variations nor the values (weights). Prices and quantities are factors of the values. Therefore Fisher, who discovered the next criterion, VI, called it the factor reversal test. Averages of price variations can be converted into averages of quantity variations by interchanging the  $p$ 's and  $q$ 's. Consequently when the same formula with  $p$ 's and  $q$ 's interchanged is used on the same data, the results multiplied together should indicate the variation of the total values, which is a known magnitude.

Westergaard's test, which has already been mentioned, requires that the same result be obtained for a period distant from the base whether the price variations used are related to the base directly or indirectly through a number of intervening periods. When this test is applied to three periods, going from a first to a different second and then to a third exactly like the first, which is the same as going back from the second to the first, Fisher calls it the time reversal test (VII). The method of calculating the average variation from the first to the second and from the second

backward to the first should make the indices reciprocals of each other, so that on being multiplied together they yield unity, indicating no change. Further, if instead of one there are two or more periods intervening between the first and a later period exactly like it, it is equally evident that there is no change between the first and the last compared with each other, and therefore a measurement conducted through the intervening periods should likewise indicate no change when it comes to the end; that is, the intervening results on being multiplied together should yield unity. This is the circular test, or criterion VIII. Fisher rejects it on the ground that the weights of the intervening periods have no business in the comparison of the first and last periods and yet, not being similar as they are when the first and last periods are contiguous, they are not eliminated and therefore derange the result. This is true algebraically; but the fact remains that, since the last period is exactly like the first, no change ought to be indicated. Fisher shows only that no correctly weighted algebraic formula can do what the perfect method ought to do, but this does not logically invalidate the circular test. It is very closely approximated by the best formulae, and Fisher would not recommend his best formula unless it approximately conformed to the circular test.

There is no perfect formula satisfying all the tests. These are of different strength. Test V is inexorable. The first three are always fulfilled if the formulae are true averages. Tests IV, VII and VI are important, but they may be unfulfilled and the formulae still be good for ordinary price variations. Test VIII stands apart; when V, IV and VII, with or without VI, are fulfilled, VIII may be used to estimate the closeness of their approach to exactness—hence its supreme importance. Because Fisher did not use test VIII in appraising the relative accuracy of formulae, his appraisals are not trustworthy on fine points.

The fact that the best formulae which fulfil test IV fail to satisfy completely test VIII is responsible for the difference between two ways of conducting a series of measurements: by comparing every subsequent period with a base period; and by going from the base to the next, from this as a new base to the next and so on. The first, or the fixed base system, was the early practise and is still prevalent; the second, or the chain system, was first employed by Lehr. The two ought to agree, but they do not exactly. The first is better for comparing later periods all with the base, the second for comparing the later

periods with those near to them. Yet because of the high accuracy of some of the formulae, the difference between the two systems is inconsiderable if the former does not run too long on the same base. When both systems are employed they may serve to check each other.

Since the arithmetic average is the highest, the harmonic the lowest and the geometric lies between, the arithmetic mean, or average, will give results too high and the harmonic too low. This is confirmed by test VII, as was shown by Walsh. Fisher expressed this by saying that the arithmetic average has an upward bias, the harmonic a downward bias and the geometric no bias at all. He has also proved that the weighting of the base period has a downward bias and the weighting of the later period an upward bias. When two biases in the same direction are used together they intensify the error, but when opposite biases are used together they tend to neutralize each other, although not completely. The combination may be made by drawing a mean either between the weights of the two periods compared or between the results of a formula applied first with the weights of the one and then with the weights of the other period; these operations Fisher calls crossing. For this purpose the geometric mean is theoretically the best, but from the practical standpoint the arithmetic is almost as good and simpler; the harmonic, on the other hand, is neither practical nor simple and has therefore never been used. The geometric average of price variations with the weighting of either period alone becomes biased; but used with both it is unbiased and its error is diminished to an extremely small degree.

For a more detailed analysis Fisher's notation is employed. Let  $p'$ ,  $p''$ ,  $p'''$ , ... represent the prices of different commodities;  $q'$ ,  $q''$ ,  $q'''$ , ... the quantities of the same respectively; and  $v'$ ,  $v''$ ,  $v'''$ , ... their values. Let subscripts 0 and 1 indicate the base period and the later period respectively. Then Jevons' imperfect formula with even weighting is

$$(1) \sqrt[n]{\frac{p'_1}{p'_0} \cdot \frac{p''_1}{p''_0} \dots} \text{ to } n \text{ terms} = \sqrt[n]{\frac{p_1}{p_0}}.$$

Improved by double weighting with weights crossed it becomes

$$(2) \sqrt[n]{\Pi \left( \frac{p_1}{p_0} \right)^{\frac{v_0 + v_1}{2}}}, \text{ or } (3) \sqrt[n]{\Pi \left( \frac{p_1}{p_0} \right)^{\frac{v_0 v_1}{v_0 + v_1}}},$$

where  $n$ , as always in similar positions, is the sum of the weights. Applied to only two commodities equally important and with quantities

constant over both periods, so that  $\sqrt{q'p'_0 \cdot q'p'_1} = \sqrt{q''p''_0 \cdot q''p''_1}$ , formula (3) becomes (1) and  $\sqrt{(p'_1/p'_0)(p''_1/p''_0)} = (q'p'_1 + q''p''_1) / (q'p'_0 + q''p''_0)$ , as can easily be shown algebraically. This is formula (11) below applied to the case of two commodities under the specified conditions, a case for which it is known to be absolutely correct. But neither (3) nor (2) is absolutely correct in general, although they may be very accurate for price variations and quantity variations such as ordinarily occur. Crosses of the weighted formulae are also possible:

$$(4) \frac{1}{2} \left( \sqrt[n]{\Pi \left( \frac{p_1}{p_0} \right)^{v_0}} + \sqrt[n]{\Pi \left( \frac{p_1}{p_0} \right)^{v_1}} \right),$$

$$(5) \sqrt[n]{\Pi \left( \frac{p_1}{p_0} \right)^{v_0} \Pi \left( \frac{p_1}{p_0} \right)^{v_1}}.$$

Formulae (2) to (5) apparently originated with Walsh in 1901.

Another attempt at the solution of Jevons' difficulty has been made by using an economic unit common to both periods. Drobisch initiated this method but made the mistake of using a common physical unit for all his commodities. His method worked out in a formula would give (6)  $(\Sigma r_1 / \Sigma r_0) \cdot (\Sigma q_0 / \Sigma q_1)$ , which is wrong because it violates test v. Lehr (*Beiträge zur Statistik der Preise* ... Frankfurt 1885) corrected it but called the unit a pleasure unit on the mistaken opinion that units of equal exchange value are units of equal use value. In calculating it he used double weighting, which seems out of place. His formula is

$$(7) \frac{\Sigma v_1}{\Sigma v_0} \cdot \frac{\Sigma q_0 \cdot \frac{q_0 p_0 + q_1 p_1}{q_0 + q_1}}{\Sigma q_1 \cdot \frac{q_0 p_0 + q_1 p_1}{q_0 + q_1}}.$$

With geometric averaging it would be

$$(8) \frac{\Sigma v_1}{\Sigma v_0} \cdot \frac{\Sigma q_0 \sqrt{(p_0 q_0 p_1 q_1) \sqrt{q_0 q_1}}}{\Sigma q_1 \sqrt{(p_0 q_0 p_1 q_1) \sqrt{q_0 q_1}}}.$$

J. S. Nicholson (*A Treatise on Money*, Edinburgh 1888, p. 298-331) invented a somewhat similar but complex method, and it is difficult to make out what his formula should be. Walsh suggested the arithmetic mean and advocated the geometric mean as follows:

$$(9) \frac{\Sigma v_1}{\Sigma v_0} \cdot \frac{\Sigma q_0 (p_0 + p_1)}{\Sigma q_1 (p_0 + p_1)}, \quad (10) \frac{\Sigma v_1}{\Sigma v_0} \cdot \frac{\Sigma q_0 \sqrt{p_0 p_1}}{\Sigma q_1 \sqrt{p_0 p_1}}.$$

These two formulae are among the best, although not perfect as tested by VIII.

The earliest formulae were in fact although not always explicitly founded upon the following consideration: if the quantities of all the commodities are assumed to be the same at both periods, then

$$(11) \quad \frac{(q'p_1' + q''p_1'' + \dots)/n}{(q'p_0' + q''p_0'' + \dots)/n} = \frac{\sum q p_1}{\sum q p_0}$$

is absolutely correct. Of course this formula cannot be correctly applied in practise, since things do not so behave—not even family budgets, although these are generally assumed to do so. But if the quantities vary only slightly over the periods compared, it is approximately correct. This is Lowe's method with the  $q$ 's more or less carefully estimated. It has the appearance of being a ratio of the arithmetic averages of prices, and with the common  $n$  dropped it seems to indicate variation of price level. So viewed this method was long regarded as distinct from that of averaging price variations; and the relative merits of the two kinds were uselessly disputed. Yet Cauchy had shown it to be a weighted average of  $p_1'/p_0', p_1''/p_0'', p_1'''/p_0''' \dots$  without fully explaining its nature. Fechner called it *das summarische Mittel*, which Fisher has translated into the aggregative average, or simply the aggregative. Algebraically it has two transformations:

$$(11A) \quad \frac{q'p_0' \frac{p_1'}{p_0'} + q''p_0'' \frac{p_1''}{p_0''} + \dots}{q'p_0' + q''p_0'' + \dots} = \frac{\sum q p_0' \frac{p_1'}{p_0'}}{\sum q p_0'}$$

$$(11II) \quad \frac{q'p_1' \frac{p_0'}{p_1'} + q''p_1'' \frac{p_0''}{p_1''} + \dots}{q'p_1' + q''p_1'' + \dots} = \frac{\sum q p_1 \frac{p_0}{p_1}}{\sum q p_1}$$

The first is the arithmetic average (A) of price variations with weights  $qp_0$ ; the second the harmonic (II) with weights  $qp_1$ . Thus the aggregative and these two are identical. All further methods that have ever been proposed are merely changes wrought upon this scheme by the assignment of special meanings to the  $q$ 's. Although closely akin Arthur Young's method may be regarded as a possible exception; its formula is  $100 \sum v(p_1/p_0)/\sum v$  (12), where the numerical coefficient may be dropped. It is A with weights  $v$ , the factors of which— $p$  and  $q$ —are undefined; and it differs merely by calling for an estimate of values while Lowe's requires an estimate of quantities.

If the  $q$ 's represent one physical unit of each commodity, i.e. if  $q$  equals unity, then formula

(11) becomes  $\sum p_1/\sum p_0$  (13), which is Dutot's method; in transformation it appears as A with weights  $p_0$  and as II with weights  $p_1$ , which is absurd. If  $v_0' = v_0'' = \dots = 1$  or 100, then formula (11) becomes the simple A and represents Carl's or Evelyn's evenly weighted method (14), essentially the same as is still used by the *Economist* and many others. In this method when later periods computed on a fixed base system are compared with each other, as e.g. the ninth with the eighth, the weights are  $p_8/p_0$  for A and  $p_9/p_0$  for II; this is uneven haphazard weighting, as was shown by Walsh in 1901. If  $v_1' \dots v_1'' = v_1''' = \dots = 1$  or 100, then formula (11) becomes the simple H, Messedaglia's method (15).

If in formula (11) the  $q$ 's in the numerator are made to represent quantities of the later period and the  $q$ 's in the denominator quantities in the base period, then it is changed into (16)  $\sum v_1/\sum v_0$ , actually recommended by Edgeworth for affording "to the consumer a value in use varying with the national affluence." It is a measure not of the exchange value of money but of its esteem value—something quite distinct; it cannot be transformed into an average of price variations, for the weights must obviously be the same on both sides of the base then (11) becomes  $\sum v_0(p_1/p_0)/\sum v_0$  (17A), A with weights  $v_0$ ; or  $\sum q_0 p_1/\sum q_0 p_0 (p_0/p_1)$  (17II), II with hybrid weights  $q_0 p_1$ . Either of these is the formulation of Laspeyres' method. If the  $q$ 's be those of the later period, then it is  $\sum q_1 p_0 (p_1/p_0)/\sum q_1 p_0$  (18A), A with the hybrid weights  $q_1 p_0$ ; or  $\sum v_1/\sum v_1 (p_1/p_1)$  (18II), II with weights  $v_1$ . Either of these is the formulation of Paasche's method. The Laspeyres and Paasche formulae, having neutralizing biases, are fairly good but erratic on opposite sides; they were declared by Haberler to represent the upper and lower limits to the general variation of prices. They can be improved by crossing arithmetically as follows:

$$(19) \quad \frac{\sum (q_0 + q_1) p_1}{\sum (q_0 + q_1) p_0}, \quad (20) \quad \frac{1}{2} \left( \frac{\sum q_0 p_1}{\sum q_0 p_0} + \frac{\sum q_1 p_1}{\sum q_1 p_0} \right),$$

or geometrically as follows:

$$(21) \quad \frac{\sum p_1 \sqrt{q_0 q_1}}{\sum p_0 \sqrt{q_0 q_1}}, \quad (22) \quad \sqrt{\frac{\sum q_0 p_1 \sum q_1 p_1}{\sum q_0 p_0 \sum q_1 p_0}}.$$

Formula (19) was proposed by Marshall (in *Contemporary Review*, vol. II, 1887, p. 355-75) and Edgeworth independently and was recommended by the British Association committee, but so feebly as to pass unheeded. Formula (20) was

suggested by Drobisch in 1871 and Sidgwick in 1883 (*The Principles of Political Economy*, London, bk. i, ch. ii). Walsh recommended (21) in 1901, while (22) was sponsored by a number of investigators: by Bowley for measuring *aisance relative* (*Palgrave's Dictionary of Political Economy*, vol. iii, London 1899, p. 641), by Pigou for comparing price levels of different countries (*Wealth and Welfare*, London 1912, ch. iii), by Walsh as perhaps the best in axiometry (1921), by Allyn A. Young as the best measure of "the general level of prices" and by Fisher as the so-called "ideal index number."

To sum up the results of the argument thus far: the problem of obtaining a perfect formula has been approached along three different lines and certain close approximations have been obtained. First, there is formula (3) with (2) as a close competitor, perhaps even better; secondly (10), with (9) as alternative; thirdly (22), with (21) as rival and with (19) and (20) as practical substitutes.

Apart from the problem of formulae there are a number of questions regarding the data on which index numbers are to be based. To measure the exchange value of money for the country as a whole it would be necessary to have a complete knowledge of all the commodities and their prices and quantities. This is impossible: there are too many commodities. Only a limited number are employed; the most important are chosen and their wholesale prices used as being the most sensitive. Those included serve as samples. Mathematicians have elaborated a calculus of sampling at random, which does not apply here, because here the samples are not taken at random but on the contrary are carefully selected. Yet there is one principle of all sampling which Edgeworth imported into this subject: the errorlessness of any method is inversely proportional to the square roots of the numbers of units involved—not of the commodities named, for these are various multiples. Thus if an index number is based on forty commodities, and these the most important, the others to be added will be less important; and so, to halve the original inaccuracy, it will be necessary to increase the commodities not merely to 160 but to a considerably larger number.

Another source of error is the inaccuracy of the statistical data relating to prices and quantities. Here Edgeworth proved, first, "croneousness of the results is less than that of the data," for errors of the data tend more or less to compensate and cancel one another; secondly, "in-

accuracy of the price-returns affects the result more than inaccuracy of the weights." Therefore, Edgeworth urged, "take more care about the prices than the weights." This was often misinterpreted as implying that it was not worth while to take any care about the weights and therefore, fallaciously, that it was sufficient to use an evenly weighted average, as if this were without weights.

The general exchange value of money, even of gold money, varies differently in different parts of the world; so also does that of the money of different classes of people in a country, even of the money of different individuals. When the money of classes, or as it is called, the cost of living, is being measured, then retail prices are used; in the case of the rich wages of domestic servants also should be included. There is no reason why there should be used here a different method of averaging and weighting from that which is preferable in measuring the money of the whole people.

C. M. WALSH

*Applications.* See PRICE; COST OF LIVING.

PHYSICAL QUANTITY INDEX NUMBERS. See PRODUCTION, METHODS OF MEASUREMENT.

See: AVERAGE; TIME SERIES; STATISTICS; MONEY; PRICE STABILIZATION; FORECASTING, BUSINESS.

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INDIAN PROBLEM, NORTH AMERICAN.

See NATIVE POLICY.

**INDIAN QUESTION.** An oriental people, subject through a century and a half to western rule, moved at first by motives of racial self-respect and then by the poverty of its crowded masses, seeks to realize itself as a nation and to achieve self-government. Its traditional institutions and the divisions dating from earlier conquests hamper it in the struggle. That is the Indian problem as the present generation knows it.

The racial composition of this vast subcontinent shows much diversity, but it may suffice to distinguish four chief elements: the aboriginals, the Dravidians, the Aryans and the Mohammedan invaders. The first are jungle tribes of the Austronesian family, some of which have hardly yet begun to practise agriculture. This aboriginal element remains in pitiable degradation at the base of the social pyramid: to it belong the forty or fifty million "untouchables." The second element traces back to a civilization which began more than 5000 years ago in cities whose sites in the Indus valley have only recently been explored. It was akin to that of Sumeria and in contact with it; it possessed a script from which descend the alphabets of today; it had evolved an urban life of notable refinement and religious ideas which still retain their vitality. These proto-Indians survive as the Dravidian speaking peoples of the south but are an element in the population of the north. This bronze age civilization had been established for over a millennium before the coming (about 2500 B.C.) of the Aryans, who must have gaped at the marvels of the cities which their swords overthrew. Recent researches suggest that, while the Aryans imposed their language over the northern and central regions, the social structure and the popular faiths of Hindu India are a legacy from the pre-Aryan culture and its priestly class, the Brahmins. From this earliest civilization came the contempt for this trivial world of appearance; the discipline of yoga, which aims at power through austerities; the belief in the transmigration of souls; the doctrine of ahimsa (non-violence) and the system of caste—the characteristic beliefs and structure of Hindu society.

These beliefs and institutions created a rigid and static society, which could maintain itself indefinitely until outside forces broke upon it. To these it could oppose only the resistance of inertia. Caste is more than a stratification of society based on hereditary occupations: it specializes morality with function. Courage and the virtues of action belong to the soldierly castes; they have no place in any general civic ideal.

True citizenship was impossible under a caste system which all but deified the priestly class, condemned great multitudes (the Sudras) to a life of contempt and banished the untouchables beyond the social pale. A society so specialized, when it went on to forbid the taking of life either animal or human, weakened itself still further whether for aggression or defense. Something indeed of the old Aryan chivalry survived at the courts of princes and among the martial races. But as a whole Hindu society was schooled to an incredible acquiescence in the unreality of things as they are, including things as an alien conqueror might order them. Religion was narrowly salvationist, for its concern was the welfare of the individual soul. Here indeed is a prescription for a weak society, tenacious but endowed with little capacity for corporate movement or progress. At its base was the village commune. Under fleeting conquerors India remained a collection of about 700,000 village communities. Hindu civilization does not readily organize: it seems content with its two units, the village and the caste; it has thrown up dynasties but rarely made a living state; it has been prolific in theologies, but there has never been a Hindu church.

Hindu civilization was at its best during the Buddhist period, which flourished for over a thousand years from about 520 B.C. Buddhism represented the reaction of the humanitarian pessimism of India against the culture which the Brahman priesthood systematized. It was a movement of liberation, for it rejected caste; its atheism deposed both the Vedic and the Dravidian gods. In this congenial shape Hindu civilization became a missionary faith, created a humane and universal culture and achieved under certain of its emperors, notably Asoka, its greatest triumphs of art and its happiest ordering of society. But with the restoration of Brahman ascendancy caste returned and India relapsed into isolation.

Upon this mediaeval India, split into many unstable kingdoms, broke the successive waves of Mohammedan conquest. The invasion of Alexander the Great had been but a brief incident, although it left lasting traces upon art. The period of Mohammedan conquest began in the north with the eleventh century and lasted, if the period of decay is to be included, for eight hundred years. Its hold on the south was slighter, for a powerful southern Hindu empire survived to the end of the sixteenth century. The earlier Mohammedan conquerors, who felt a fierce contempt for idolatry, must have shattered

Hindu culture in the north with iconoclastic fury. The northern Hindus became with few exceptions a subject people, who paid as infidels a special head tax and were at times exposed to persecution. As late as the end of the eighteenth century Tipu Sultan in Mysore destroyed temples and converted Hindus by force. Some emperors, however, were tolerant, notably Akbar, the greatest of the Moguls, who sought for an eclectic creed. Some married Hindu princesses and employed Hindus as ministers and generals. The Mohammedan ideal of the equality of all believers attracted from the depressed castes masses of Hindu converts, who escaped in this way from the curse of untouchability.

Save to some extent in the northwest the Moslems do not today differ in blood from the Hindu population. The gulf that divides them is made by the incompatibility of the two creeds, the institution of caste, the pride of conquest and the memory of oppression. The Hindu religion, with its prohibition of marriage outside the caste and its minute regulation of food, combined with the pride of the conquerors to limit social intercourse. There were and are obstacles apart from intolerance which explain the slight influence that the two cultures have had upon each other. Language is not in India so grave a barrier to unity as is often supposed. The south indeed speaking Dravidian languages is thereby cut off from the north. But the chief languages of the north belong to the Sanskrit family and are so closely allied that Hindi (the language of Delhi) readily serves as a *lingua franca*. Unfortunately the Mohammedans in adopting it (under the name of Urdu) as their literary language mixed it with Persian and Arabic words and employed the Persian script. The literature of each creed is therefore inaccessible to the average reader of the other. The Mogul Empire had at its height a centralized administration of a feudal and military type, but it did not include southern India until the reign of the emperor Aurangzeb and it began to break up after his death in 1707. One cannot say that Indians were ever in the full modern sense of the word a nation. Yet over immense stretches of time they had a persistent common culture, and even under alien rule the habit of making pilgrimages to sacred rivers and temples mingled in emotional unity vast multitudes from every region of the peninsula and kept alive a love of the physical motherland. The Dravidian south, so strong is the cement of this Hindu culture, shows no separatist tendencies. It is the Moslem conquest alone which has made

a chasm across which it is difficult to realize national unity.

The Mohammedan rulers of India made it a member of the international world of Islam and brought to its shores a cosmopolitan culture. It remained, however, isolated from Europe until Vasco da Gama in 1498 opened the sea road. The motive of the Portuguese in their early settlements was trade, and they enjoyed a virtual monopoly of it throughout the sixteenth century. There was a prevalent belief in the fabulous wealth of India—a belief which has survived many generations of intercourse and which it is not easy to test. Then as now the princes possessed great hoards; and custom favored lavish display. India had thriving handicraft industries, and the pressure of the population on the land was not what it is today. Yet in the eighteenth century before foreign rule had brought about any organic change in economic life there is evidence of dire poverty among the masses. The "wealth of the Indies" was therefore probably superficial; yet the fact remains that by fair means or foul European adventurers could and did make fortunes rapidly in India.

The early European settlements had only the slightest influence on Indian politics and life. The extent of the territory occupied was trifling and did not range more than a few miles beyond the walls of the fortified ports or "factories" dotted round the coasts. Alone among the early adventurers the Portuguese professed imperial aims. The Holy Office figured among their imports, and they made converts under high missionary pressure. In the first years of the seventeenth century three competing powers, the British, the Dutch and the French, reached India almost simultaneously, broke the Portuguese monopoly by actions at sea and strove in turn for preeminence. The Dutch after half a century of effort on the continent were headed off to the East Indian islands. British progress was slow but continuous. The East India Company founded in 1600 had by 1619 four factories with Surat as its chief center; later in the century Madras and Bombay were also acquired. The aim of the company was the single minded pursuit of trade, and nothing in its deliberate actions presaged an imperial purpose until it became involved in Indian politics through the accident of the Franco-British wars of the eighteenth century. The pioneer of European empire in India was Dupleix, governor general of the French factories from 1741. Involved in the world wide struggle between England and France, with only

a handful of French troops to back him, he conceived the brilliant political design of intervening in the dynastic rivalries of the Indian princes and using his partisans to eject the British. The moment was a propitious one: the Mogul Empire was in rapid dissolution; Persians and Afghans invaded the north with impunity; the Mogul feudatories threw off its yoke; and adventurers found that with a troop of cavalry, a train of guns and a buried treasure dug from an ancient fort they could win a throne anywhere. Many were Mohanmedans, but two military powers of Hindu origin, the Mahrattas and the Sikhs, were winning predominance in the central and northern regions. These undoubtedly reflected a crude nationalist impulse and a renaissance of Hindu patriotism based upon religion. This century must have been a period of deep misery for the masses, and Indian civilization amid the rapine and the cruelty was at its lowest ebb.

The struggles of the Europeans were while they lasted only an aggravation of the chaos. When battles were fought in which two hundred British troops under a clerk turned soldier, named Clive, aided by six hundred Sepoys and backed by the levies of a pretender to an Indian throne, faced a like number of French troops and Sepoys under Dupleix or Bussy backed by that pretender's cousin, it is improbable that the Indian people had any clearer perception of the fate that overhung them than had the merchant directors in London or Paris who regretted the interruption of trade. The first round of the struggle ended with the elimination of the French East India Company in 1769. The second was more interesting, for faint traces of the ideas of the French Revolution were reaching India. Tippu Sultan in Mysore planted a Tree of Liberty and called himself a citizen of the French Republic. French officers trained the Mahratta armies, and the loose Mahratta confederacy had a dim nationalist ambition and did for the generation from 1771 to 1803 attain command of Delhi, the traditional center of empire. Naval power decided the issue, however, and kept the French Revolution, save in hints and trickles, from India's coasts.

The events which decided the fate of India occurred in Bengal during the interval between the two Franco-British struggles with Clive as protagonist. It is impossible to tell here the ugly story of the conquest, stained by mutual ill faith, cruelty on the Indian and boundless rapacity on the British side. Bengal was won against a Mohammedan satrap, who cannot have focused the

patriotism of the people, at the battle of Plassey by a force of about 650 British infantrymen with 150 gunners and 2100 sepoy. The Mogul emperor was induced in 1765 to confer upon the East India Company the administration of this province. In its early phase the company's rule was frankly predatory. Its generals (Clive among them) filled their own pockets as well as the coffers of the company by levying crushing tributes and indemnities. Warren Hastings paid for his wars of conquest by extorting ruinous contributions from princes who had accepted British protection. Officials grew rich by open bribery and private trade, until Cornwallis bought honesty by paying the high salaries which have been ever since the basis of discipline in the Indian civil service.

The evolution of the East India Company from a trading corporation into an administrative service proceeded rapidly in the last generation of the eighteenth century. Warren Hastings created law courts for Bengal and drafted a legal code in 1772, and a Regulating Act (1773) surrounded the governor general with a council. But it was in Pitt's India Act of 1784 that the English ruling class clearly revealed its intention to assume responsibility for the government of India. Controversy raged around the conduct of the early procurators; Warren Hastings had to stand his trial, and Burke's sympathies (as later during the French Revolution) were readily enlisted on behalf of injured princesses. Should one ascribe it to the awakening of conscience or to class interest that this bill took from the city merchants who directed the company the right to appoint the governor general and conferred that right on a minister? This post, which soon ranked among the great prizes of politics, usually fell to an aristocrat. The consequences of the new outlook were apparent when Cornwallis, the first of these political viceroys, made the Permanent Land Settlement of Bengal in 1793. This created a class of landlords (before the days of the company these persons were merely tax farmers) and robbed the peasantry of its traditional ownership of the soil. It did indeed stabilize for all time the taxes which these magnates paid, but it has allowed them to raise their rents twelve or thirtefold.

The history of the next generation is a record of incessant conquest. The decisive event was the subjection of the Mahrattas by Lord Wellesley in the years 1802 to 1804. Since they were the custodians of the decadent heirs of the Mogul throne the British succeeded to their vague su-



premacy. While Bengal and some smaller areas were administered directly, the greater part of India came under a quasi-feudal "subsidiary system," which exacted tribute from the native prince and required him to become the ally of the company, to accept its mediation in his relations with his neighbors and to refrain from employing hostile European officers. The restoration of a central power strong enough to impose internal peace throughout the peninsula ended a century of anarchy and was unquestionably a gain to India, for no tradition of humanity had restrained the warlike princes, the bandit armies (Pindaris) and the religious fanatics (Thugs). The directly administered areas (mainly Bengal) gained also from the establishment of courts which no longer sold their verdicts. The police, mostly Indians, were and still are both corrupt and brutal but at least they made life and property secure. In short, the first gift of British rule was the creation of an efficient police state, which maintained order and contributed to economic stability.

Two losses must be set against these gains. The village communities, which had kept their vitality under the Mohammedan conquerors, administering justice, assessing taxes and maintaining the school, the temple and the water tank, decayed under the individualistic emphasis of British rule. Still more serious was the deliberate destruction by prohibitive export duties of the fine textile industries of Bengal. While the European market was thus closed to the exquisite products of Indian hand looms, the Indian bazaars were opened wide to the cheap machine made cloth of Lancashire. First the weavers and then the potters and the smiths were compelled gradually to abandon their crafts; they could now live only by tilling the soil, and so began the pressure on the land which continues to this day. The average size of peasant holdings diminished with each generation, while rents were enhanced by the bitter competition, as the ever increasing millions struggled to gain a subsistence from overcrowded acres. By abolishing war, the first of the Malthusian checks, British rule did much to create the most tragic of India's problems, overpopulation. Famine and plague still remained as checks, but with these in turn the administration learned to cope. The population doubled itself under British rule, but no attempt was made until the present century, and then only on a small scale, to improve methods of cultivation, while the flood of imported machine made goods lessened the alternative ways of

getting a livelihood. Much of this was in a measure inevitable; if no armed Europeans had ever landed in India, the products of their machines would still have invaded it. But the process under a less efficient oriental administration would have been more gradual; and intelligent Indian rulers would have checked it and fostered native machine industry by tariffs. The British government, on the contrary, down to 1924 pursued a policy primarily of encouraging British imports, especially textiles from Lancashire: its program in India called generally for imposing free trade, and when a tariff for revenue was levied it was counterbalanced by an excise tax on the Indian products. India lay passive under the impact of the machine age; it had no government by which it might have reacted (as Japan did) to the new conditions and thus eased the process of adjustment.

One notes toward the end of the company's rule the gradual humanizing of its aims. In 1833 it ceased to be a trading corporation. Bentinck in 1829 broke with its traditional neutrality in matters of religion by forbidding the immolation of widows. Under Lord Dalhousie the company had a wide range of activities and gave evidence of a new concern for the good of its Indian subjects, which carried it far beyond the limits of the early police state. The most significant of these activities was the creation in 1854 of a system of education which included the establishment of universities. The policy, adopted on Macaulay's advice, was to base a mainly literary curriculum on the English language; and Macaulay predicted that in a generation India would turn Christian. In 1848 Dalhousie also created a public works department and a beginning was made with irrigation works, which conferred immense benefits on the peasantry. It is significant that he also started railway building and inaugurated the electric telegraph. His administration was marked by military expansion as well. Wars raged from the Punjab to Burma. The Sikhs were subjugated and one native throne after another was emptied. The case which attracted the most attention, the deposition of the king of Oudh, was a punishment for gross misgovernment; but his fall none the less moved his subjects to hot resentment.

At last, eighty years after Indians had ceased to govern Bengal, came the first popular outbreak against British rule. The Sepoy Mutiny of 1857 was much more than the revolt of discontented mercenaries; it was the first crude expression of Indian nationalism. It is significant that

for several years before these events, notably in 1853, petitions were reaching Parliament praying for the nomination of "respectable and intelligent natives" to the governor's councils. The history of the organized conspiracy is still obscure, but while it began as a mutiny in certain Bengal regiments it became an attempt to revive the Mahratta and Mogul dynasties. Its immediate occasion was the belief of the scpoys that cartridges greased with the fat of cows and pigs had been served out to them with the deliberate purpose of defiling them. What is significant is that a belated perception had reached the popular mind that India was being rapidly westernized. The extinction in rapid succession of several Indian dynasties seems to have been the chief fact that influenced popular feeling; but other evidences of the advent of an alien civilization—the railway, the telegraph and the schools—may have played their part, as similar experiences in China did in provoking the Boxer rising. The mutineers behaved with great barbarity, and the suppression of the mutiny under certain commanders was carried out with a ruthlessness that left bitter memories behind and crushed the spirit of the people for a generation, despite the determination of the viceroy, whom the English in India nicknamed "Clemency" Canning, to follow a policy of conciliation. On the English mind it left a sense of insecurity which lingers to this day. The possibility of a second outbreak is never forgotten. The reinforcement of the white garrison increased the cost of Indian defense; but the deepening of the gulf between the two races was a still more deadly consequence.

With the suppression of the mutiny a new era began. The East India Company was compensated (at the expense of India) and disappeared, and paramountcy over All-India together with the direct administration of British India passed to the crown. The main constitutional change was that the responsibility of Parliament was exercised through a secretary of state assisted by an advisory council consisting mainly of retired officials. The administration was now a powerful bureaucracy distinguished by a strong corporate tradition, which is sometimes able by the threat of resignation to maintain its own views against the check exercised by the secretary and cabinet in London. The Indian civil service recruited mainly from the professional classes by competitive examination has a reputation for a high level of ability and is as hard working as it is incorruptible. It shares, however, the general fault

of the English in India. It lives aloof from the social life of the people; it suffers from an exaggerated sense of racial and official prestige and tends to a certain arrogance of manner, although there are distinguished exceptions to these generalizations. Human nature is rarely equal to the strain of omnipotence, especially when the barrier of color intervenes between rulers and subjects. The English in India whether officials, soldiers or merchants lead their own social life in cantonments cut off from the native town and find their recreations in closed white circles which frown on any intimacy with Indians. English women rarely know much of the "natives," save that they must manage their numerous servants. The most painful aspect of this relationship is the contempt which the less sensitive members of the British community too often display toward Indians, although of late years somewhat self-conscious efforts have been made to promote social intercourse.

Indians feel a certain respect, mingled with fear, for the honesty and capacity of their English rulers; but with this there goes a bitter sense of humiliation, which has increased as education has fitted them to criticize. The tension is greater as the intellectual gap narrows. The Indian professional class, especially the lawyers, was the first to resent the stigma of racial inequality. The relations of the English with the less highly educated and therefore less critical elements of the population, the Punjabis, the Moslems and the "martial races," whose dignity and pugnacity exact a measure of respect, have always been better than with the average upper and middle class Hindu, who is by tradition singularly courteous, incredibly gentle, sedentary in his habits, with little of the normal male impulse of physical resistance to insult and wrong, although he compensates for its absence by dialectical skill. This combination of talents and deficiencies is nicely designed to irritate the average Englishman without extorting his respect.

The British conquest in spite of the highly trained English conscience and the gifts of physical science, mechanical efficiency, order and security which came with it was thus for India's self-respect a uniquely painful experience. Its earlier conquerors, Aryans, Greeks, Pathans and Moguls, settled in the country, intermarried, lost their white skins and became Indians. The British, who never settle or rear children in India, have today, thanks to the growing ease and cheapness of travel, less sense of their permanent personal stake in India than they had in

earlier generations. The consequence is an economic complication which earlier conquests did not raise—a steady “drain” of wealth from the subject dependency to the imperial metropolis. British officers and officials remit part of their pay to their children at home, draw it during frequent and lengthy furloughs and qualify at an early age for pensions which they enjoy in England. There are other “home charges”: for the expenses of the India Office in London, the purchase of stores and the service of the sterling public debt, much of it productive since it has gone into railway building and irrigation, some of it due to past wars. Of the drain in this narrow sense Indian opinion became acutely conscious in the latter years of the past century, when it amounted roughly to the whole sum drawn from the peasantry in land revenue. A partial justification was possible. The officials and soldiers sold services to India which Indians could not at this time render. The productive debt has developed India's resources, and this capital either could not have been raised in India or would have borne a higher rate of interest. Even the cost of the army and police could be justified on economic grounds: security is an indispensable condition for the wealth of nations. None the less the fact remains that year by year this considerable sum is deducted from India's income and ceases to evoke goods and services there, as even a tribute of a far cruder kind would have done if paid to conquerors settled in the country. In its wider sense this drain includes also the profits of European enterprise in India, banking, shipping and industry, in so far as these find their way to investors at home. Such profits often represent an unconscionable exploitation of Indian labor, which is cheap even when allowance is made for its inefficiency. In a good year the European jute mills of Calcutta will make \$500 for their shareholders in Scotland for every \$60 which they pay in wages to Indians. India now exports in a normal year a value of \$400,000,000 above what she imports, a balance which may be taken as a rough measure of the total drain.

If the legend of Indian wealth invited her conquerors, the salient fact today is the unimaginable poverty of the masses. One may say roughly that for every pound (taking it at \$5) which the average Englishman enjoys the average Indian possesses only a rupee (18.6d or 37.5 cents). It would be grossly unjust to attribute this poverty mainly or directly to the British conquest, although taxation and the drain play their part. The explanation begins with the low

physical stamina of the laboring population, due to semistarvation, malaria and other preventable diseases, insanitary housing and early marriage. Women contribute less than they do in the West to this labor power of the nation, and children too much. In the villages the entire population is necessarily unemployed for about a third of the year. To these explanations of the low production of wealth one must add the general illiteracy. In agriculture the methods of cultivation have hardly improved since the bronze age. Forty days of one man's labor will be spent in the various processes required to raise an acre of wheat, where a fraction of one day would be required on a modern mechanized farm. Yet the Indian peasant must sell his wheat at the world price. Animal husbandry is handicapped by the Hindu tabu on the taking of life; the scanty fodder of the tropical summer is consumed by useless herds of aged and half starved cattle, and yet even in the villages the average Hindu child never tastes milk. Hindu religion forbids any measures for the destruction of animal pests, creates obstacles to the use of manure and interferes through caste restrictions with the economical organization of labor. Subject to these handicaps the soil produces for vegetable and animal husbandry a mere fraction of what it would yield under scientific organization to a vastly smaller force of efficient workers. Nor is this all. The wealth produced in inadequate quantity is ill distributed. Almost every peasant is in debt from the cradle to the grave; the village usurer will charge a rate ranging in most cases from 37½ percent upwards and always at compound interest. The landlords (zamindars) under the system which prevails throughout northern India are a parasitic class, who have laid out no capital on improvements, irrigation, drainage or cottages, perform no social function, attempt no scientific management of their estates and levy a tribute which they make no pretense of earning. Official figures show that the landlord's share of the produce of the fields may sometimes amount to as much as three times what the peasant enjoys.

One cannot acquit of some measure of responsibility a government which presides over poverty so terrible. The company, ruling as a mere incident to its trading operations, was indifferent. In the early days under the crown able and conscientious officials trained in the Victorian tradition at English universities believed firmly in *laissez faire* and had no conception of what a government might do to raise the level of

its subjects' economic life. Forced to spend disproportionate sums on the army and the service of the debt, to say nothing of their own salaries, they shrank from the additional taxation which any adequate system of popular education would have demanded. Even today schooling has been made compulsory only in a very few experimental districts. The advance to a more constructive conception of the functions of government became noticeable in the early years of this century under Lord Curzon. The first agricultural research station dates from 1904; cooperative agricultural banks were started the same year; shortly thereafter efforts were made to distribute improved seeds to the peasants. Something also was done to encourage small native industries and to improve the tools of the craftsmen. Medical work also showed steady progress, and factory legislation attempted to effect some improvement in the health of urban workers. All these efforts, however, came at a late date and then only on a scale so small that as yet they have made hardly a perceptible impression upon the hopeless mass of Indian inefficiency, ignorance and ill health. Only eighteen men and not two women in a hundred can read, while the death rate in the native cities is almost four times that of the European cantonments, where white men live under the same burning sky but enjoy sufficient food and adequate sanitation. Again, very belatedly, a break was made after the World War with the doctrines of the Manchester school, which had retarded the creation of native machine industry. Indian steel production was fostered by tariffs and by bounties, while Indian cotton mills enjoy protection to the extent of a 15 percent duty even against the imports of Lancashire. Had these new departures in social and economic policy been initiated half a century earlier, Indian poverty would have been less terrifying and Indian history might have had another course.

A generation elapsed after the mutiny before one again recognizes an Indian nation attempting to play an active part in Indian history. When it did again emerge it spoke the English language and thought in terms of the Victorian liberalism which it had learned at the feet of English masters. Macaulay's system of education was now bearing fruit. It made very few Christians, but it did teach Indian intellectuals to judge by its own western principles the bureaucracy which governed them. An Indian owned press, some of it in English and some in the vernacular, was growing in influence and with it an advance guard of

men trained in the universities and nourished on the doctrines of Burke, Macaulay and John Stuart Mill. Working at first in isolation, the leaders of provincial opinion came together in 1885 to form the Indian National Congress. Its founder was actually a retired English official, Hume; and at least one other, Sir William Wedderburn, was later its president. The Congress was for many years an extremely moderate organization, from time to time celebrating in its resolutions the blessings of British rule and advancing only very slowly toward the ideal of self-government. It was in its first phase a liberal rather than a nationalist movement. It used, as indeed it still does, the English language in its annual conferences; and its membership diffused over the whole peninsula was at that time confined to the educated middle class. Its quarrel was with autocracy and bureaucracy and not with the British connection. It pressed for the representation of Indian opinion in the advisory councils, for equality before the law, for the separation of the judicial and administrative branches of the service, for full liberty of the press and for the remission of burdensome taxation. It educated Indian opinion, brought its leaders into cooperative contact and began to focus the vague strivings for national unity. Although it was the fashion to deride it as the voice of a handful of intellectuals who did not represent the silent and supposedly contented millions, it had a considerable influence on the government. The act of 1892, which reformed and expanded the legislative councils, was passed in response to its agitation.

The Congress grew bolder in the new century. Leaders arose, notably B. G. Tilak, a masterful and eloquent Brahman with the Mahratta tradition in his blood, and Lajpat Rai, a Punjabi with socialist leanings, who had a mass following. These men were feared and repressed, but repression was in vain and each period of imprisonment only served to canonize the leader who underwent it. Chiefly under Tilak's influence the movement was becoming consciously nationalist. If this kindled the zeal of Hindus, it caused Moslems to hold aloof.

What is the content of Indian nationalism? In the negative sense it aimed at first at checking foreign rule, then at its subordination to Indian democratic control or in the last resort at its overthrow; above all it aimed at racial equality. On the economic side also there was little difficulty in union, for all creeds and races could join in the complaint of exploitation, in agitation

against the financial drain and in criticism of the advantages which British commerce enjoyed. This economic nationalism became increasingly vocal and found practical expression in an organized swadeshi movement for the preferential encouragement of Indian wares and industries, especially cloth. This led to a demand, ultimately successful, for the introduction of protective duties into the revenue tariff and it prepared the way for the later boycott of British goods.

But nationalism always craves an ideal content even in the West, and India felt this impulse even more consciously than others. For its attitude to the West in general and toward its British rulers in particular is one of reaction against their "materialism." This has at times taken a defiant form. Scholarly men have been known to lead an agitation against sanitary measures designed to cope with epidemics. One often encounters more than an indifference to physical science—an active hostility toward it. In these moods India will reject the microscopes of the British along with their machine guns. There has been in recent years a marked revival of the wholly empirical Hindu system of medicine. In these developments the advance guard has made a right about turn, when one compares its direction with that of the reform movement of the last century, which was liberal and rationalist. A happier phase of this intellectual nationalism was the revival of literature, music and dancing in Bengal under the leadership of Rabindranath Tagore. He aimed indeed at a marriage of East and West (with the vow of obedience omitted), but he insisted somewhat in the spirit of the Russian Slavophiles on the peculiar mission of India as the custodian of certain spiritual values and of a national outlook on life. What outlook is this? Can one separate it from that persistent Hindu culture, that mystical approach to reality, which scholars detect already in the art of the buried cities of the Indus valley? It reappears five thousand years later in Gandhi's sermons. This religious spirit, this specifically Hindu idealism in the Congress movement, must be deemed to account in some degree for the obstinate aloofness of the older generation of Moslems. A nation must have its own culture. But is there an Indian culture? Can a man who believes in Islam with its militant affirmations, its still more resonant negations, feel at home with Hindu mysticism? Hindus and Moslems seem to dispute over tangible things, but at bottom the force that divides them is that hammer

of the old iconoclasts who smashed the Hindu temples. Hindu nationalism is at grips with two conquests at once. It must absorb Pathans and Moguls before it can present a united front to the British.

This analysis of the growth of Indian nationalism has carried us ahead of the political events. The victories of Japan over Russia brought a new temper to the East, which at last dared to think that white men are not invincible. Lord Curzon's reign as viceroy, in many respects a time of social progress, saw the outbreak in Bengal of a revolutionary movement. The occasion was the partition of Bengal into two provinces in 1905. The old area was unmanageably large, but this autocratic act roused the spirit of Bengal's nationalism to hotter flames of anger than India had known since the mutiny. Terrorist assassinations and dacoities (brigandage with a political motive) stood out against a background of general if passive revolt. Lord Morley undid the partition and introduced the first unmistakable steps toward representative self-government in the years 1907 to 1909. The Morley-Minto reforms when viewed in retrospect inaugurated a policy of conceding Indian home rule by instalments, although John Morley himself stoutly asserted that England would never surrender to the people of India the responsibility for its government. While the elected now predominated over the official element in the councils of the provinces, although not in the central legislature, they were powerless, save for criticism. The result was to confirm Indians in their habitual attitude of embittered and irresponsible opposition. Morley made, however, a bold break with tradition when for the first time he appointed an Indian to a ministerial post on the viceroy's council, while others were chosen to serve on the less influential advisory council in London. Once and once only for a single year an Indian served as governor of a province. The appointment of Indians to important offices has continued since Morley introduced the practice, with less effect than one might have anticipated. The choice falls on cautious and moderate men, who are surrounded by experienced British officials and lack the support of an organized party.

The franchise laid down in the Morley-Minto reforms was extremely restricted, and the system of separate electorates for the Mohammedan and Sikh minorities was introduced, a system which ever since has been the curse of Indian politics. It was necessary to assure these minori-

ties that they would not be swamped by the Hindu majority. Both proportional representation and the simpler system of the reservation of seats (i.e. a provision that of the members elected a fixed proportion must belong to the minority community) were rejected. Mohanunedan, Sikh and Hindu voters were and still are registered on separate rolls. Within these closed compartments they each elect their own members. There can be no rivalry, but equally there can be no co-operation. Every candidate must recommend himself as a stalwart defender of the faith; and since it suffices to talk religion in order to recommend oneself to the electors, parties can evade the necessity for clearly formulated social and economic aims. This false start gravely retarded the political development of India and helped to give to the old rivalry of the religious communities a new economic basis. Each became acutely conscious of its numerical proportion to the whole population, and the claim was now made by Moslems and accepted by the British that a balance should be observed in all public appointments. If a Hindu was promoted to the viceroy's council a Moslem must be found to sit beside him. This principle was soon extended to the humblest ranks of the public services. The consequences to efficiency may be guessed, but more serious still is the degradation of both politics and religion. Faith has become the qualification for jobs.

If Japan's victories over Russia in 1904-05 heightened India's national consciousness, the World War had a still more decisive effect. India showed a rare chivalry in refusing to take advantage of the empire's danger; it filled the empire armies by voluntary enlistment. Even the pacifist Gandhi went on a recruiting campaign, and contributions to the cost of the war were voted with enthusiasm. England for a time was genuinely touched by this spectacle, and promises of reward in the shape of self-government were lavishly made. The realization, however, was slow, and inadequate when it came. With the end of the war began a period of acute unrest. The Afghans invaded the northwest and were with difficulty repulsed in an indecisive campaign. The Mohammedans, usually the loyal and conservative element, had been alienated by the partition of the Turkish Empire, which involved the abolition of the caliphate. Inflamed by this grievance, they made common cause with the Hindus. The fraternization went so far that Moslems were invited to preach in temples and Hindus in mosques. The Indian people wit-

nessed the revival of Arab nationality; they heard the Allies proclaim at the expense of the vanquished powers the doctrine of self-determination, and inevitably they applied it to India. To cope with this unrest the government passed the repressive Rowlatt Act, which struck a heavy blow at all civil liberties and especially at the freedom of the press. At this point a new leadership came to the fore. The Congress had lost its moderate element by the secession in 1919 of the Liberals, a body of able and influential men, who have, however, no mass following. It now organized the agitation under Mahatma Gandhi, who first won his unique position as the champion of the oppressed Indian immigrants in South Africa.

Nature did little for this original personality. Insignificant in physique and with none of the gifts of an orator, he has nevertheless in his personal contacts a charm to which all submit, a disarming modesty and a sense of humor rare among Indians. He assumed the part of an ethical and religious teacher and prescribed a way of life which implied a return to the severest ascetic traditions of the Hindus. In his rejection of force, his preaching of absolute chastity and temperance, his indifference to science, his rejection of the entire mechanical civilization of the West and his adoption of the village as the natural unit of a loosely organized society he recalls Tolstoy in his later years. But unlike Tolstoy he conceived of non-violence (*ahimsa*) as an active method of resistance through the organized refusal of the people to acknowledge the government. Toward the British government his attitude from this time onward was one of absolute opposition. It was for him a "Satanic" government, which had emasculated India, destroyed its traditional social structure, sapped its self-respect and impoverished the "half-starved millions" of its villages. It became a mere question of expediency whether India, like Ireland, should content itself with dominion status or insist on unfettered independence. This was a new note of radicalism; almost equally novel was the emphasis on the misery of the poorer peasants. Here was a new type of leader with a new conception of tactics. His predecessors had been men who thought in western terms even while they were treating Indian nationalism. When Gandhi spoke, India for the first time heard itself thinking aloud. His dominating idea (*ahimsa*) had been hers for thousands of years; his method of silent protest (the *hartal*, which means rather a public mourning than a general

strike) had always been the traditional expedient of the East for checking tyranny. India had always believed that a saint could by his austerities control the universe; this rooted faith in the power of self-discipline Gandhi turned to political account.

This ascetic, whom Indians have trusted and revered because of the purity of his life, is at the same time a shrewd tactician and an organizer. Gandhi will rank in history as a remarkable teacher of morals, but his thinking presents to the western mind a baffling series of impulsive and disjointed exaggerations. His agitation is directed especially against the excessive cost of the British army and the civil service, the salt tax and the liquor monopoly. The salt tax is doubtless a bad tax, but there are a dozen causes of peasant poverty better worth fighting than this. Many of them lie, however, rather in the structure of Hindu society and in its religious tradition than in the sins of omission and commission of India's foreign rulers on which nationalism incessantly broods. Again, while Gandhi's prescription of a revival of hand spinning as a cure all for village poverty is less unreasonable than his western critics commonly suppose, it is pitifully inadequate when it is offered as the main item of an economic program. As a constructive thinker he is obsessed by the belief that Hindu village society as it existed before the irruption of western industrialism was ideally happy. Starting with these preconceptions he has never faced the immense problems of reconstruction with which India must grapple if the standards of her population are ever to approach those of the West. These oddities in his constructive thinking are evident enough to westernized intellectuals. But such is his genius for revolutionary action and such the faith of the masses in his leadership that criticism from within the Hindu camp is silenced.

Gandhi's first essay in leadership was the proclamation of a nation wide *hartal* as a protest against the Rowlatt Acts. It was an impressive demonstration, but occasional acts of violence occurred, notably at Delhi, and the police were prompt to shoot. There were fears of a general rising in the Punjab. The officials were nervous, as well they might be with an Afghan invasion under way, for even the Moslems were disaffected. Clumsy handling of crowds at Amritsar in the Punjab turned them into a maddened mob which murdered two English bank managers and seriously injured a lady missionary. The officials reacted to these outrages with a fury which has

left its indelible mark on Indian history. Every Indian who passed through the street where the missionary had been beaten was compelled to crawl on his stomach. In cold blood after the riots were over on April 13, 1919, General Dyer, finding a prohibited but peaceful meeting taking place in an enclosed garden, mowed down the unresisting demonstrators with machine guns, left 379 dead behind him and marched off without rendering first aid to about 1200 wounded. The gravest excesses occurred under martial law throughout the Punjab. As so often in India, false notions of prestige and of loyalty to subordinates stood in the way of redress. General Dyer was indeed relieved of his Indian command, but the House of Lords by a formal vote registered its disapproval even of this mild censure and a sum of \$100,000 raised by public subscription was presented to the man of Amritsar.

The failure to punish this massacre, even more than the thing itself, drove the Congress into open if non-violent rebellion. In August, 1920, Gandhi, who had been named dictator, making full use also of the Moslem anger over the fate of Turkey, called for all round "non-cooperation." British goods were boycotted; students quitted the government's schools and lawyers ceased to plead in its courts. But the masses did not understand non-violence. In the summer of 1921 the Moplahs, fanatical Moslem tribesmen of Malabar, rose in armed revolt and fell upon Hindus as well as Englishmen. There was rioting in the autumn when the prince of Wales visited Bombay. In vain did Gandhi punish his own frail body by fasting; a still worse outrage occurred at Chauri Chaura in February, 1922, when twenty-one policemen were burned to death in their barracks. Gandhi confessing that he had made a "Himalayan miscalculation" put an end indefinitely to the attempt to win freedom by non-cooperation. Amid the dejection and derision which followed this characteristically unworldly retreat the government, which had hesitated to deal with a saint turned rebel, now struck. In March, 1922, Gandhi was sentenced to prison for six years, but a dangerous illness led to his early release.

The national struggle was now transferred to the legislative councils. The new measure of reform promised in 1917 was avowedly a half way house on the road to self-government. That goal, however distant it might be, was set and the plan of a periodical revision adopted. This gradualism may have been inevitable, but it meant a continuance of the unrest, since the scope of the

next concessions might depend on keeping up the pressure of agitation. The Montagu-Chelmsford reforms enacted in the last days of 1919 (for the Montagu-Chelmsford report see Great Britain, Indian Constitutional Reforms, *Report*, Cmd. 9109, 1918) involved a cautious yet appreciable surrender of power to the elected councils both central and provincial. A nominated minority composed largely of officials sat in them to dilute democracy, and the franchise was restricted. The viceroy and the governors had an unlimited power of veto and might carry legislation, including the budget, by "certification." But in the provinces certain departments, which included education, agriculture, commerce, labor and local government, were entrusted to Indian ministers who were responsible to the councils. The concession was, however, largely illusory, since finance remained a "reserved subject" in official keeping. The bureaucracy retained its grip also on the machinery of law and order. Gandhi declared for a boycott of the elections to the councils, a sterile policy; and eventually Das, the Bengali leader, carried the main body of Congress with him in his advocacy of a policy of constitutional opposition within the councils. The Congress had a majority in some of the councils, but it refused to enter the ministries and by obstruction was sometimes able to render the conduct of business impossible. The government was driven to compose unstable majorities by trading jobs and honors in return for votes. The responsible ministers, who rarely had behind them an organized party based on a social program, showed little independence or ability, and behind these transient figures the bureaucracy still governed. Bengal had the worst, the Punjab and Madras the best experience with this system of "diarchy," which had in the end no defenders even among officials. During this period tension between Moslems and Hindus became once more habitual and was indeed increased by the scramble for posts.

The nationalist movement was at its lowest ebb in 1926, when Lord Birkenhead revived it by an act of clumsy arrogance. By way of preparing for the next instalment of reform he appointed a commission under Sir John Simon, drawn from all parties but consisting exclusively of Englishmen, to visit India and report on its fitness for a further advance to self-government. They were met wherever they traveled by *hartals* and only the tamer Indian politicians consented to give evidence before them. The report of the Simon Commission (Great Britain, Indian

Statutory Commission, *Report*, 17 vols., London 1930; vols. i-iii Cmd. nos. 3568-69, 3572), able though it was as an analysis of a complicated problem, was received in India, when eventually it was published, with a unanimous howl of anger, in which even the more conservative Moslems joined. It proposed no advance at the center but did advise responsible self-government in the provinces.

This episode raised the emotional temperature to revolutionary heat. The Congress which met at the end of 1928 gave the British government one year in which to grant dominion status to India, failing which the Congress would declare India's absolute independence. The coming of the Labour party to office in May, 1929, made a new departure possible and this was attempted by Lord Irwin, one of the few British viceroys whose personality has won the trust and affection of Indians. In a binding official pronouncement in October it was explicitly affirmed that the attainment of dominion status was the goal of British policy in India. The insult of the one-sided Simon inquiry was wiped out by the offer of a Round Table Conference at which Indian and British statesmen would together work out the future constitution. For a moment these concessions seemed to have won Indian opinion, but when Gandhi in quest of further precision failed to obtain a pledge that the MacDonald government would propose to the Round Table Conference a dominion constitution, albeit with transitory safeguards, the Congress decided to carry out its uncompromising program. In January, 1930, it declared India's independence, hoisted a tricolor flag and renewed the struggle of 1921 by non-violent non-cooperation. It is probable that if in 1929 MacDonald had promised what he actually conceded in January, 1931, at the end of the first Round Table Conference, he could have had peace in India, but it would have been at the price of a struggle at home and a probable defeat. Neither the Liberal nor the Conservative party was then prepared to yield self-government at the center. They were persuaded of the necessity for that concession only by the demonstration of India's massive determination to win it.

The success of "civil disobedience" came as a surprise. There was on the Indian side an amazing restraint, and the few instances of violence which did occur seem negligible when one considers the vast extent of the movement. It was weak throughout the south and in the Punjab, but it had the support of the vast mass of



the Hindu population throughout the north and the center. The younger, educated generation of Moslems on the whole sympathized with it and even joined it; the older generation did nothing to frustrate it. At its height in the Bombay presidency it seemed to embrace virtually the whole Indian population. It surpassed in two respects every previous effort. The Hindu women came out of their seclusion, walked in its processions, risked physical injury at its demonstrations, formed the main body of the picketing forces which carried out the boycott of British goods and went in thousands to prison. In the second place the agitation won the peasants even of the remoter villages. There were many villages in which every male peasant wore the white Gandhi cap. The explanation lay partly in the growth of racial and national consciousness and partly in Gandhi's mesmeric hold upon the masses. But the principal new factor was economic. The world depression fell on India with the force of a tropical typhoon. The prices of agricultural produce fell by a half between the harvests of 1929 and 1930. This alone would have meant ruin to the peasants; but their case was further aggravated through the depreciation of silver, which robbed them of the poor savings hoarded in their women's ornaments, and through the raising of the exchange value of the rupee, which added 11 percent to India's external debt. Amid this economic misery the nationalist agitator had an easy task.

The methods of civil disobedience which the Congress adopted rose in a calculated crescendo. First contraband salt was manufactured from sea water. Next the liquor shops were picketed, a serious attack on the budget of the provinces, which draw a fourth of their revenue from the liquor monopoly. The boycott of foreign but especially of British cloth struck at once at Lancashire, at the British merchant community in India and at the customs revenue. In the villages administration was disorganized by the resignation of headmen. In some districts the villagers refused to pay the police rate. The final challenge, the refusal to pay land revenue, was attempted at first only in Gujarat. The peasant, who in this region owns his land, risked the confiscation both of his holding and of his stock. This whole villages and districts faced, acting with an astonishing solidarity which the highly organized castes enforced with fines backed by the social and spiritual penalty of outcasting. Many thousands even deserted their villages and camped in brushwood shelters on the territory of

the neighboring state of Baroda. Gujarat is one of the most prosperous regions of India, and its peasant owners have the stubborn spirit of yeomen. More complicated and significant was the case of the United Provinces, where the peasants are tenants who could not withhold the land tax without also refusing to pay rent. The Congress was reluctant to call upon them to take this extreme action, which would antagonize the landlords, who are often its supporters. The peasants, however, reduced to desperation by the fall in the prices of their crops, compelled it toward the end of the year to sanction a "no rent" strike. This movement under the leadership of Pandit Jawaharlal Nehru, a Brahman aristocrat but a convinced socialist, may foreshadow the eventual transformation of a nationalist agitation into an agrarian revolution.

This period of civil disobedience (1930-31) by aggravating the trade depression had devastating consequences for the Indian Exchequer. Twice it was compelled to raise loans in London. Salaries and the budgets of the social services were ruthlessly cut. The blow to the government's prestige was even more serious. The Congress overshadowed the government in the Bombay presidency, where it was strongest, and to a less extent elsewhere. Its flags, its colors and its cap were everywhere; bands of youths daily paraded the streets at dawn singing its songs; it could gather crowds of 40,000 persons at its demonstrations; its uniformed patrols acted as an unofficial police force in the bazaars, and no cart could pass through the streets unless the driver bore its certificate showing that he carried no British goods; its pickets sat all day before the shops and the saloons. The repression varied greatly from province to province, growing much severer in the later months of the year; but save in Madras it had little apparent effect. The offices of the Congress were closed, its property and presses confiscated and all its activities declared illegal. Yet its fly sheets were still distributed, meetings were still held, the organized boycott was never relaxed and its adherents rather courted imprisonment than feared it. The imprisoned leaders were well treated, but most of the 60,000 prisoners of the rank and file had to endure grave discomfort in the overcrowded jails. Even in the cities the police showed great brutality in beating with their *lathis* (heavy staves) demonstrators who passively squatted on the ground. In the villages with no white officers present the police in attempting to collect the taxes by beating faithfully maintained the age

long traditions of India which British rule has not eradicated.

While this struggle was at its height in the fall of 1930 the first Round Table Conference met in London (*Proceedings*, Cmd. 3778, 1931). Its British members represented all three parties. The Indian delegation included a dazzling contingent of princes, many able moderate politicians and the spokesmen of the Moslems, Sikhs, Christians and the depressed classes; but the Congress, which claims to speak for 85 percent of the population of British India and may in fact represent some proportion between a half and two thirds, was defiantly absent. Parliament could not concede less than the Simon report advised—provincial autonomy—but in that Indians took little interest, although all the main concerns of public life fall within the provincial sphere. Their demand was for self-government at the center, since only at the center in Delhi does India live as a nation. Could Conservatives and Liberals be induced to agree with the Labour party in granting a demand which after a transitional period must one day mean the virtual independence of India?

A new fact emerged in the first days of the conference which changed the whole outlook. The princes in speeches of surprising boldness flung their weight into the national scale and called for the inclusion of their states in an Indian federation. Here from the Conservative standpoint was an ideal safeguard. The princes are autocrats, the leaders of the landlord class and with perhaps four conspicuous exceptions unbending conservatives. Their fealty to the empire is moreover unimpeachable. They are tenants at will, whose thrones and honors depend on the pleasure of their feudal overlord. They may be and very occasionally are dispossessed for gross misrule, but in practise no difficult standard is imposed. Their oppressions and their employment of their revenues for personal ends are viewed with a tolerant eye so long as their political conduct is correct and their bearing deferential. The moment that federation emerged as an early possibility it was realized that the presence in the All-Indian Parliament of a princely contingent, which could not form less than a third of its numbers, would go far to neutralize the perils of democracy. Neither the Congress nor any other radical party could hope to dominate an assembly in which the princes would constitute one third and the Moslems another. It was perceived that the usual nominated official element might safely be sacrificed. The princes

would be no less reliable and they have the additional merit of possessing dark skin; they look like Indians. Their countrymen, on the other hand, who may see further into the future, were less discontented with the prospect than might have been anticipated. The princes may be merely "British officers in Indian dress" (to use Gandhi's phrase), but with them in turn the Congress hoped eventually to deal; they could not remain autocrats for ever.

In the light of this new proposal all British parties were prepared in principle to concede self-government to an Indian ministry, subject, however, to safeguards during a transitional period. The crux lay in defense. Without staff or artillery and with only a handful of junior regimental officers of Indian blood available at the start, it was evident that many years (not fewer, it was reckoned, than twenty) must pass before the native army could be entrusted with the defense of the peninsula. During this period the viceroy in his personal capacity must be responsible for the control of an army reinforced and largely officered by British soldiers, for the conduct of foreign policy and also in the last resort for finance. This last condition reduced the offer of "responsible" self-government to modest dimensions. In effect it meant a repetition at the center of the system of diarchy. The case for "reserving" finance was (1) that the cost of defense, the service of the external debt and the salaries of the covenanted civil service must be assured; and (2) that India's credit must be protected. For this latter purpose it was proposed to place the currency under the management of a central bank, which would in effect be a dependency of the Bank of England.

Indians of the moderate groups went surprisingly far in their reluctant admission of the force of this reasoning. They sought, however, to shorten the period of transition by urging that the Indianization of the army should be accelerated. They were prepared to accept some form of expert control over finance but objected to the supremacy of the City of London. It was further stipulated that the constitution must guarantee to all British subjects equality of trading rights with Indians. The exact interpretation of this principle has caused some controversy. India may not discriminate against British firms established in India but may do much to foster native industry.

Indians were disappointed by the limited range of the subjects which fell within the federal field. The princes would surrender nothing of

their present autonomy, with the result that the federal assembly was to exercise full responsibility over only a few matters of the first importance—notably customs, railways and posts. Within British India it could influence the salt tax and income tax and might enjoy concurrent legislative powers with the provinces over labor and some similar matters. Wide powers of veto were, however, to be vested in the viceroy. The members of the senate from British India might be indirectly elected by the provincial councils, while the chamber would probably be directly elected by an extremely restricted electorate, from which the mass of the peasantry would be excluded. The princes would nominate their representatives as they pleased. A supreme court was to be created. This sketch of the federal system could arouse no great enthusiasm when judged by its immediate effects; the keys of power remained in British hands. It did, however, promise a process of gradual evolution which should in twenty years yield full national self-government. The gain to India's self-respect was considerable; its present subject status would be ended within a generation.

The proposals for reform in the provinces excited little controversy and therefore little interest, yet it is in the provinces rather than at the center that the struggle against Indian poverty must be waged. The scope for constructive advance is on paper ample. It was proposed to place the whole range of provincial administration and legislation under Indian ministries responsible to elected councils, which should be able to move as fast as public opinion demands, in improving education and sanitation, raising the conditions of the industrial workers and fostering agriculture; they could even deal as they pleased with the basic agrarian problems of tenancy and land revenue and would have the police under their control. Indians underestimate these opportunities, but they have the right to answer that in practise the poverty of the exchequer will hamper their constructive work, and this will continue so long as a disproportionate part of the revenues must flow to the center to maintain a white garrison and an alien civil service. The franchise for the provinces was not settled, but it was proposed that between 10 and 20 percent of the adult population should have electoral rights. The latter percentage would enfranchise skilled workmen and the more prosperous peasants, but not the poorer tenants or the laborers. In the provinces also wide powers of veto were to be vested in the governor.

India had hoped little from the conference, but opinion grew less hostile as it proceeded toward its climax, a generous speech by Premier MacDonald in which he offered India peace and self-government. A few weeks later Gandhi was released, negotiated a truce with the viceroy and attended the second Round Table Conference, which assembled in September, 1931 (*Proceedings*, Cmd. 3997, 1932).

The second conference met with the British financial crisis at its height and was interrupted by the general election, which gave the Conservatives an overwhelming majority. Little progress was made, save over details of secondary importance; and the old difficulties, which the first conference had postponed, bulked larger than ever. The princes, now much divided, had become exacting over financial questions. From first to last the intractable jealousies of the religious communities overshadowed the conference, and the Moslems refused to take part in the hurried debates on responsibility at the center until their communal claims had been fully met. They insisted on the maintenance of the existing system of separate electorates. This the Hindus were prepared with reluctance to concede to them and also to the Sikhs, but they could not bring themselves to face the consequences in the Punjab and Bengal, where on the basis of population the Moslems would enjoy a small statutory majority. The result was that the Moslems then made common cause with all the other minorities. The grave new fact was that the spokesmen of the untouchables also demanded a separate electorate, which might include a population of forty to fifty millions, who would thus be permanently withdrawn from the Hindu community. This Gandhi stoutly opposed on the double ground that it would perpetuate the untouchability of the depressed classes by walling them off and that it was unnecessary since the Congress would provide for their adequate representation. Had he been willing to offer "reservation of seats" for their benefit, a compromise might have been reached. The worst aspect of this claim is that it would destroy the hope of creating any effective peasant or labor party in India, since the working masses would be split into three distinct electorates. Every proposal of compromise or arbitration failed, and the British government was left to impose its own solution. The older generation of Moslems, which alone was represented at the conference, had indeed little interest in Indian nationalism. By obtaining the separation of Sind from Bombay and

autonomy for the northwest provinces it secured a compact self-governing Moslem area covering the whole northwest. Some Moslems would prefer to make Islamic culture supreme within this great area—an Indian Ulster, as it were—and allow Hindu India to go its own way. The second conference, in short, served mainly to advertise the lack of unity among Indians. It was a matter for congratulation that it ended with an unambiguous renewal of the promise of self-government at the center no less than in the provinces by Premier MacDonald, who now spoke for a government representing an overwhelming majority of the British people.

The British government pursues, however, what its spokesmen describe as a "dual policy" in India; it reforms with a mailed fist. One hand waves the olive branch while the other wields the *lathi*; the total effect is not convincing. Using as justification a terrorist conspiracy in Bengal, which had assassinated several British officials, it placed that province under a severe coercive ordinance. It then extended the same coercion to the United Provinces, where there was no terrorism—nothing worse than a "no rent" strike of non-violent peasants. When Gandhi returned to India, uncertain whether he should continue to cooperate with the government, he sought an interview with the new viceroy, Lord Willingdon, to discuss among other things the effects of these ordinances. This the viceroy refused and thereby gave the signal, as the year 1932 opened, for a renewal of the struggle. The government continues, however, to work through committees sitting in India at the details of the Round Table draft which it hopes to embody in an act early in 1933.

This essay has sought to dissect by a rapid narrative the complexities of the Indian problem. It is manifest to all but a minority of Englishmen that their direct rule over a subject dependency cannot continue. It is no longer a question whether self-government is desirable; it is inevitable. India's will to freedom is fixed, and in spite of its military weakness it can render coercion costly, unprofitable and discreditable. It has indeed very much to learn. Only a minority of its population has yet begun to adjust itself to the modern world. It is probable that a native Indian administration will fall far below that of the British both in efficiency and in honesty. But a self-appointed teacher cannot with advantage continue his lessons while his pupils daily express their distrust. It is time to close a school when one must train machine guns on it to pre-

serve order. On the other hand, the tutelage under which India has been kept has been so tight that to terminate it without some period of transition would be a criminal act. India could not yet assure either its internal tranquillity or its external defense. So much all Indians know, yet the suspicion of the motives of this tutor, who has combined his trust with much profitable business, is so deep seated that it is difficult to reach agreement over the transitional arrangements. Indians understand only too well that Great Britain cannot but think of its own prestige, its investments and its trade, while it evolves schemes for their future welfare.

The other half of the problem is no easier. India contemplating a future of actual or virtual independence must create a consciousness of national unity over an area and among a population almost as large as those of all Europe with Russia left out. It must reverse the effects not of one conquest but of two. The Mohammedans are not yet wholly won for the cause of Indian nationality. They too have dark skins and have been made to feel their racial inferiority. But they also have their pride and reject that ancient persistent Hindu culture which is the ideal basis of Indian nationalism. A solution would have been easier some twenty years ago in the period when a liberalism imitative of the European still inspired the Indian movement for reform. Today two tendencies have declared themselves which it is difficult to reconcile with a constitution such as Indian liberals of the last generation would have hailed with gratitude. Gandhi's influence in spite of his humanitarianism represents a reaction to Hindu mediaevalism. On that plane Hindus and Moslems cannot unite. They could forget their differences only under the influence of some rationalist view of life. The Hindu tradition moreover has always been weak in the element of organization, and today it must organize on a continental scale. Again there is audible now, as there was not twenty years ago, the underground swell of proletarian unrest. The nationalist agitation may deepen into an agrarian revolution. India is an item in the world's distemper, and its fate may depend on the wheat prices that rule in Chicago. In the final analysis a further aspect of the problem appears. Lawyers can draft constitutions; only a dynamic group of men with wills and ideas can give them life. A great organized party with a sagacious social program could use the machinery of self-government to grapple with India's fundamental problem of village poverty. To achieve this it

is not enough to legislate; the villages must be galvanized into self-help. One party in India and one alone might in its erratic way do this, and that party is the Congress. But it seems that England can bestow freedom on India only by crushing the Congress.

H. N. BRAILSFORD

**See:** EMPIRE; IMPERIALISM; CHARTERED COMPANIES; RACE CONFLICT; CASTE; BUDDHISM; BRAHMANISM AND HINDUISM; ISLAM; PAN-ISLAMISM; CALIPHATE; EUROPEANIZATION; NATIONALISM; DOMINION STATUS; COLONIAL ECONOMIC POLICY; OBEDIENCE, POLITICAL; PASSIVE RESISTANCE; NON-COOPERATION; BOYCOTT; MASSES; MASSACRES; AGRICULTURE, SECTION ON INDIA; VILLAGE COMMUNITY.

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**INDICTMENT.** *See* GRAND JURY; PROSECUTION.

**INDIVIDUAL DIFFERENCES.** *See* PERSONALITY; MENTAL TESTS.

**INDIVIDUALISM** is a modern word. The Oxford Dictionary finds the first instance of its use in Henry Reeve's translation of de Tocqueville's *De la démocratie en Amérique*, in 1840. Reeve in a note apologizes for adopting the term directly from the French because he knows "no English word exactly equivalent to the expression." De Tocqueville explains the meaning of the term thus: "*Individualism* is a novel expression, to which a novel idea has given birth. Our fathers were only acquainted with egotism. Egotism is a passionate and exaggerated love of self, which leads a man to connect everything with his own person and to prefer himself to everything in the world. Individualism is a mature and calm feeling, which disposes each member of the community to sever himself from the mass of his fellow-creatures: and to draw apart with his family and friends; so that, after he has thus formed a little circle of his own, he willingly leaves society at large to itself. . . individualism is of democratic origin, and it threatens to spread in the same ratio as the equality of conditions" (vol. iii, bk. ii, ch. ii).

The primary meaning of the word then is of a state or attitude of mind which is naturally produced in a certain kind of society. That society is most easily described in negative terms. It is one in which little respect is paid to tradition or authority. It is as far removed as possible from that primitive type of social organization where the overpowering dominance of tribal custom and tradition leaves little scope for individual initiative and concern and the members of the

tribe are so absorbed in the group that it forms what anthropologists have called a tribal self. More positively, an individualistic society is one where people "think for themselves" and are regarded as being "the best judges of their own interests," it being assumed that they have interests and business which are only their own. It is a society where "the movement from *status* to *contract*," which Maine regarded as the mark of a progressive society, has gone a long way.

Although such an attitude of mind may be characteristic of modern democratic societies it has existed before and is not so novel as de Tocqueville seems to imply. When Thucydides makes Pericles in the Funeral Oration say of Athens, "In our private intercourse we are not suspicious of one another nor angry with our neighbor if he does what he likes," he is describing the beginnings of individualism in this first sense of the word. The fifth century in Greece was marked by a great disintegration of tradition brought about, like individualism in modern times, partly by scientific discovery. As the Peloponnesian War increased this disintegration, Greek society was pervaded by an individualism so thoroughgoing that it is hardly distinguishable from egoism. This frame of mind is revealed at its best in the ideal of self-sufficiency which is an element in the Socratic character and which was taken up after Socrates and made into a way of life by the cynics. It shows itself in a less favorable light in some of the sophists of the end of the fifth century.

In the highly self-conscious society of that period attitudes were quickly expressed in theories, and Greece at this time offers the beginnings of individualism in a second and modern sense—a theory of the proper relation of the individual to the state. The Greek theories were concerned not with economic organization but with the more general question of political obligation. With this qualification, however, they were prototypes of modern individualist theories with respect to the relation of the individual to collective organization and his freedom from state interference. The text of the Greek theories was the contrast between nature (*physis*) and law or convention (*nomos*). Greek individualism foreshadowed modern individualism in that this contrast took two forms. The commoner form of the contrast in both periods is based on a belief in men's natural egoism. The social contract theory—the characteristic political theory of individualism—as put by Plato in the *Republic* into the mouth of Glaucon is in fundamentals

the same as the theory of Hobbes. Men by nature want to do injustice and not to suffer it. Finding the results of this state of affairs disagreeable, they make a convention neither to do nor to suffer injustice. Law is therefore an instrument for the benefit of selfish self-centered individuals. When it is not such it may be disregarded. So Callicles in the *Gorgias* contrasts the conventional justice of the law with natural justice, the right of the stronger. So also in the fragment of the sophist Antiphon legal justice is something added, a conventional rule which goes against nature. Such individualism is barely distinguishable from a theory of egoism. But in the second form of the contrast there are signs of another individualism which looks on law as cramping not the natural badness but the natural goodness of men. Thus Hippias the sophist is made to say in Plato's *Protagoras*: "All of you who are here present I reckon to be kinsmen and friends and fellow citizens, by nature and not by law; for by nature like is akin to like, whereas law is the tyrant of mankind and often compels us to do many things which are against nature." Some sophists attacked slavery as an unnatural institution.

There are also in Greek thought the beginnings of individualism in a third sense. In the *Laus* Plato connects with materialism those views which disparage law and the state, as he elsewhere connects them with sensationalism. Individualism, from a theory of what ought to be the relation between the individual and the state, becomes a metaphysic, the doctrine that the individual is a self-determined whole and that any large whole is merely an aggregate of individuals, who if they act upon each other at all do so only externally. It was no accident then that the most thoroughgoing moral individualism of the ancient world, the philosophy of Epicurus, based itself upon the atomism of Democritus. Epicurus was an individualist in his account of the relation of the individual to society. "There is no such thing as human society. Every man is concerned for himself." "Justice never is anything in itself, but in the dealings of men with one another in any place whatever and at any time, it is a kind of compact not to harm or be harmed." "We must release ourselves from the prison of affairs and politics." This moral doctrine was connected with a metaphysic which held that all things were made up of atoms—the Greek for individuals; that the variety of the world was accounted for by the composition and ordering of identical units. It

was bound up also with a psychological atomism which made the isolated sensation its unit and association and the desire for pleasure and aversion from pain its key to the explanation of mental phenomena. Further it is to be noted that Epicureanism was not naked egoism, although if it had been true to its materialistic basis it perhaps ought to have been. "Of all the things," says Epicurus, "which wisdom acquires to produce the blessedness of the complete life, far the greatest is the possession of friendship." Epicureanism, like much later individualism, starts with an intense appreciation of the voluntary and free relation of friendship in contrast with the compulsory and traditional bond of political and legal association; in order to justify this it emphasizes the free relation of contract and develops as a consequence of this one-sided emphasis on the freedom of friendship a psychology and a metaphysic which are really incompatible with the valuation with which it started. Thus in Epicureanism are found many of the elements which make up modern individualism: the view that society is nothing more than an aggregate of individuals; the doctrine that the state, law and justice are at best necessary evils; a scientific attitude of mind which leads to the acceptance of psychological atomism and hedonism; and a high valuation set on the voluntary association and the relation of contract.

To produce modern individualism two things especially were required: the enhancement of the idea of the supreme worth of the individual, which came from Christianity and blazed up again at the Reformation; and, secondly, the emergence of an economic system dominated by exchange. These two elements did not make modern individualism a more consistent doctrine. On the contrary. But they made it a more far reaching and pervasive doctrine. Religious individualism did not originate in Christianity, but it is not characteristic of earlier Judaism. The latter makes Israel—the nation, and not individuals—the concern of God. But with the downfall of national hopes there emerges in the prophets a new conception of the dealings of God directly with the individual. This finds most vivid expression in *Ezekiel* (xviii: 2-4): "What mean ye, that ye use this proverb concerning the land of Israel, saying, The fathers have eaten sour grapes, and the children's teeth are set on edge? As I live, saith the Lord God, ye shall not have occasion any more to use this proverb in Israel. Behold, all souls are mine; as

the soul of the father, so also the soul of the son is mine: the soul that sinneth, it shall die." Jesus in the Gospels takes for granted the direct relation of the individual with God. This is implied in the teaching of the fatherhood of God, and in such sayings as "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me" (*Matthew* xxv: 40). This religious individualism is quite unlike Epicureanism or even stoicism, for it combines a belief in the supreme worth of the individual with the teaching, "He that findeth his life shall lose it: and he that loseth his life for my sake shall find it" (*Matthew* x: 39). The individual who is of supreme worth is not isolated, but realizes himself in the service of the brethren. Individualism and socialism as ordinarily understood emphasize one or other of the two aspects which in Christian teaching are inseparable, and it would therefore be misleading to say that the teaching of the New Testament is solely religious individualism. But there is in the New Testament and in all Christianity the teaching of the supreme value of the individual, which is the great contribution to individualism. The end of institutions and social organization is to be found in their effect on the eternal destiny of the individuals. There is connected with this a doctrine of human equality, the basis of which is that compared with the infinite worth of human personality other differences, real and important as they may be, are irrelevant: "... neither Greek nor Jew, circumcision nor uncircumcision, Barbarian, Scythian, bond nor free . . ." (*Colossians* iii: 11).

The emphasis upon the individualist and the collectivist elements, which are both present in Christianity, has varied from time to time. The Reformation was an emphatic assertion of the individualist element which had been overshadowed by the authority of tradition and of the organization. The central doctrine of the Reformation was the universal priesthood of believers, a doctrine in implication individualistic and democratic. Luther himself did not draw the full consequences of his teaching of the "Liberty of a Christian Man," but those who followed him did—notably the Anabaptists, the Independents and the Quakers. Their religious individualism turned away from everything in organized Christianity which stood for the corporate and authoritative aspect of the church. Its implication was almost that "organized Christianity" is a contradiction in terms. The church is a fellowship of believers, each the

direct concern of God, each directly responsible to God, each guided by the illumination of God in his own heart and conscience. Hence there follow the doctrine of the inner light; the doctrine of religious equality, which makes the church the self-governing democratic congregation; the doctrine of the separation of religion and politics; and the denial that the law can make people good. Compulsory religion and compulsory morality both become contradictions in terms. Such religious individualism is a long way from Epicureanism, because it is not self-centered but God-centered. But when the religious faith which inspired it declines, its individualist principles tend to harden into egoistic individualism, although they often retain some element which only religious faith made possible. Utilitarianism, for example, retained a belief in human equality and a zeal for the welfare of others which from the point of view of the hedonistic psychology it had worked out were ridiculous.

This thoroughgoing religious individualism, most obviously exemplified in the Quakers, was held by only a small number; but its pervasive influence over all Protestant Europe and America was very great. Its denial of religious authority made necessary a new basis for political obligation in the principle that it is the concern of the state not to enforce a common standard of right action but to maintain a system of rights which are protected liberties. Because of its insistence on the absoluteness of conscience, the problem of modern political theory became the problem of how to reconcile the rights of conscience with political obligation. Hegel can scarcely be called an individualist, but he finds a place in the state for the individualistic element under the name of morality or the sphere of subjective individuality. He makes liberty the end of the state, and he makes the superiority of the modern over the ancient state to consist just in its finding room for this element. All modern political theory, except the theory of Bolshevism and of Fascism, is in this sense individualistic in that it seeks to find room for and encourage the individual moral judgment and is based on toleration and the maintenance of a system of rights. Most of the differences between modern individualism, strictly so-called, and socialism are differences within these common assumptions.

A second formative influence of modern individualism which must be considered before economic individualism is discussed is the effect of modern physical science upon social studies. The

rise of the modern sciences began with a repudiation of final causes, a return to atomism and a new emphasis on methods of quantitative measurement. The great prestige of the new physical sciences produced continuous attempts to apply their method to the study of man in his social relations. Such a scientific study of society will tend to treat individuals as independent units. Each will be regarded as an atom, something having its own nature complete in itself. If they are to be scientific units they will have to be atoms identical in qualitative character. Because the theory will be interested mainly in the laws of the combination of such units it will tend to regard the units as equal. Human equality is in one sense not a scientific doctrine. For scientific observation of men is bound to reveal their differences, and the supreme worth of human personality is not a scientific fact. But human equality may and did become the prejudice of a scientific method which is trying to apply the principles of the quantitative sciences to human affairs. The assumptions of scientific method thus confirmed a doctrine whose real origin was in religious and not in scientific individualism.

Hobbes was the first systematically to attempt to make political theory scientific in this new sense. His men are for the purposes of his theory identical, equal units. Because they are identical, their relations with one another are purely external. Their natures are not affected by the social relations into which they enter. This is the characteristic doctrine of what may be called scientific individualism. It persists in Locke, is abandoned by Rousseau and revived again by Bentham. Social and political relations are merely means by which the individual obtains more efficiently what he desired before he entered into those relations. The means may seem incompatible in temper with the ends for which they are advocated. Hobbes' men just because they know no natural restraint in their own nature have for the meager satisfaction of their selfish natures to accept a despotic authority in the state. Complete liberty thus has a way of turning into complete absolutism. But political and social relations do not bite into the natures of individuals. The individuals remain the same unchanged, spiritually isolated atoms.

The remarkable thing about this scientific individualism is that it failed as a theory of politics but had a noteworthy success in practical legislation and in economics. Modern political theory took its fruitful start not from Hobbes but from Rousseau, who was in spirit an individualist but



taught that men's moral purposes developed only in and with society. He thus revived the tenet of religious individualism that the individual finds himself only in as far as he devotes himself to something outside himself. The same principle is implied in Kant's distinction of the phenomenal self of mere inclinations and the real self which is found in the self-imposition of universal law. It was developed by Hegel and is fundamental both in T. H. Green's account of the nature of rights and in Bosanquet's doctrine of the general will.

In the main, however, English and French theory followed Hobbes' methods although it did not accept all his conclusions. The aim of the English empiricists was to found a science of human nature on the analogy of the physical sciences and therefore to apply the principle of atomism not only to society but to psychology and ethics. While for the purpose of society the individual is treated as a unit, for the purpose of psychology he is in turn regarded as a collection of psychological units—sensations or desires for pleasure and aversion from pain. Scientific individualism, like Epicureanism, bases itself on psychological atomism. The decisive steps in this analysis were taken by Hume, but Hume was not entirely a rationalist; he tempered his rationalism with a naturalism which found a place for sympathy along with egoism. Adam Smith followed Hume in this ambiguous attitude. He uses the hypothesis of universal egoism to explain the mechanism of exchange and the hypothesis of sympathy in order to explain the origin of governments. He exhibits therefore the double view of the harmony of interests which runs through Benthamism. He assumes in economics a spontaneous harmony of interests. "The study of [a man's] own advantage naturally or rather necessarily leads him to prefer that employment which is most advantageous to society." But politics is necessary because in other spheres interests are not naturally harmonious and need to be harmonized by the action of the law.

Hume's philosophy of association was sharpened in France in the hands of Helvétius into a strictly rationalistic and scientific doctrine and from him taken over by Bentham, the great exponent of scientific or, as it is sometimes called, radical individualism. Bentham was conscious that his task was to set up the study of society on a scientific basis and that therefore no facts were to be admitted which were not capable of clear definition and quantitative treatment. He imagined that psychological atomism and he-

donism would alone give him an account of human nature to which strict scientific analysis could be applied. Hence his elaborate defense of that conception of human nature which is implied in the economic man. But Bentham was not simply the calm investigator anxious to discover the scientific facts. Scientific analysis in the natural sciences had been the necessary means of man's mastery over nature. Bentham wanted a clear theory of human nature in order that as a law reformer he might know how to act upon it. He sees men as separate individuals seeking only pleasure and relief from pain. The pleasures and the pains they seek, like those who seek them, are qualitatively identical. Bentham asserted concerning individuals that each was to count as one and no one as more than one; concerning pleasures, that pushpin was as good as poetry. But although qualitatively identical, pleasures and pains can be quantitatively analyzed, compared and summed. The legislator observes in this aggregate of individuals seeking aggregates of pleasures diversities of interests, and his aim in legislating and in distributing punishments and rewards is to correct the disharmonies and by promoting an artificial identification of interests to produce the greatest happiness of the greatest number. The legislator himself is of course curiously different from those for whom he legislates. They seek their own pleasure; he seeks theirs. How in accordance with a general theory of psychological hedonism he manages to do that is, incidentally, hard to discover. Bentham and the Benthamites—James Mill, Joseph Hume, Francis Place and the rest—had an inborn zeal for reform. The theory gave them a clear simple view of human nature. With it they had a standard to guide them in reforming the cumbrous and antiquated contemporary system of law and government. It certainly needed simplification, and simplification was the starting point and goal of their theory. The psychology and the moral theory of utilitarianism, as this system was eventually called, have often been criticized. Psychological hedonism is an indefensible doctrine, and if it were true, utilitarianism would be untrue. For there is no passage from the fact that all men seek their own pleasure to the demand that they should seek the pleasure of the greatest number. But in spite of its defects this scientific individualism had far reaching consequences for English law and government, and for obvious reasons. From the point of view of the effect of legislation it does not matter whether the legislator thinks

that men seek pleasure or try to do their duty. If he makes it the aim of law to make men free to seek their own happiness as far as is compatible with others doing the same he will in effect be making men free to seek pleasure or to try to do their duty. Scientific individualism provided a simple and comprehensive theory by which a law which still tried to make people do what was right was transformed into a law which maintained a system of equal rights and sought to give all men the liberty essential to lead the good life. "Bentham," says Dicey, "was primarily neither a utilitarian moralist nor a philanthropist: he was a legal philosopher and a reformer of the law"; and his success in Dicey's view was based on the principles that "legislation is a science," that "the proper end of every law is the promotion of the greatest happiness of the greatest number" and that "every person is in the main and as a general rule the best judge of his own happiness."

The success of this legislation was not due to its scientific character to quite the extent that its adherents supposed. It professed to act on the general principle that men should be allowed to do as they like provided that they do not interfere with the liberty of others to do the same. But the law cannot really be so indifferent to what people like. A noise may be a nuisance although other people remain at liberty to make more noise: for what is wanted by the majority may not be liberty to make a noise, but quiet. Scientific individualism will not furnish a complete theory of legislation. Law has also to rest on the fact that there are certain kinds of behavior which most people in a community at any given time want to encourage or discourage. That implies some conception of a common good or the good life. The Benthamites failed to notice this, because they were typically middle class people promoting the legislation which the rising middle class wanted. They imagined that their principles were much more universalist than they were. It should also be noted that while scientific individualism did much good in legislation in extending the sphere of contract, its tendency to treat all human relations in terms of contract was an element of weakness. Not only did it produce an inadequate account of the state; it broke down also when applied to such voluntary associations as trade unions.

In legislation the radical individualists worked on the principle of the artificial identification of interests; in economics they assumed the natural identification of interests. The classical econo-

mists of the early nineteenth century accepted the utilitarian analysis of human nature and supposed that if the processes of free exchange were allowed to operate unchecked the greatest happiness of the greatest number would be automatically produced. This is less absurd in the economic sphere than it would be elsewhere. For economics is concerned with exchange, and exchange assumes that the exchanging parties have managed to identify their interests. The optimism of the earlier economists rests on the belief that, other things being equal, the division of labor and free exchange lead to an increase in happiness. The assumption is warranted although the optimism based on it is not, other things being so unequal. Nevertheless, scientific individualism seems to work better in economics than elsewhere. It is still largely the basis of orthodox economic theory. The reasons for this are to be found in the nature of the relation of exchange. Exchange is a relation in which A serves B's purposes and B serves A's purposes; neither party need be concerned for the purposes of the other although he serves them. Hence economics in its present form may be regarded as concerned with the efficient realization of purposes, the nature of the purposes being ignored. If it is regarded as the business of law in maintaining a system of rights to consider such restraints on liberty of purpose as are dictated by the good of the community as a whole, and to recognize the concern of individuals to act as their conscience dictates, then economics may be regarded in abstraction from ethics and politics, concerned as it is only with the efficiency with which purposes, if allowed by the state and approved by conscience, are achieved. This abstraction can most profitably be made so long as it is recognized that it is an abstraction. When it was made into a philosophy of social progress, as it was by the laissez faire school, disastrous results ensued and it was largely abandoned. For economic individualism as a general social philosophy assumes that individuals are equally free to make or accept a bargain, i.e. that the exchange is really free in the sense of "free and equal." But this is often obviously not the case. It presupposes an absolute instead of a relative separation between means and ends, as though the means chosen to achieve ends were not continually changing the ends. It ignores the amount of government and organization which is not contractual and which is involved in modern industry.

Economic individualism because it assumed

the natural and not, like political individualism, the artificial identification of interests failed in face of the conditions produced by the industrial revolution. Its one-sidedness easily turned the theory into its opposite. The theory meant to encourage freedom produced economic determinism. The labor theory of value, a theory originally meant to justify the distribution of property resulting from an individualistic economic system, became the central doctrine of Marxian socialism. The last great utilitarian, John Stuart Mill, largely abandoned scientific individualism whether in politics or economics. His *On Liberty* (1859) is a magnificent defense of the principle of religious individualism, of the supreme worth of individuality, although the political individualism in it, his attempt to find a principle determining clearly the limits of state interference, breaks down.

Individualism thought of as a thoroughgoing and consistent philosophy of social life necessarily breaks down. No one can really be an absolute individualist, any more than anyone can be an absolute socialist. For the individual and society interact on one another and depend on one another. Even religious individualists, who put the worth and value of human personality above all institutions, must recognize the part played by society and institutions in developing and fostering individuality. The history of ideas shows that individualism is infinitely fruitful so long as individuality is regarded as something to be achieved and realized. But if individuality is thought of, as it has been in many "individualist" theories, as something given and to be defended against attack, individualism loses its evocative force and becomes indistinguishable from egoism.

A. D. LINDSAY

See: LIBERALISM; HEDONISM; UTILITARIANISM; ANARCHISM; NATURAL RIGHTS; LIBERTY; EQUALITY; DEMOCRACY; ECONOMICS, section on CLASSICAL SCHOOL; COMPETITION; LAISSEZ FAIRE; ROMANTICISM; FRONTIER; COLLECTIVISM; SOCIALISM.

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INDUSTRIAL ACCIDENTS. See ACCIDENTS, INDUSTRIAL.

INDUSTRIAL ALCOHOL is ethyl, or grain, alcohol rendered unfit for beverage purposes and made available tax free for manufacturing and commercial uses. Ethyl alcohol is second only to water in importance as a solvent and no substitute has been found for it in important chemical processes. Other alcohols, however, are also used industrially. Methyl alcohol, or methanol, or-

ganically the simplest of the alcohols, was known as wood alcohol because it was produced by the destructive distillation of hard wood; at present large quantities are synthesized from carbon monoxide and hydrogen. Its principal uses have been in the production of formaldehyde and as a denaturant. Butyl alcohol, or butanol, usually a product of fermentation but also synthesized, is important as a raw material of lacquer. Propyl alcohol and isopropyl are largely derived from petroleum. Amyl alcohol is manufactured principally from pentane, a gas secured from natural gas and from certain petroleum operations.

When alcohol began to be used commercially early in the nineteenth century the varnish and paint trades and lighting and heating were the chief sources of demand. The former are still the most important outlet in Great Britain, the latter in France. In the United States today alcohol is of comparatively little importance as domestic fuel, while the development of the organic chemical industries, the increased demand for toilet preparations and drugs and the indispensability of alcohol in laboratories and hospitals have vastly increased the industry's importance. The growth of the automobile industry, however, has created the greatest market for industrial alcohol. Nearly half the American production, which in 1929 equalled 100,000,000 wine gallons per year, is used as antifreeze solutions in automobile radiators; another quarter is required for cellulose solvents.

A vast potential demand for alcohol as a fuel has been stimulated by the increasing dependence of modern economic life on automotive transport. States deficient in petroleum reserves have experimented with alcohol as the most promising substitute for gasoline. The admixture of alcohol produced domestically is required in motor fuels in France, at considerable cost to the government agency, which sells it at a loss; "national" mixtures have also been used extensively in Germany, Czechoslovakia and elsewhere. In South America alcohol made at low costs from waste sugar products is used with ether produced from some of the same alcohol. The British dominions have developed such mixtures as nataline. Large scale experiments have been made with alcohol as a fuel in the United States, but the advantage will in all probability remain with gasoline as long as it can be produced at much lower cost. Industrial alcohol is slow in igniting and requires higher compression than the ordinary engine provides. Nevertheless, the recent perfection of a commercially

feasible process for producing anhydrous ethyl alcohol paves the way for greater use, since it has been found that a combination of gasoline and anhydrous alcohol is superior to plain gasoline as an airplane fuel.

Although there are many plants from which alcohol may be derived, there are relatively few economically profitable sources. Ethyl alcohol was formerly made almost exclusively from the starch in cereal grains; hence the origin of the name grain alcohol. In the United States corn, yielding approximately two and one half gallons of 95 percent alcohol per bushel, was the chief source. In Germany as a result of government policy in subsidizing agriculture alcohol is distilled mainly from potatoes which have been developed to a high starch content for the purpose. In Great Britain the Distillers Company, Ltd., representing the distillers of potable alcohol, who still employ chiefly grains, also controls the industrial alcohol field. There is a movement in France for greater utilization of surplus wine crops in the production of industrial alcohol, now chiefly derived from sugar beets, and considerable experimentation is being carried on with a view to discovering new plant sources in hitherto undeveloped regions of the world. In more recent years the cheap non-edible by-product molasses from cane sugar refineries, commonly called blackstrap molasses, has become the chief source of ethyl alcohol in the United States and in other countries where it is allowed free competition. Two and one half gallons of molasses are required on the average to produce a gallon of 95 percent ethyl alcohol. The manufacture of alcohol from plant sources is a simple process. Only fermentation, distillation and rectification in columns, all in a closed system, are required. By-products are carbon dioxide gas, which is either collected for sale or allowed to escape, and residues from which potash among other products may be recovered. Labor conditions are generally good and there are no special hazards connected with the industry. In 1929 an American plant began the synthetic production of ethyl alcohol on a commercial scale, using ethylene, a hydrocarbon by-product of petroleum refining, as the principal raw material. The success of the process is indicated by the plant's 1931 quota of six million gallons.

Although the alcohol industry is adapted to small scale operation the greater part of the supply is produced by large units, and there is close cooperation and financial integration between the alcohol and other chemical industries. The

United States Alcohol Company, which is controlled by interests of the Air Reduction Company, Inc., produces 40 percent of the supply of American ethyl alcohol. It helps, however, in the marketing of the competitive synthetic product of the Union Carbide and Carbon Corporation as well as the surplus of the Eastern Alcohol Corporation, a Du Pont subsidiary. It is perhaps due to the threat of synthetic alcohol that the company is broadening the production of its own manufactured alcohol brands, which now include lacquers, fertilizers, ether, nitrocellulose solutions and cellulose acetate as well as Sterno canned heat, Alcogas airplane fuel and Alcorub. The Commercial Solvents Corporation, the only commercial producer of butanol and an important factor in all the alcohol markets, is likewise connected with the Du Ponts through its joint ownership of a paint manufacturing plant with the Graselli Chemical Company. It recently sold an interest in the Resinox Corporation, a subsidiary, to the Corn Products Refining Company. In general, competition has relaxed since the introduction of the quota system by the Bureau of Industrial Alcohol.

The protection which various European governments have extended to the industrial alcohol industry has fostered the growth of nation wide marketing associations. Certain countries, however, have gone even further. In Switzerland the manufacture, import and sale of alcohol are a government monopoly. Imperial Russia monopolized its sale, and under Soviet administration its production and sale are of course a state function. France, which formerly subsidized the manufacture of industrial alcohol by means of a tax on all distilled spirits, has organized an office of national control to buy and sell all alcohol made from beets and molasses and to stabilize the entire alcohol market.

For many years taxation of alcohol has been a favorite means of raising governmental revenue. Egyptian historians have found what is claimed to be the first record of such a tax, initiated some five thousand years ago. England as early as 1855, however, realized the importance of the non-beverage uses of alcohol and undertook to make it available to industry tax free in the form of methylated spirits. Other countries soon acted to relieve their industries of what had become a discriminatory tax. The growth of the organic chemical industry in Germany led to an increased demand for ethyl alcohol as a raw material which had of necessity to be cheap and therefore tax exempt. The United States, last of

the industrial countries, legalized denatured alcohol by Act of Congress in 1906. Undenatured alcohol is available tax exempt in many countries for use in scientific institutions and hospitals and at times for use in certain industrial processes.

The United States government defines denatured alcohol as ethyl alcohol to which have been added such denaturing materials as render the alcohol unfit for use as an intoxicating beverage. Enforcement of the prohibition law complicates the situation without changing its essentials. There are two main types of denatured alcohol: completely denatured alcohol, which may be sold and used within certain limitations without special permit; and alcohol specially denatured so as to make possible its use—under federal permits—in a greater number of specialized arts and industries. The ideal denaturant not only renders ethyl alcohol unfit for beverage use, but once mixed with the ethyl alcohol it cannot be readily separated and it does not introduce elements incompatible with commercial use. Wood alcohol, or methanol, was the first denaturant because its boiling point is so nearly identical with that of ethyl alcohol that separation is difficult without elaborate distilling equipment. Methanol is, however, not suitable as a denaturant in the production of many fine chemicals and dyes, and a number of other substances have been used. In Great Britain pyridine has been extensively used as a denaturing agent and it has found some application in the United States. More recently special compounds derived largely from petroleum have been devised by the federal departments in cooperation with the alcohol using industries. In 1931, because of the deaths due to wood alcohol poisoning resulting from the diversion of industrial alcohol for beverage purposes, methanol was eliminated from the United States formulae and alcotote, a petroleum product, was substituted for it as a complete denaturant.

The permit system, operating as a function of the Treasury Department, formed part of the original prohibition enforcement procedure. Elaborately detailed regulations have been prepared and amended from time to time. The ninety odd manufacturers and the more numerous users are required to keep detailed records of their handling of alcohol; to furnish bonds for the performance of their obligations under the permit; and to secure basic and supplementary permits allowing the manufacture, possession, transportation or use, as may be the case, of such

specially denatured alcohol as their legitimate business requires. The system also involves inspection and supervision by federal agents of the observance of the regulations for the storage and use of the raw material and denaturants as well as of the distribution of the finished products.

Notwithstanding these precautions, the size of the supply made industrial alcohol attractive as a material which might be diverted into illegitimate channels. The fact that once it is completely denatured under federal supervision alcohol may be sold and distributed without the necessity of permits and records has at times complicated the problem and given rise to what have been known as cover up houses. Nevertheless, the growing cooperation of reputable manufacturers and users in the enforcement of the law and the increased efficiency of denaturants have caused those interested in this nefarious business to turn to the direct production of alcohol from readily available sugars and starches as a less dangerous, simpler and more profitable procedure. One of the evidences of cooperation has been the acceptance of quotas. The manufacturers of alcohol have agreed to limit production according to capacity so as to produce only the estimated minima required yearly by legitimate industry, thereby reducing a possible surplus production which might find its way into undesirable hands. The establishment of quotas is facilitated by the permit system, which enables the authorities to specify for what purposes the various specially denatured grades are to be employed and to estimate the quantities users will require. The Bureau of Industrial Alcohol of the Treasury Department has for years had the assistance of an Industrial Advisory Council, composed of representatives of manufacturers and users of industrial alcohol who serve voluntarily for the purpose of giving such advice and counsel as may be useful in the framing of regulations and increasing the effectiveness of federal supervision. It is believed that the diversion of industrial alcohol at the present time has been reduced to a comparatively negligible quantity and is of no special importance in the whole question of prohibition enforcement. According to the Wickersham committee the amount diverted in 1929 was between nine and fifteen million gallons.

The research devoted to the synthesis of the various alcohols in the last decade has resulted, on the one hand, in making available on a commercial scale alcohols which were formerly relatively rare and, on the other, in discovering

methods for the more economical production of such well known compounds as methyl alcohol. In 1930 for the first time the price of methanol fell below that of ethanol. The result has been a considerable competition among the old and the new interests for established markets. This has shown itself especially in the antifreeze field, where during the winter of 1930-31 substantial quantities of synthetic methanol were used. Although the United States Bureau of Mines, as a result of an investigation supported by manufacturers of methanol, declared that the product was harmless unless used as a beverage, its toxic nature led to serious consequences and special provisions have now been made for its distribution. The low prices of methanol have made it a possible substitute in some of the industrial uses to which ethyl alcohol has heretofore been put. Conditions indicate, however, that industrial alcohol also will be available for a long time to come at prices substantially below those which have prevailed. Improved technology has made possible a steady reduction in the price of ethylene, and this combined with improvements in the synthetic process gives promise of synthetic alcohol at a cost of production so low as to threaten the market for the fermentation product whenever the price of molasses rises above four cents a gallon. There is nothing to indicate that ethyl alcohol will not continue to be an industrial necessity. The manufacturer who must use it has been considerably harassed by the conditions incident to prohibition enforcement and would long since have turned to a substitute had it been possible to develop one.

HARRISON E. HOWE

Sec. CHEMICAL INDUSTRIES; OIL; PAINTS AND VARNISHES; LIQUOR TRAFFIC.

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**INDUSTRIAL ARBITRATION.** See **ARBITRATION, INDUSTRIAL.**

**INDUSTRIAL ARTS** relate to the production of articles primarily utilitarian in which the effort has been made to introduce aesthetic appeal. They reach their widest significance when their production assumes the proportions of an industry. The field in general is that of the industries producing goods for personal and household use and decoration, such as those concerned with clothing, textiles, jewelry, furniture, ceramics, glass, metal work and wall paper, and the printing industry.

It is usual to say that before the end of the eighteenth century, when production became largely a matter of labor saving machines driven by power, such goods were made by handicraft (*q.v.*) processes. Machines of one form or another, however, such as the loom, the spinning wheel, the helve hammer, the potter's wheel, the turning lathe and the printing press, appeared in some cases many centuries before the industrial revolution; power from wind and moving water was often made use of; quantity production and the division of labor had appeared to an important extent; and capitalist control was widespread.

Handicraft as a method of making artistic goods has its chief significance when it exists in connection with simplicity of producing organization and directness of contact with the consumer. In its simplest terms, outside of family economy, handicraft as an organized scheme of production appeared in western Europe as a system in which a master craftsman presided over a household unit consisting of one or more journeymen and apprentices. In this small unit the master craftsman was also a merchant dealing with his local community either through the manufacture of articles on order from individuals or by the sale of his products to retail customers. Under such conditions and such only craft work possessed and still possesses distinct and peculiar artistic possibilities. These reside largely in the opportunities afforded for individual expression, for the play of imagination and for experimentation, all favoring the de-

velopment of that rare individual, the creative artist craftsman. Even for less gifted masters this system brought the advantage of comment and criticism from customers, while daily experience effected an intimate knowledge of tools and materials, as to both their potentialities and their limitations.

These particular aesthetic possibilities were modified as soon as the origination of design was removed from the hands of the small master craftsman by methods of industrial organization aiming at greater quantity production or at least at greater measure of merchant control. When wholesale trade and distribution to markets outside the confines of the local community developed, the control of quality and design was transferred to the large master or merchant, and the craftsman, working with his hands, ceased to be an originator or creator. The results of such changes in the organization of production may have been good or bad artistically. The significant point is that when they took place aesthetic values were created by a method essentially different from that which characterized simple handicraft conditions. This shift in function, which is of great importance in the history of the industrial arts, began in western Europe at least three or four centuries before the industrial revolution and reached its highest point when power driven machines became the common instruments of manufacture. The separation of designer and maker persists to the present day and constitutes one of the chief obstacles facing improvement in the artistic standards of the art industries.

Examples both of standardized quantity production and of group workshops presided over by a single master or merchant are found in very early historic times. It is probable that group workshops produced the great numbers of glazed pottery figures and glazed tiles, so similar in artistic and technical character, which have been found in the tombs of early Egyptian kings, and also the delicate glass mosaics produced in great numbers at the time of the New Empire. The making of glass from raw materials is not a process readily accomplished by the individual craftsman. Special technical knowledge is needed and furnace equipment and control commonly beyond the resources of the single worker. There are other indications of group activities in the highly developed industries of Egypt. By the time of Herodotus linen yarn and cloth were exported from Egypt to neighboring countries in quantities so large as to suggest that their

production could have been compassed only in establishments of considerable size. From wall paintings and sculptured figures found in tombs we know that division of labor obtained in this industry.

Dyeing was early developed by the Egyptians, but it was the Phoenicians who excelled in this art. Tyre not only made cloth but imported it to be dyed and sent out again. So largely was the dyeing industry developed in Tyre in the first century A.D. that it was the chief source of wealth and made the city unpleasant as a place of residence. When one considers the trading genius of the Phoenicians it seems improbable that such a large manufacturing system was carried out on a simple handicraft basis, that is, with the craftsman acting also as a merchant selling directly to the retail consumer. It would seem almost inevitable that such an industry would be dominated by wealthy merchants who controlled groups of craftsmen in much the same fashion that appeared in western Europe from the fourteenth to the eighteenth century.

The Greeks were not an industrial people; handicrafts were despised as fit only for slaves and foreigners. War and government were the business of citizens. Preparation for war was consequently respectable, and the fact that Demosthenes inherited a sword factory employing fifty workers did not impair his standing in the state. Artistic work claimed some consideration, and exports of products of this nature formed a substantial item in Greek trade. The finest Greek vases of the fifth and fourth centuries B.C. were painted by artists whose creations were prized throughout Magna Graecia and Etruria and whose names in several cases are known today. On a black figured vase in the Alte Pinakothek in Munich there is shown an Athenian pottery establishment with a number of workers engaged in special tasks: two figures are engaged in throwing a large vase on the wheel, others are firing or stoking the kiln, while others are carrying fuel or unbaked pots; dominating the scene is the imposing figure of the owner or overseer.

In republican Rome there were large workshops producing in quantity. Many of these were on great landed estates in which industry was combined with agriculture and stock breeding. In the imperial epoch industrial establishments increased in size and number in various parts of Italy and Gaul. Some of these, producing great quantities of pottery, terra cotta vessels (many signed by individuals), lamps and even statuettes

for distant markets, were clearly in the field of the industrial arts.

The appearance of the quantity element in the making of goods designed for aesthetic appeal can be traced perhaps more readily and over a longer period in the history of weaving than in that of any other industry. This is particularly true if the study be confined to woven patterned silks which, being essentially expensive luxury products, exhibit greater variety and richness of design than other woven materials.

Of the conditions under which such silks were made by the Chinese in early periods little is known. It is only after silk weaving became domesticated in Persia that it is possible to learn something of the early practices of the industry. In the Sassanian period (222 to 650 A.D.) there is evidence that the art of pattern weaving reached a high point of excellence, and we know that it was during this time that Persian influence in this field, as in others, spread to Egypt, Syria and Byzantium. It was also at this time that Persian silks came into demand in Rome.

After the Arab conquest some light is gained on the organization of production. It was the habit of the caliphs to honor their favorites by gifts of choice robes of flowered silk, and the demand for suitable fabrics became so great that a manufactory for fine weaves was set up as an adjunct to the palace. Moreover it is on record that in the ninth century great numbers of workers were transferred from one of the weaving centers to Bagdad and there housed in a special quarter of the city.

Although rare examples of twelfth century fabrics show that Persian weaves had reached a high level of aesthetic quality, we know little of the origins of the designs. It is not until the appearance of the exquisite creations of the miniature painters and illuminators in the fifteenth century that the sources of woven patterns are made clear. The work of these artists was soon reflected in the products of the weavers, and the most splendid era of Persian silk design took on its abiding qualities. This inspiration continued throughout the sixteenth century. Rich brocades were added to the earlier, lighter fabrics, and the achievements of the weavers reached a splendid culmination in the production of superb and costly velvets. The glorious period of Persian textiles ends with the seventeenth century. At this date commerce demanded larger and larger supplies from the looms and the quality deteriorated, but by



this time Persian artists and weavers had set the seal of the national genius so unmistakably on all manner of silk fabrics that their conceptions have remained to the present day a major element in fabric design for all western countries.

During this long period of artistic ascendancy the creations of Persian weavers were the chief inspiration of the important textile production of Egypt, Syria and Byzantium and her subject provinces. From the sixth to the thirteenth century Byzantium was the chief world center of activity in all the industrial arts, and in the latter part of this period it was largely through the trade conducted by Venice with this city that the influence of Persian design reached the western world.

It was the crusades, however, that were responsible for the introduction of silk weaving into Europe. In the twelfth century a factory for silk weaving was established at Palermo by the Normans. As a result Sicily quickly became the chief European center for the production of fine fabrics. The most important cities of the Italian mainland soon followed this lead and from the thirteenth century onward Florence, Lucca, Milan, Genoa and Venice became active producers of woven silks. By virtue of sound workmanship and fine taste the products of Florence were so highly esteemed that they soon competed successfully with the silks of the East. The early stuffs were thin, light fabrics, such as sarcenet and taffetas, which followed the earlier designs of Persia or Persian quality as transmitted through the fabrics of Syria or Byzantium. Later came heavier satins, damasks and brocades and finally velvets and cloth of gold.

In all these materials the eastern influence, particularly that of Persia, is in strong evidence. Patterns were either copied or modified from the oriental weaves and show little mark of the creative designer. It is not until the sixteenth century that a distinctly occidental quality becomes prominent. At this time Italy was flooded with engravings of ornament designed by artist decorators. The inspiration of these engravings, which were commonly collected in book form, was of course classic rather than oriental. They reflected the current fashions in ornament and showed elaborate designs of panels and friezes, trophies and cartouches. Their influence, together with contemporary paintings, dominated the fabrics of the high Renaissance. Another type of engraving of the sixteenth cen-

tury exerted an influence upon the character of Italian woven patterns. These were books of designs for embroidery printed for the use of "noble and virtuous ladies," who apparently spent much time in the decoration of fabrics intended for altar cloths and church vestments, for hangings for the home and for their own costumes. Guilmard gives the names of twenty artists who published such books.

It is through such channels that the Italian Renaissance impressed itself upon the patterns of textile fabrics, and although we cannot trace the names of the fabric designers who adapted the patterns we can see clearly the sources upon which the weaver depended. The published engravings accomplished at least one thing: they put on record for the first time the names of designers as a class. The reason why these particular names have survived in printed form rather than those of the more humble fabric designers lies mainly in the fact that the Italian engravers of the sixteenth century strove to cater to the wealthy and aristocratic classes. Along with flat ornament their books or sets of engravings almost invariably include elaborate compositions for *fêtes galantes* and triumphal arches and architectural decorations. Their ambition was to join the high company of the architects and to be classed at least as talented decorative artists worthy of important commissions.

As to the conditions under which silk textiles were produced in Italy, it is evident from the history of the Florentine guilds that the merchant entrepreneur early became a dominant figure. Merchant guilds and craft guilds existed side by side in the twelfth and thirteenth centuries, but in the fourteenth century silk merchants and silk weavers are found enrolled in the same guild. The development of the export trade at this time gave the wealthy merchants a leading role and they gradually became wholesale merchants controlling many establishments of home workers, to whom they supplied materials and tools and probably designs.

From this picture it is evident that the domestic system of production gained an early start in Florence and also probably in other industrial cities of Italy. These developments, particularly in those trades dealing with luxury products, were followed soon afterward by similar manifestations in France, Flanders and England; and by the fifteenth century the transition in industrial organization that witnessed a constantly increasing control of production by the wealthy merchant class was fairly begun.

The continuation of the story of silk quantity production is found in the city of Lyons. In 1450 Charles VII granted to this city a monopoly of the silk industry in France. This resulted at first merely in the development of a trade center for Italian merchants, but by the sixteenth century, largely from the settling of Italian weavers who had fled from Lucca and Florence because of political disorders, many weave shops were established and the silk industry assumed large proportions. The conditions of silk production at Lyons in the sixteenth century afford a striking example of what was to develop more slowly in other industries and other localities. The town was free from the guild regulations that still prevailed in other places. There were no regulations as to apprentices or journeymen or hours of labor. There were no restrictions as to the number of looms a master might own or control, and there was freedom of contract as to rates of payment of employees. These conditions quickly resulted in a large volume of production under merchant control, a highly developed example of capitalist organization under the domestic system.

Up to the middle of the seventeenth century the designs were largely representative of Italian influence; but as pattern weaving became well established and the national genius increasingly asserted itself, distinctive French taste began to appear in the products of the looms. From this time until the fall of the monarchy the weavers of Lyons exerted every effort to meet the demands of the luxurious French court for exquisite and extravagant silks. Talented artists, like Pillement and Philippe de la Salle, were called upon to supply novel and fanciful designs and all the technical resources gained in six centuries of experience were utilized, with the result that the art of figured silk weaving reached a level never since surpassed.

The industrial changes engendered by advancing commerce are obvious in other art industries as well as in silk weaving. The making of glass in Venice became so important an industry that from the thirteenth century its manufacture was supervised by the Venetian government and the workers were segregated on the island of Murano in order to guard the secrets of manufacture. From this time on production continued under factory conditions, although only simple hand processes were used. The trade brought the city a tremendous business with the whole contemporary world. As glassmaking methods improved, the state became so zealous for its trade that it

imposed the death penalty on any craftsman who carried abroad the secrets of manufacture. The finest work was produced in the fifteenth and sixteenth centuries and by the beginning of the eighteenth—before the invention of machinery had touched the industry—its heyday was over.

In France the early guild regulations centering about the rights and privileges of the individual master craftsman continued in force through most of the eighteenth century. The making of French furniture during the seventeenth and eighteenth centuries presents typical conditions. In this trade the rules for apprentices and journeymen continued to be rigorously enforced and the right of sale confined to those who had been admitted to the corporations as masters. As a result furniture continued as a rule to be made in small shops presided over by a master craftsman. On the other hand, the critical need for designs calculated to make the strongest appeal to the taste of a sophisticated court under each ruling mode led to dependence on artists outside of the workshop. This dependence is first evidenced in the sixteenth century when the new fashion of the Italian Renaissance was set by royalty. During the fifteenth century the decorative alphabet of the *huchiers* was derived from the Gothic traceries, carvings and moldings of the cathedrals and churches within their common view. Of the new style they had little understanding, and it was not until the middle of the sixteenth century, when Jacques Androuet du Cerceau published his engravings of furniture based on Italian motives, that a consistent expression of the new order was possible in furniture. These engravings of du Cerceau were a veritable encyclopaedia of decorative motives, and when circulated throughout France they became rich source books for the guidance of the cabinetmakers.

In the reign of Louis XIV the relation of the artist designer to production stands out in even clearer relief. Beginning with the voluminous engravings of Jean Le Pautre, which supplied many grandiose motives for the early phases of the style *Louis Quatorze*, and continuing with those of Jean and Daniel Marot, Jean Berain, Pierre Le Pautre and Nicolas Pineau, we find the record of much of the source material upon which the cabinetmakers fashioned their products during the long reign of the *Grand Monarque*. For the most part furniture continued to be produced during this period in the shops of small masters, but exceptions to this rule are found in the case of those installed in the

Louvre and favored with the patronage of the king. Such fortunate individuals were exempted from the control and regulations of the corporations. Foremost among *ébénistes* thus honored was André-Charles Boulle, who produced a large share of the most important cabinetwork for the court during the entire reign of Louis XIV. Apparently Boulle himself designed many of his productions, but it is certain that he employed the designs of others, notably Jean Berain and Pierre Le Pautre, in his later work. In 1720, when Boulle's plant was destroyed by fire, it represented a considerable establishment comprising besides his four sons no less than two *menuisiers*, eighteen *ébénistes* and six *ciseleurs*.

Throughout the reigns of Louis XV and Louis XVI a notable line of decorative artists played a leading role in the design of goldsmith work, tapestries, carpets, mirrors and furniture. The character of these artists ranges from versatile and broadly equipped architectural decorators like Just-Aurèle Meissonnier and François de Cuvilliers to specialists like Ranson and Lalonde of the later periods. The large output of elegant furniture made by Jean Henri Riesener for Madame du Barry and for Marie Antoinette is evidence that large workshops continued to be the rule during this period with *ébénistes* patronized by royalty. The case of David Roentgen still further illustrates this situation. Coming to Paris at a time when German cabinetmakers were in favor, he became *ébéniste* to Marie Antoinette and at the same time maintained his extensive workshops at Neuwied from which his furniture went to many courts in Europe.

Quantity production of artistic goods by handicraft processes was not limited to the West. Many cases can be observed in the Orient where the inevitable results of exceptional demand are found in concentration of workers and division of labor. In a letter written from China in 1722 the Jesuit missionary Père d'Entrecolles gives an elaborate description of the manufacture of porcelain in the imperial factory town of King-tehchen. He states that within the walls of the town an infinitude of artisans and artists live and work and furthermore that before a piece of porcelain leaves the furnace it passes through the hands of more than twenty persons, each performing a distinctive task. Finally the object goes to the painters, each of whom is a specialist confined to one of seven kinds of decorative treatment.

In northwest India, where rugs have been produced in large quantities for several centuries,

there exists today a peculiar example of modern commercial manufacture under craft conditions. At Amritsar there are several establishments in which large carpets are made in the old manner on orders from western capitals according to designs furnished by the purchaser. These designs, accurately drawn and colored, are based to a large extent upon splendid reproductions widely available for the last half century of rugs exhibited at the Welt-Ausstellung held in Vienna in 1873.

The industrial revolution changed radically the quality of industrial art by substituting mass demand based on low cost as the factor controlling production in place of the sophisticated and luxurious standards of a court and aristocracy. It also substituted the impersonal market as the goal of the manufacturer in place of the individual consumer whose satisfaction was the ideal aim of the craftsman. In this new world of the factory the designer became a mere workman engaged to give salable form to the products of the machine. To increase the sales appeal the manufacturer, without vision to comprehend that functional service and simplicity of form were the natural opportunities for the machine, concentrated his efforts upon decoration as the feature best calculated to attract his new public.

The decadence involved in a half century of production based on these objectives was presented to the world at the Crystal Palace exposition of 1851. It is safe to say that no such collection of atrocities had ever before been assembled in the name of art. Important reactions came from the exposition, however; on the one hand, it brought strikingly to the minds of statesmen and public alike the great importance of industrial art as a factor in national wealth and, on the other, it revealed a depth of artistic decadence in this field that made a profound impression upon persons of taste not only in England but throughout Europe. From this time on cultivated amateurs, some of whom had been stimulated by the romantic revival of previous decades, turned more earnestly to the collection of examples of applied art from the older periods. This tendency gained impetus and authority from the Empress Eugénie's passion for simulated eighteenth century furniture and decoration. In the decade of the 1860's this interest in the art of the past had become so strong that in both western Europe and the United States it reacted upon the manufacturers, who began to seek motives for production in the earlier period

forms. The first results were crude and tasteless; but as exact knowledge of historic examples increased through publications and museum collections, the quality of the manufactured product gradually improved.

This dependence of the manufacturer upon forms from the past, whether it issues in mongrel adaptations of inexpensive machine made furniture or in fine reproductions in which handwork is an item, has continued to the present day. Aside from the fact that this practise has stultified the designer in any creative attempt to develop industrial art in forms expressive of the spirit and needs of our own times, it has the great weakness of feeding the machine with forms appropriate only to the craftsman. For the craftsman ornament is a natural attempt to add further beauty to his product, but exact reproduction of ornament in endless repetition by the machine is inherently distasteful.

The only creative note in the third quarter of the nineteenth century was sounded by William Morris. Viewing the machine and commercialism as the cause of the artistic degradation of his time, he set forth valiantly with his colleagues to turn back to the Middle Ages for both processes and inspiration. Morris had little feeling for functional design as related to useful objects. His genius found its expression mainly in the decorative treatment of flat surfaces and reached its highest achievements in designs for wall papers and cotton prints and the exquisite pages issuing from the Kelmscott Press. His superb talent for composition, his emphasis upon pure color and the serious study of natural forms brought new expressions of beauty to his contemporaries; but his ideals took no account of the real aesthetic problems of his times and he accomplished little or nothing to lead industrial production out of its aesthetic morass. As a result of his teachings and example, however, the English arts and crafts revival began to take form about 1875. This movement, which attracted much attention for a score of years, relied upon a return to craft methods and upon a return to nature for inspiration in design. It engaged the enthusiastic devotion of many talented individuals but made only a slight impression upon mass production.

Decorative treatment, this time mainly of line and silhouette, was the aim of the artists assembled in the 1890's in the *l'Établissement Bing* in Paris to create "l'art nouveau." Some charming pieces of furniture were created but, depending as it did upon a decorative motive, the move-

ment collapsed as soon as this motive was overstated and cheapened by inferior designers.

It was not until the recent appearance of the "modern" movement in applied art that a new emphasis led the way toward a sounder basis for mass production design. This movement, which has developed a vigorous growth in Europe in the last thirty or forty years, has as yet met with little appreciation in the United States. Its genesis in Europe came from craft workers aiming to create forms more suitable for modern living conditions and more expressive of modern taste. The qualities that have characterized its best manifestations in three-dimension objects are fitness for service in present day living conditions and appropriate use of all materials made available by modern industry, with reliance for aesthetic effect upon good proportions, fineness of line and surface qualities of the material itself instead of upon painted and plastic ornament. These qualities, emphasized by European craftsmen in ceramics, glass, wood and metal, are obviously those peculiarly fitted for machine production. During the last few years, beginning in Germany, there has been incorporated in the modern movement the logical and essential idea of designing directly and purposefully for the machine. It is in the combination of these two phases that the modern movement achieves its real importance, inasmuch as it is obviously only through such a program that both low cost and attractive quality can be secured for the mass of the people.

Designs for the machine that are notably successful as regards line, surface and even color are illustrated by fine modern bathrooms and kitchen sinks. In these cases rigid attention to functional requirements has been made possible by modern technical processes. The same success has been increasingly reached in the case of the automobile and in fact with most of the things that have come into being in the industrial age with no traditions of craftsmanship behind them.

Examples of inexpensive table glass have of late achieved unusual fineness of outline coupled with pleasing notes of color, and silver flatware from several establishments has taken on forms of extreme elegance in designs thoroughly appropriate for machine production. Table china of the middle range has attained high excellence in form, although still for the most part cheapened by petty decoration and realizing little of the color and texture effects possible solely through glazes and body quality. Sim-

plidity of form dictated by purely functional and technical considerations has, however, found only moderate approval in the matter of furniture. In this field emotional satisfaction has not always accompanied rationalization. This situation well illustrates the major problem involved in the mass production of industrial art.

Present tendencies give promise of improvement, but in the United States at least it is evident that substantial progress will be a matter of considerable time. Such progress needs a new mental attitude on the part of both producer and consumer, and this will develop only slowly. It needs a growing appreciation on the part of the consuming public of the dignity and simplicity of straightforward design in household goods in contrast to mere decorative prettiness. It needs more courageous and intelligent recognition by manufacturers of the tendencies and resources of the machine age in place of dependence on traditional forms, and it needs finally the highest talent in design. This last essential will be assured only by a fuller recognition of the function and importance of the designer in mass production. This function is very different from the conception of the nineteenth century, which regarded the designer merely as a decorator. The twentieth century calls for much more fundamental and far reaching abilities. If the designer is to make important contributions to the new order he must possess, in addition to creative ability and sensitiveness to line, form and color, a thorough knowledge of materials and technical processes not only from the mechanical but from the economic side. In other words, he must have mastered the machine as a tool and through such mastery make possible the production at low cost of useful things that will fulfil all the demands of service and at the same time be capable of conveying high satisfaction to the spirit.

One of the factors that have operated to hold back improvement in the industrial arts has been lack of legal protection of designs. This is particularly true in the United States, where such protection can be secured only through a design patent which requires months to obtain and is expensive when large numbers of designs are involved. Under such conditions the inducement for the manufacturer to seek creative work and to pay the price it demands is greatly reduced, as in certain industries a design is hardly placed on the market before it is copied. The Vestal Design Copyright bill, which was considered by the Seventy-first Congress (1930-31),

provides for immediate protection as soon as an adequate representation of the design is sent to the copyright office. Its provisions are limited to five classes of products: textiles, lace and embroideries; furniture; lamps and lighting fixtures; footwear; jewelry and articles made of precious metals. The bill was not passed by the Senate, and although the subject has again been brought up in Congress no action has yet been taken.

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*See:* HANDICRAFT; ART; DRESS; ARCHITECTURE; FURNITURE; POTTERY; GLASS AND POTTERY INDUSTRIES; GUILDS; RENAISSANCE; INDUSTRIALISM; INDUSTRIAL EDUCATION; EXPOSITIONS; INTERNATIONAL; MUSEUMS AND EXHIBITIONS; FASHION.

*Consult:* *Geschichte des Kunstgewerbes aller Zeiten und Völker*, ed. by H. T. Bossert, 4 vols. (Berlin 1928-31); Labarte, Jules, *Histoire des arts industriels au moyen âge et à l'époque de la renaissance*, 3 vols. (2nd ed. Paris 1872-75), tr. by Fanny Pallier (London 1855); Crane, Walter, *The Claims of Decorative Art* (London 1892); Smith, H. L., *The Economic Lives of Art Production* (London 1924); Park, E. A., *New Backgrounds for a New Age* (New York 1927); Richards, C. R., *Industrial Art and the Museum* (New York 1927); Paulsson, Gregor, "Design and Mass Production" in *Design and Industries Association, Quarterly Journal*, supplement to n.s., no. xvi (1931); Jeanneret-Gris, C. E. (Le Corbusier), *L'art décoratif d'aujourd'hui* (Paris 1925); Richards, C. R., *Art in Industry* (New York 1922); United States, Commission on International Exposition of Modern Decorative and Industrial Art, Paris, 1925, *Report* . . . (Washington 1926); Great Britain, Overseas Trade Department, *Reports on the Present Position and Tendencies of the Industrial Arts as Indicated at the International Exhibition of Modern Decorative and Industrial Arts, Paris, 1925* (Harrow 1927); Great Britain, Committee on Industry and Trade, *Factors in Industrial and Commercial Efficiency*, Survey of Industries, vol. i (London 1927) ch. v; Pechmann, Günther von, *Die Qualitätsarbeit: ein Handbuch für Industrielle, Kaufleute, Gewerbetreibende* (Frankfurt 1924); Waentig, H., "Kunstgewerbe" in *Handbücher der Staatswissenschaften*, vol. vi (4th ed. Jena 1925) p. 103-13; Wettergren, Erik, *L'art décoratif moderne en Suède* (Paris 1925), tr. into English by Tage Palm (Malmö 1926); Rodier, Paul, *The Romanesque of French Weaving* (New York 1931); Pope, Arthur U., *An Introduction to Persian Art since the Seventh Century A.D.* (London 1930); Coomaraswamy, A. K., *The Arts and Crafts of India and Ceylon* (London 1913); Dick, Stewart, *Arts and Crafts of Old Japan* (London 1904); Strong, H. A., *A Sketch of Chinese Arts and Crafts* (Peking 1926).

INDUSTRIAL CONCILIATION. *See* CONCILIATION, INDUSTRIAL.

INDUSTRIAL COURTS. *See* COURTS, INDUSTRIAL.

**INDUSTRIAL DEMOCRACY.** The term industrial democracy was coined as far back as 1897 by Beatrice and Sidney Webb to describe the workings of democracy within the trade unions themselves. They traced the evolution of trade union democracy from the primitive forms within the small local union to the complicated forms of representation developed within the national unions; this representation protected the membership on the one hand from the sectional selfishness and the lack of experience of the local units and their leadership and on the other from the concentration of authority, which inevitably passed into the hands of the national officials as the process of collective bargaining expanded to include wider geographic areas and the greater range of items resulting from encroaching workers' control or new industrial techniques. The Webbs did not, however, carry over the concept of democracy from trade unionism to the industrial relations between employer, worker and the community.

In the decade before the World War the movement for democratic control within the trade unions, especially in England and in Germany, exhibited two diverse tendencies. On the one hand, there was a rebellion against conservative leadership both national and local in the more strongly organized national unions, often taking the form of a demand for local autonomy and decentralization. Thus in 1905 the German syndicalists called themselves *Lokalisten*. On the other hand, the Industrial Democracy League of the South Wales miners stressed the need for the creation of a national body, a national agreement, the curtailment of the power of local officials and the creation of representative delegate rank and file committees and boards to replace the separate sectionalized organizations which weakened mine unionism in Great Britain. In time, however, these two forms merged into programs for industrial unionism, syndicalism or guild unionism. In these left wing movements and in socialism "democratization of industry" soon took on a somewhat broader aspect than mere collective bargaining, but it was used synonymously with public control or socialization. As the influence of the Russian Revolution made itself increasingly felt in other countries, the extreme left wing of the labor movement dropped the "bourgeois" concept of democracy and substituted a forthright demand for workers' control.

The term industrial democracy was adopted during the war to cover innumerable types of program for joint industrial relations in both

Europe and the United States. The governments of Norway and Sweden appointed commissions to investigate "industrial democracy" with, however, a definite connotation of socialization.

The vogue of the term was particularly pronounced in Great Britain and the United States. In his *Aims of Labor* (London 1918) Arthur Henderson defined it as the demand for "the progressive elimination from the control of industry of the private capitalist, individual or joint stock, and the setting free of all who work . . . for the services of the community." A similar interpretation was placed upon it in the United States by the League for Industrial Democracy, essentially a university socialist organization. To Samuel Gompers and to American trade unionists industrial democracy had the more limited definition: "The old political democracy is the father of this new industrial democracy; the trade union is the potential new industrial democracy."

But it remained for American welfare capitalism to place an interpretation upon the term well in accord with its individualistic, laissez faire philosophy. During the World War industrial democracy connoted a scheme of arrangements to avoid labor disputes which might interfere with the production of munitions and other necessities in a period of labor shortage. Employee representation schemes, based mainly on collective bargaining with unions or at least not antagonistic to the development of unionism, were encouraged in the key industries, many of which had been devoid of any labor organization before the war. After the war emergency had passed, most of these industries cast off lip homage to unionism and employee representation and company union plans emerged. Their purpose was to defeat unionism or at best they were concessions in the form of limited representations, recognized as necessary because of the increased size of plant working forces and as aids for the more effective enforcement of plant policies, while at the same time eliminating "interference" by trade unions. The term industrial democracy was reserved for a particular type of employee representation, in which organization of the company union was patterned after the government of the United States; the bulk of the workers in the plant constituted a house of representatives, the supervising and technical staff a senate and the owners a cabinet. Although measures for "democracy" might originate in either of the houses, the approval of both was needed, and the cabinet held the veto power. The for-

malism of the scheme was equaled only by its inadequacy and there now remain only a few instances of this type of company union. In 1919, however, the term was still fashionable in employers' groups; the New Jersey Chamber of Commerce called its series of conferences a discussion of "democracy in industry."

More recently in his *Industrial and Political Democracy* W. Jett Lauck makes collective bargaining one of the essential bases of industrial democracy and by that criterion rules out most of the schemes of employee representation in operation in the United States. How vitally he differs, however, from the European advocates of industrial democracy is shown in his inclusion, as another basic point, of employee stock ownership (if it bears full voting powers), profit sharing and the like. While it is true that his concept of democracy recognizes encroaching financial control or co-ownership as a factor, it more nearly resembles isolated producers' cooperative schemes than the Hendersonian ideal of socialization. Its fulfilment is limited to "primitive democracies," like the Columbia Conserve Company, and it cannot be applied to the large corporation or to industries as a whole. It therefore offers no fundamental challenge to the basic financial structure of capitalist industry. Its progressivism moreover is limited by the American industrial scene; it views collective arrangement plant by plant and only in rare instances where unionism is in its control is its scope national even for a single industry. There is no connecting link between industrial and political democracy and both remain within a modified *laissez faire* organization of society.

By contrast, in Germany, where the movement for industrial democracy has been revived perhaps to rival the challenging communist dictatorship of the proletariat and workers' control, the term has been extended from plant and industry to a comprehensive scheme of national industrial relations. The emphasis on industrial democracy derives from the failure of the present organization under governmental provision of works councils to provide for a national body integrating and making comprehensive the plant and industrial councils and providing for them the industrial statesmanship, especially on the workers' side, which would correct the weaknesses of plant and local bodies. As in the miners' movement of Great Britain, it bears as a corollary the democratization as well of trade union government. The governmental compulsory provision for works councils, however, suggests

that this type of democracy is not separate from and parallel to political democracy but an integral link between the community as represented by the government and economic organization. Industrial democracy of this caliber is not synonymous with but rather preparatory to socialization, of which it is a limited form.

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*See:* INDUSTRIAL RELATIONS; DEMOCRACY; TRADE UNIONS; INDUSTRIAL RELATIONS COUNCILS; COMPANY UNIONS; GUILD SOCIALISM.

*Consult:* Webb, Sidney and Beatrice, *Industrial Democracy* (new ed. London 1920); Cole, G. D. H., *The World of Labour* (new ed. London 1928); Montgomery, B. G., *British and Continental Labour Policy* (London 1922) ch. xxv; Commons, J. R., and others, *Industrial Government* (New York 1921); Blum, Solomon, *Labor Economics* (New York 1925) p. 424-32; Lauck, W. J., *Political and Industrial Democracy 1776-1926* (New York 1926); Plumb, Glenn, E., and Roylance, W. G., *Industrial Democracy* (New York 1923); Leitch, John, *Man to Man* (New York 1919); Thomas, Norman, *What Is Industrial Democracy?*, League for Industrial Democracy pamphlet, no. 12 (New York 1925); Naphtali, Fritz, *Wirtschafts-Demokratie* (Berlin 1928); Renner, Karl, *Wege der Verwirklichung* (Berlin 1929); Weingartz, Balthasar, "Probleme der Wirtschafts-demokratie" in *Sozialistische Monatshefte*, vol. lxvii (1928) 1064-70.

INDUSTRIAL DISEASE. *See* INDUSTRIAL HAZARDS.

INDUSTRIAL DISPUTES. *See* LABOR DISPUTES.

INDUSTRIAL EDUCATION is the systematic and institutionalized effort of society to promote by educational methods the adaptation of its members to the changing conditions of livelihood activity. Since the industrial revolution increase of population, geographical extension of commercial and industrial relations, increase in size and complexity of organizations and in specialization and division of labor, mechanization with accompanying rapid change in industrial technique, and the increasing functional distinction between ownership, management and labor in capitalist society have complicated the conditions of individual fitness and adjustment and have compelled social recognition of the need of more organized effort to promote adjustment. Present common recognition of this need may be traced to the development within the field of education of the doctrine that education is primarily a process of preparation for an adjustment to life's activities and only secondarily a process of acquiring information; to the

growth within industry of a belief that it can diminish production costs and strengthen its competitive status particularly in foreign trade by training more efficient labor; and to governmental recognition of the political and economic advantages of well trained workers.

Industrial education as conceived in the twentieth century is an evolution from simpler, less socially conscious forms of preparation for livelihood in earlier industrial societies. Leaving out of consideration minor transitional aspects, it was preceded by the autonomous and the institutionalized apprenticeship systems. The autonomous apprentice system was characteristic of families, clans and tribes in early societies, in which the individual was introduced into the group culture by the activity of living itself. In the home and on the land father or neighbor taught the youth from earliest childhood the skills essential to survival in the culture of the group. This form of effecting adjustment still survives among some peoples of Asia, Africa and South America and even in some isolated spots of the industrialized countries of Europe and North America. As early man raised his standard of living beyond mere subsistence and particularly as differentiation among crafts appeared and trade developed, these autonomous methods of induction to earning livelihood also became more differentiated and formal and apprenticeship became institutionalized. As early as the Babylonian Code of Hammurabi (2100 B.C.) apprenticeship commanded state attention. The institution survives even today, although in an atrophied form, as part of the European system of industrial education and through collective agreements between organized employers and workers in some industries in the United States.

Technically the system was suited to industry based upon crafts. The economy of indenturing a youth to a master and of a subsequent period of journeyman wandering and contact with other masters derived from two primary facts: that power in processing was essentially human power, the tool or machine being but an extension of the human muscle; and that the existing body of craft technique in applying power and skill was unrecorded and could best be acquired by personal instruction and practise under the eyes of a master. Most of the survivals of apprenticeship in industrialized societies are in the industries that still utilize muscular power and craft technique, such as construction, printing, machine repairing and art products. Apprenticeship as a general and exclusive system of adjust-

ment of youth to livelihood activities lost its social usefulness when science and invention discovered how to utilize other sources of power than human muscles and built up an analytic record of craft skills and of laboratory discovered methods before unknown. The mechanization of industry and increasing division of labor which began with the nineteenth century had so developed by the end of that century in western Europe and the United States that a new problem of adjustment of the individual to industrial requirements had emerged.

The first reaction to mechanization of industry was, on the part of parents and youths, to the view that lengthy personal instruction was superfluous for the relatively simple operations of machine tending and, on the part of employers, to the view that untrained youths were sufficiently competent and were cheaper for ordinary factory operations. Apprenticeship began to decline and apprenticeship legislation was gradually repealed in order to render more simple the acquisition of labor by the rapidly developing factory industries.

It was in Central Europe, where the apprenticeship system survived longest, that industrial education typical of today had its beginning. A political rather than an educational impulse led Germany to become a pioneer in modern industrial education, as it leads Russia today to the development of a newer, broader and more integrated system of cultural-industrial education. The response of Fredrick William to Napoleonic victories, "The State must regain by intellectual power what she has lost in material power," fixed in the German mind the ideal of power through education, and the ambitions of the newly created empire following the Franco-Prussian War led to an elaborate system of industrial education which was largely supported and directed by the state. There are higher schools for those who are to become managers, middle schools for those who are to become assistants and foremen and a great variety of schools for the training of skilled workmen.

Two characteristics of the German system of industrial education are noteworthy. In the first place, there is little individual freedom of choice and change of occupation. While a youth is still in the common school his parents must decide, in terms of course of their own financial capacity to support him while studying, the *Stand*—social status and trade—which he is to have; and subsequent education is directed toward training him for that *Stand*. In the second place, appren-



ticeship is an important element; formal schooling is not a substitute for it but a supplement to it. Although the industrial schools are differentiated as to trades, the emphasis in most of them is not primarily on trade technique, which is largely left to shop work during apprenticeship, but major attention is given to training in the arts and sciences pertinent to the trades and to citizenship.

England, where as late as 1870 schooling was neither compulsory nor gratuitously provided by the state, has given more attention to general elementary education than to industrial education. Since 1900, however, there has developed a fairly substantial system of industrial education, in which an important element is voluntary evening schools for factory workers. Although these schools are aided by the state, there is almost no state direction of their administration but the workers themselves have taken the initiative in their development. They are not so specialized as the German and have not received the approval of labor unions for teaching craft and machine processes, but they supplement factory experience with an effective practical emphasis on principles and theory.

In France educational effort on behalf of industry has been centered principally on higher schools for the training of technicians and executives. For the training of workers apprenticeship unattached to an organized system of industrial education continued in practise much longer than in the other major countries. This was due to the diversity of French industry, to the style and quality of its products, which make craft skill important, and to the absence of any general tendency toward mechanized quantity production. As early as 1880, however, there was beginning to be recognized a breakdown of the apprenticeship system, and this breakdown was accelerated by the World War. Since 1919 laws have been passed looking toward the development of a system of industrial education, but preoccupations with reconstruction have delayed their effective application.

In colonial, semicolonial and oriental countries industrial education is receiving pioneering attention, but while significant to the regions concerned the results are meager. In those regions settled by Europeans the economy is still one of exploitation and development of basic industries and compelling problems of industrial education have not emerged. In oriental countries educational efforts are concentrated chiefly on problems of general primary and secondary

training and on the beginnings of higher technical training.

Of especial significance is the system of industrial education being developed in the Soviet Union. The gigantic effort of the U. S. S. R. through a planned economy to transform Russia within relatively few years from a nation of peasant agriculture and household industry to one that is highly industrialized includes a vast scheme of cultural and technical development to match a vast scheme of increase in productive equipment. There has been created a system which includes primary and secondary schools for the masses, in which emphasis is on promotion of understanding of the national economy, schools for the training of engineers and other technicians and for every new factory a school for the training of its operatives, adult as well as young. By compulsion of circumstances the entire scheme has a practical and utilitarian emphasis, for the immediate objective is, first, to train the citizens in understanding and support of Soviet purposes and organization and, second, to train workers capable of operating industrial equipment as rapidly as the factories are constructed. Therefore instead of the youth being withdrawn from community life for an extended period of education, training is integrated with livelihood and political activities. In 1931 in addition to 20,000,000 boys and girls in elementary and middle schools there was the following enrolment in schools established for the training of cadres for the national economic plan: higher industrial and agricultural, 255,000; industrial and agricultural technical, 444,000; factory training, 1,198,000; workers' faculties, 232,000.

Late in the nineteenth century educators in the United States became interested in manual training and by 1900 it was winning status in American schools. Contrary to the originators' concept of it as an element of cultural training, American educators then regarded manual training as a means of industrial education which would answer the criticism, beginning to come from industry, that the schools were not training youth adequately for its needs. This first mistaken appraisal of manual training served at least to direct the attention of educators toward the problem of training for industry. The new interest was strengthened by the theory of education, first prominently expressed in John Dewey's *The School and Society* (New York 1899), that education is basically a means of adjustment to life's activities. The influence, however, which welded these tendencies into a

conscious movement was the acquisition by the United States of its first colonial possessions after the war with Spain. It was naively assumed by many that the United States was destined promptly to make a "commercial invasion of Europe" and to become great in foreign trade and that the intense international competition involved would have to be supported by an increasing industrial efficiency. Since Germany within thirty years had become strong in international trade partly through her system of industrial education, it was now incumbent on the United States to develop a similar instrument. Consequently attention was turned from manual training as an instrument of vocational education, although it was given higher status as a factor in cultural education and in prevocational discovery of aptitudes, to something more like the German system.

In the United States, however, there was no central government with the power to establish a "system," and the development of industrial education could come about only through independent state action. The movement was begun in Massachusetts by two commissions on industrial education consisting of business men and educators appointed by the governors in 1905 and in 1906. It spread to national proportions with the organization of the National Society for the Promotion of Industrial Education in 1906, a symposium on industrial education held by the Department of Superintendence of the National Education Association in 1908 and occasional national vocational guidance conferences. By 1910 more than a dozen states had passed legislation initiating the beginnings of local systems of industrial education. Under the joint influences of the National Society for the Promotion of Industrial Education, the National Education Association, the National Association of Manufacturers and the American Federation of Labor this movement finally culminated in the passage of the Smith-Hughes Act (1917), whereby the national government established a Federal Board for Vocational Education to supervise federal contributions in support of industrial education in the several states. This stimulated state legislation relating to industrial education and at the same time established a force promoting unification in organization and procedure throughout the country.

The Smith-Hughes Act leaves the organization, administration and development of industrial education to the several states but is a powerful force in influencing their conduct.

Under this influence the total enrolment in all vocational schools and courses increased from about 25,000 in 1917 to about 1,125,000 in 1931. Registration in these schools was distributed in 1931 as follows: agricultural, 237,361; trade and industrial, 602,356; home economics, 285,519. Of those enrolled in trade and industrial classes the distribution in 1931 was: evening, 168,822; part time trade, 47,471; general continuation, 295,042; all day trade, 80,541. The total expenditures, federal and state, for vocational education increased from \$3,039,000 in 1918 to \$32,139,000 in 1931, of which the federal contribution increased from \$832,000 to \$7,978,000 and the state and local contribution from \$2,206,000 to \$24,160,000. The state and local contributions are required by the act to be at least equal to the federal contributions, but the former have increased so that they represent \$3.03 for every dollar of federal money. The act has helped also to raise the quality of vocational education. It provides that states accepting federal funds must have a supervisory state board, the instruction given shall be suitable to persons fourteen years of age and over, it shall be of less than college grade, the funds shall be used to train individuals who either are employed or are preparing for employment, and the state and local contributions of dollar for dollar shall be used for the same purposes as the federal contribution. In cooperation with state boards the Federal Board has been able to effect a progressive improvement in the organization of curricula and the training of teachers. A marked improvement in the quality of teaching has been achieved by more careful selection and by reorganization of the system of training teachers. While numerous colleges and normal schools still provide a basic training, the principal training of vocational teachers is now on the job. Each of the fifty state and territorial units has its director with a staff of state supervisors, local supervisors and teacher trainers. Training is therefore continuous after employment and is brought to the teacher at the place and in terms of his local educational problems.

The present system of publicly administered industrial education in the United States is the outcome of a fifteen-year intensive campaign of pressure on public authorities; but even before 1900 private trade schools were in existence, such as the New York Trade School established in 1881. By 1910 there were a dozen such schools so endowed as to be free from commercial considerations and able to offer excellent training.

In addition to these there exist today perhaps two hundred privately organized trade schools, conducted as commercial enterprises, which arose originally in response to a real need caused by the breakdown in the apprenticeship system. Most such schools today are relatively inferior as to equipment, staff and training capacity. There are also hundreds of small trade preparatory schools designed to give preparatory training as a basis for later specialization and several notable technical high schools to train students for positions above the level of ordinary skilled labor.

Some of the larger industrial enterprises in the United States have organized what are known as corporation apprenticeship or co-operative schools for their employees. The pioneer schools of this class were those of Hoe and Company, established in 1872, the Westinghouse Machine Company in 1888, the Baldwin Locomotive Works in 1901, the General Electric Company in 1901 and the International Harvester Company in 1903. After 1905 this movement grew rapidly. Among more recently organized large schools of this type are those of the Ford Motor Company and the General Motors Corporation. The National Association of Corporation Schools organized in 1913 had before it was merged with the American Management Association in 1922 nearly 150 members. Distinct from these highly organized corporation schools with their comprehensive curricula are vestibule schools, a simple but effective device forced upon industry during the World War to meet the problem of labor shortage by rapid training of the new inexperienced employees with which labor forces were then diluted. There are also continuation schools conducted by the Young Men's Christian Association and the Young Women's Christian Association which render a genuine service. The schools not publicly administered fail, however, to reach the masses of people because they are limited in number and are in some cases too costly. In so far as there may be said to be a system of industrial education in the United States, the state part time or cooperative vocational schools administered under the Smith-Hughes Act constitute that system.

The organization of vocational education under that act, however, is being subjected to a wholesome critical scrutiny by educators and the general public. This scrutiny has been focused especially on two questions: whether the influence of the federal government on the educational

policies and administration of the states is beneficial, and whether the nature of the instruction meets the problem of vocational adjustment. The former question is on the whole a continuation of the century long debate of centralization versus decentralization in government and, while the final answer has not been discovered, the burden of proof remains on those advocating state individualism.

Whether the nature of the instruction in industrial education meets the problem of adjustment is questionable. The technical characteristics of industry have been changing so rapidly that administrators of educational affairs have not been able adequately to analyze and follow them. The basis of the American democratic school system was for many years the leisure class ideal of education. Every youth was to be trained as though he were destined for the university. Later educators responded to the obvious need of educational opportunity for the increasing number who were leaving schools at an early age and to industry's increasing demand for skilled workers. Since, however, there is no organized apprenticeship system in the United States, the tendency in industrial education has been to assume that trades may be taught in the schools. The growing opinion is that instruction in the details of trade technique is a responsibility which industry must assume and for which industry must organize and that the schools must concentrate on discovery and development of aptitudes and attitudes, on a broad training in the arts and sciences underlying trade techniques and on industrial economics and citizenship. Industrial education with such an objective, supplemented by factory conducted training in the details of technique, would in large measure answer the demand for more adequately trained foremen, which is a critical problem of American management.

Training for occupational flexibility and adjustment and for industrial citizenship must play an important part in the solution of problems now confronting advanced industrial societies and occupy an important place in the industrial organization of the future, whatever its nature. If an industrial society remains predominantly individualistic and *laissez faire* it must safeguard itself by increasing the fitness of constituent individuals not only for existing occupational demands but also for adjustment to technological change, in order to remove the hazard of economic insecurity which is now a threatening problem of individualistic capitalism. If such a

society undertakes to insure its members against that hazard through some system of unemployment compensation, its ability to carry such a burden from the actuarial point of view will depend largely on its success in reducing the risks insured. This will likewise require among other things improvement of the fitness of individuals for technological demands and a flexibility in adaptation to new opportunities as familiar ones disappear with technological progress. It is significant that practically every proposed scheme of unemployment insurance makes unemployment exchanges a vital part of the scheme. Such exchanges will be able to function effectively only in terms of occupational specifications which are definite and of personality specifications which are equally definite and couched in terms of capacities.

If, on the other hand, as is likely to be the case, an industrial society elects to modify the individualistic characteristics of its organization and to establish some degree of regularizing social direction of its industry, it will discover that the planning involved must be in terms of human capacities as well as of capital equipment available for the technical operations which will satisfy the ascertained demands: that these human capacities must be definite, technical and flexible; and that the creation and maintenance of the proper proportions of various human capacities and technical skills must constitute a part of the planning. It should be observed that the industrial education of the U. S. S. R. noted above is an essential part of its efforts to build a planned industrial society; and it is obvious that if and when that particular form of industrial society becomes mature and is confronted by the problem of satisfying the variable demand of a higher standard of living for a large proportion of caprice goods, its capacity for precise applications of labor skill will be more critical and will depend on a more highly developed system of industrial education. In any society which has organized a substantial social direction of industry training of an understanding, cooperative body of citizens is especially necessary.

H. S. PERSON

See: EDUCATION; VOCATIONAL EDUCATION; APPRENTICESHIP; MANUAL TRAINING; CONTINUATION SCHOOLS; ADULT EDUCATION; WORKERS' EDUCATION; BUSINESS EDUCATION; OCCUPATIONS; VOCATIONAL GUIDANCE; PERSONNEL ADMINISTRATION.

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INDUSTRIAL HAZARDS may be defined as those dangers to life, limb and health which arise out of the processes of production. Occupational hazards are not peculiar to the modern era. The environment, man's effort to conquer it and the tools he uses in this effort contain the possibility of injury to the human body and have always represented an element of hazard. Hunting, fishing, forestry, transportation by land or water and the tilling of land were sources of accidents wherever and whenever they were practised. Certain occupational diseases were recognized by philosophers and physicians of ancient times, although the widespread use of slaves contributed to a general indifference to the problem. Thus Pliny comments on the "diseases of slaves" and other writers remarked on occupational hazards to miners of lead and quicksilver, potters, textile workers, burden carriers, gardeners, smiths, tailors and workers in flint, sulphur and zinc.

But in neither the domestic nor the handicraft stages of production was the health of the worker believed to be the concern of anyone but himself. Even the guilds offered little health protection to the workers in the face of overcrowded, unsanitary conditions in towns and the hazards of the metallic and textile trades which must have been prevalent in the Middle Ages. It was not until the sixteenth century that physicians began to inquire even in the most casual fashion into industrial health problems. The entire subject was reviewed in 1700 by an Italian doctor,

Bernadino Ramazzini, in the famous *De morbis artificum diatriba* (Modena, 2nd ed. Utrecht 1703; English translation, London 1705). This book was for the times a masterly treatise covering a multitude of trades and establishing two principles of industrial hygiene—that of prevention and that of investigation by doctors of the occupation of every patient under their care—which are valid, if not generally observed, today. The transactions of the Royal Society of London also record some interest in working conditions in mines and manufactures in the late mediaeval period. Unfortunately, however, no reliable data on the increase or decrease of occupational injuries at various stages of history can be compiled from these scanty data. Those covering the brief period of the latter part of the modern industrial era would seem to show an alarming increase of certain hazards; but, on the other hand, there is little doubt that the occupational hazards of earlier ages have been very much underestimated.

Perhaps all history of civilization might be described as a process of making life safer as well as more satisfying. The hazards of weather were eliminated through improved housing; the hazards of wild animals through their destruction; the hazards of pathogenic germs through progress in medicine and hygiene; the hazards of famine through better methods of agriculture and improved transportation. Simultaneously another process was going on, tending in a diametrically opposed direction: new hazards were being created through increasing use of new and complicated tools and processes and through increase and congestion of population. These two opposite tendencies have not always kept pace with each other. The increase in recent years of both the hazards and the attention to them is not, however, entirely due to introduction of new processes; an equally important factor has been the rapid extension of the wage system. The two factors are closely related, although it is possible to visualize a wage system of production without the continuous introduction of complicated and dangerous processes; and it is equally possible to visualize the progress of these processes without an increase in the proportion of wage earners.

While the physical aspects of industrial hazard—the damage to life, health or limb—or even the economic aspects—the destruction of earning capacity, the enforced idleness, the cost of reestablishment of health—may be the same whether the victim be an employee or an inde-

pendent worker, yet in its social aspects the situation is greatly affected by the existence of the wage contract. This difference in attitude is due partly to a sense of group justice based upon the feeling that the hazard might have been eliminated through the action of a third party, who therefore must bear the responsibility; but it is also based in part on a new economic situation which has arisen out of the wage contract. As the able bodied employee must look to his employer, or rather his employment, for an opportunity of earning a living, so the disabled employee and his dependents may have to depend on the employer and industry for relief and restitution. In other words, industrial hazards have become one aspect of the general relationship between capital and labor.

The industrial worker may be menaced by any or all of the three types of industrial hazard: disease, poison or accident. The sickness insurance legislation of Europe has done much to lay bare the cases of poison or disease in industry, but the records of these hazards are inadequate and frequently inaccurate in the United States. The sources of information are chiefly local studies by state departments of labor, trade unions, insurance companies or private investigators or the intermittent reports of hospitals, company physicians and the workers themselves. As only ten of the compensation laws in the United States cover industrial diseases, the cases reported under the laws probably represent but a small fraction of the total actual number. Except for injuries resulting fatally, statistics on the frequency of accidental injuries are also very inadequate. In 1928 there were recorded in the registration area 90,712 deaths due to external accidental causes, exclusive of 15,566 suicides and 10,950 homicides. Adjusted to the entire population of the United States this would give a total of some 95,000 accidental deaths. The Rubinow Standard Accident Table indicates that approximately one of every hundred industrial accidents results fatally. If the same proportion may be assumed for all injuries whether industrial or not, the total of accidental injuries would approximate 9,500,000 a year. On the whole, the total number of fatalities and perhaps of all accidents may be roughly divided into three equal parts: those due to transportation, all other non-industrial accidents and those arising from industrial activity. Hence in absolute figures there are probably over 30,000 fatalities and 3,000,000 non-fatal injuries in industry annually in the United States.

Appraisals of the probable hazard presented by any industrial situation are now made, but the degree of accuracy of such appraisals must always remain problematic. A scientific measure of the hazard is possible only on the basis of past experience of damage caused by the particular machine or situation. Such statistical measures are lacking in the case of poisons and diseases for several reasons: first, such illness is much more likely than an accident to affect every worker in a certain process and hence its incidence should be measured by severity rather than frequency; second, industrial poisoning and disease are generally chronic rather than acute and therefore less open to discovery; third, the specific cause of an industrial disease is sometimes hard to identify, particularly when a worker is exposed to several possible sources of illness. Moreover there are relatively few cases where sickness insurance or compensation is provided for sufferers from industrial maladies, and a doctor is not compelled to record a disease as industrial or otherwise except under these systems. As a result agitation for reform has usually been the outcome of sensational disclosures rather than scientific measurement of hazard; for example, the disfigurement following phosphorus poisoning was such effective propaganda that the use of phosphorus in matches was one of the first dangerous processes to which attention was given, although there are other industrial maladies equally widespread and serious. If compensation or insurance is paid the degree of danger in an occupation may be revealed; this was the case in France, where the manufacture of matches was a state monopoly and the compensation which the government was paying to workers in the trade was so heavy that the substitution of the non-poisonous sesquiphosphide became imperative. But until adequate information on the occupation of patients is required by hospitals and doctors and by death certificate laws or until the compensation laws cover all forms of industrial ill health, no statistical measure of the hazard in poisonous or disease bearing trades will be satisfactory.

In practice even the statistical method is subject to very definite limitations. While statistics of industrial accidents have been compiled independently of any scheme of compensation, experience has demonstrated that only through a compensation system and the stimulus it gives for complete reporting are adequate statistics possible. But since no workmen's compensation scheme includes all industrial activity, it follows

that no accident statistics are at present complete. In this respect European countries are considerably ahead of the United States. Industrial diseases and poisons are covered either in sickness insurance or, as in Great Britain, under the compensation law; in the United States all occupational diseases are covered in only five of the forty-four compensation laws—those of California, North Dakota, Wisconsin, Massachusetts and Connecticut—and under three federal laws applying to harbor workers and government employees. In five states industrial diseases are covered by means of the specific schedule method, i.e. by listing certain compensable diseases: Minnesota, Illinois, Ohio, New York and New Jersey. Accident statistics also are more complete in Europe than in the United States. The laws cover the entire country and are subject only to rare changes, whereas the bewildering variety of compensation acts in the United States and their frequent changes have hitherto stood in the way of uniform and dependable accident statistics. Efforts to introduce uniformity in accident statistics have been made by such bodies as the American Association for Labor Legislation, the International Association of Industrial Accident Boards and Commissions and the Association of Governmental Officials in Industry of the United States and Canada. Frequently the United States Board of Labor Statistics has supported such movements, but no complete compilation of accident statistics has ever been attempted by a government agency in the United States. Comprehensive plans of uniform statistics have been published, but as yet the degree of uniformity achieved has been slight. Somewhat greater uniformity has been achieved in the reporting by casualty insurance companies and some of the more important industrial states, particularly New York, Pennsylvania, Wisconsin and California, have elaborated satisfactory systems of industrial accident statistics. The International Labour Office is attempting to publish accident statistics for the principal countries at intervals of six months, but because of differences in methods of compilation these data are not comparable.

Another difficulty is the exact definition of an industrial disease or accident. The problem of diagnosis mentioned above, where the worker has been exposed to more than one source of poison or disease, arises frequently in the case of such important industries as the coal tar dye and chemical trades, printing, rubber manufacture and painting. In the case of certain infec-

tions, such as tuberculosis, it is often difficult to determine whether the disease was contracted at work or elsewhere. Finally, the limitations of medical knowledge itself still retard complete and accurate definition of industrial diseases. With respect to accidents changes in the type of injury reported may occur from time to time, so that as the system of reporting is made more thorough more and more minor accidents are reported and time comparisons become unreliable. A study of comparative hazards of specific industries offers greater possibility of accuracy, but even there the accident as a unit may prove unsatisfactory because of the vast difference in suffering and cost caused by accidents of different severity. In recognition of these differences the concept of accident severity rather than accident frequency has grown up as an additional unit of measurement, the unit being rather arbitrarily based on loss of time per 1000 days of full employment rather than the number of accidental injuries per number of employees.

The most complicated and at the same time the most important aspect of such statistics is the standardization of causes and contributing factors. Since a perfect description of any accident, poison or disease may disclose several "causes," the technical complications of such statistical analysis are obviously very great. Nevertheless, if the volume of statistics analyzed is sufficiently large, it is frequently possible to discover a high enough correlation between frequency of accident or disease and certain conditions to indicate a causal connection. Thus a certain periodicity of accidents has been discovered. Fluctuations according to the season of the year may of course be due primarily to corresponding fluctuations in the volume of employment. The hour of the day has been found to be a factor. The influence of increased fatigue has been accepted as a possible explanation, and there are indications that even without the question of fatigue the gradual increase in intensity of effort through certain hours of the day or through the week may be a contributing factor. Factors influencing the amount of poisoning are hot and humid air, long hours, malnutrition, alcoholism in the case of some poisons, constitutional defects such as anaemia, and personal susceptibility. Industrial diseases arise in part from such secondary causes as imperfect ventilation and inadequacy of washing facilities, fatigue, strain, the habits and home living conditions of the workers and insanitary or unhealthful methods of work.

In general, comparative study seems to indicate a lower degree of industrial hazard for agricultural countries and countries with simple industrial activity, even though it is possible that this difference may be overemphasized by a lower degree of completeness in reporting. A study by Dr. Louis Dublin revealed that the average expectancy of life of industrial workers was eight years less than that of those engaged in agricultural, commercial and professional occupations. Of these eight years one year could be attributed to mortality from accidents, and from eighteen months to two years to death from tuberculosis. Degenerative diseases as causes of death were from two to three times as high in the industrial group, and pneumonia was twice as frequent. Even among industrial states the hazard varies greatly, depending on the character of the industry. Thus the average industrial hazard, measured either by the total population or by the total number of persons employed in industry, is higher in Pennsylvania with its mining and heavy metal industries than in New York with its predominance of the less hazardous needle trades, publishing houses and the like.

The degree of industrial hazard varies for different elements in the population. Women are subjected to a lower hazard than men, partly because there is a smaller percentage of them in industrial employment but also because within industry they are usually concentrated in occupations of lower hazard. Men lead also in severity of disabilities and show a higher mortality from pneumonia, but women lose twice the time of men from common colds, influenza and tonsillitis. Oliver believes that women are more susceptible than men to lead poisoning, one of the most important types of industrial disease in the United States. Children also show a lower industrial hazard for the same reasons as women, but once exposed they are more susceptible to diseases and poisons; and youth is one of the chief personal factors in the occurrence of accidents—about 75 percent of accidents injure workers under twenty-five years of age. Whether women and children, if subjected to the same objective exposure, would show a greater or less general susceptibility remains uncertain; but legislative restriction of employment of women and children is largely justified by the danger to themselves and others of permitting them to handle disease bearing or poisonous materials or complicated pieces of machinery.

A higher susceptibility of older age groups to industrial accidents is often taken for granted

because of weakened senses and reduced power of muscular coordination, but statistical evidence as yet is meager. The general intelligence of the worker, his educational level, his skill and familiarity with mechanical appliances, strongly influence susceptibility to industrial injury. Reports compiled by accident boards show in some cases 81 percent of the accidents occurring on the first day of employment and 96 percent in the first week. Perhaps over and above all these general factors is that of specific training in hygiene and safety with particular reference to certain hazards, which bears the same relation to industrial hazards that health education bears to the general level of sickness.

While all these elements are important, statistically the nature of the industry remains the most influential factor in determining the degree of hazard. The difference in the hazards of various occupations is so great as to justify a sharp line of division between dangerous and safe employment. At one extreme are work at sea, mining, heavy metal industry and construction, particularly if at a great height or involving caisson work, tunneling or the use of explosives, and certain chemical industries. At the other extreme are the manufacture of clothing and clerical work. Between these two extremes a great variety of hazard rates exist, largely based on the degree of utilization of machinery or chemical processes; but no employment may be assumed to be entirely free of industrial hazard, since a substantial proportion of accidents and other hazards is due to the ordinary frailties of human behavior and is not related to mechanical appliances at all.

The types and sources of industrial poisons and diseases are so numerous and so difficult to isolate that only the more important can be mentioned here. The principal occupational diseases vary in different countries: poisoning is most common in Switzerland and Germany, miner's nystagmus is prevalent in England, silicosis in South Africa and Australia, hookworm disease in warm climates and dermatitis and lead poisoning in the United States. To some extent differences between individual establishments in the same industry may be purely fortuitous or unexplainable; but they may also express the difference in methods of organization and administration of the process of production as a whole, particularly along the lines of industrial hygiene and safety. Thus lead poisoning in Europe arises now chiefly in the manufacture of cheap kitchen ware, dyeing of cotton and wool,

making of files and polishing of diamonds. Preventive measures have controlled it in Europe in the very trades where it is most common in the United States: most important of these measures are the manufacture of white lead by a dry instead of a wet process, the use of non-fritted white lead in pottery glazing and in printing establishments. The lead hazard is not easily controlled in rapidly growing and profitable trades; for example, in the enameling of sanitary iron ware in the United States. Through legislative and preventive measures there has been an enormous improvement in the lead using trades in recent years; but white lead is still widely used in the United States by painters and potters and red lead is employed in the manufacture of storage batteries, printing inks, leaded glass, linoleum and glazing tiles and terra cotta. The felt hat trade is also unhealthy in all countries, because of the large quantities of fine fur flying about in the air and the use of mercury in the process of manufacture. The protection of workers is most complete in Europe, although individual factories are frequently superior in the United States. The trade is especially hazardous in France, Belgium and Soviet Russia. In the last named country preventive measures were introduced in 1924 but, since the felt hat trade is almost entirely a home industry, knowledge of these measures has not yet effectively permeated to the peasant workers. Benzene poisoning is a prominent hazard in the American canning and rubber industries and phosphorus still menaces the brass founders, fertilizer and insecticide makers, bronze workers and match-makers as well as the phosphorus preparers themselves. An investigation made in England in 1928-29 would seem to indicate that one out of four workers in the preparation of asbestos for over five years is affected by the lung disease known as asbestosis. The harmful effects of silica dust have been established by the fact that zinc and lead miners show a mortality from tuberculosis eight times as high as among "standard" lives. In general it is believed that inorganic dusts encourage tuberculosis, although the reason for this is not known; hence workers in dust creating trades are subjected to a considerable hazard.

Obviously, industrial hazards represent a social loss of considerable magnitude measured in pain, loss of life, loss of earning capacity, cost of restoration and disturbance of economic efficiency. It is impossible to sum up the emotional loss to families of victims of industrial fatalities



or the total amount of pain and distress caused by those suffering industrial injuries, particularly when the result is permanent disability or disfigurement. A somewhat greater approximation to economic costs is possible. To the injured wage earner or his family it is a question of loss of wages and cost of care. From the point of view of the employer the measure is the cost of compensation insurance. From the point of view of society at large the problem is primarily that of loss of productive capacity. Estimates based on these various points of view are likely to vary considerably. The most complete data available deal with the total amount of compensation paid to injured workmen. On a basis of careful computation this has been estimated by the United States Bureau of Labor Statistics to approximate \$240,000,000 a year; but, as already stated, compensation does not by any means cover all industrial activity. Moreover the relation between compensation and the actual loss sustained by the worker varies not only under different acts but under the same act according to the nature of the accident, the wage earning capacity and so on. It has been estimated that on the whole compensation legislation does not cover more than one fifth or one sixth of the loss sustained by the injured workman; thus the total social cost of industrial hazards in losses of earning capacity and expenses incurred may be roughly estimated at \$1,000,000,000 or \$1,500,000,000 a year. Primarily, wage earners carry this burden. Employers share in the cost to a limited extent only, either through decisions under the liability law or through the cost of compensation insurance. It is believed by some economists that a part if not all of this latter cost is included in the price of the product and is thus shifted to the consumer. In so far as compensation does not meet the entire need created the public is called upon to meet it through public or private charity.

Thus industrial hazards represent to society a dead loss of considerable magnitude. The social problem presented is that of their elimination or at least their reduction to the lowest possible minimum. This involves study of the dimensions of the problem, of causative factors, of methods of elimination of hazard and the best method of applying such methods as have been discovered and, finally, of the best method of spreading out the social cost so that it does the least harm to any one group or society at large. The control of industrial hazards therefore requires various methods of approach: the statis-

tical, the technical, the medical, the economic and the social.

The first technical problem created by the introduction of power driven machinery and mechanical appliances is that of making the machine safe. If the superior value of life and health over economic advantage were universally recognized, the task would be comparatively simple. In fact, however, the conflict between the interests of the employer and employee often creates considerable difficulty, and in such cases it is only through legislative power that it is possible to eliminate the process and thus the hazard. The method of direct prohibition of a process has been more successful in relation to chemical processes than to mechanical devices. In England the use of non-fritted white lead in pottery glazing was abolished by law after years of effort for reform; in the United States the elimination of phosphorus in match manufacture was effected by federal taxation, which made the dangerous process as expensive as the non-poisonous one. Usually the elimination of poisonous or dangerous processes is possible only when other equally effective, although perhaps more expensive, methods are available.

Within recent years the problem of reduction of hazards has become sufficiently important to command both theoretical and practical attention in the form of industrial hygiene and safety engineering. At first these fields dealt primarily with the guarding of machines, control of dust, the use of sanitary masks, antiseptics, substitute materials and preventive devices. Only gradually did factory management learn that there are many other factors in the organization of an establishment which contribute to industrial hazards. Such problems as spacing of machines, better lighting and control of the human factors of production command a constantly growing attention from safety engineers. Safety may also require the total elimination of certain individuals or groups who are considered substandard from the point of view of coordination of power, judgment or susceptibility.

The degree of industrial hazard is measurable not only by what happens during the occurrence of the accident or illness but also by the degree of attention and care given to the injured person. Infections of minor injuries have been shown to lead frequently to more serious developments. A system of immediate reporting, adequate first aid and continued medical attention becomes one of the chief functions of the safety movement and constitutes now an important

part of factory administration. The necessity for the education of doctors in the symptoms and treatment of industrial diseases and poisons is still pressing.

Since prevention depends upon control of the entire process of production, the main responsibility necessarily lies with management, but labor also carries a share of responsibility. In practice, however, the necessary cooperation is not always found, because the elimination of the hazard represents a definite cost, while the hazard itself may appear only as an uncertain and hypothetical cost. Cooperation sometimes fails because of lack of understanding on either side or perhaps because of a strained relationship between management and workers arising out of other aspects of the labor problem. Frequently workers resent safety regulations simply because they are imposed from above. These difficulties have occasionally been met by the intelligent cooperation of management and labor organizations, and agreements as to safety conditions sometimes constitute part of the process of collective bargaining. The poisonous trades as a whole are not well organized in the United States and partly for that reason the workers have not been active in the hygiene movement. The unions which exist are not perhaps sufficiently concerned, with the problems of disease in particular. For example, the International Typographical Union has never made rules preventing the exposure of young boys to lead dust, although such regulations have been considered necessary in all European countries. The best known movement for general health protection is that of the Joint Board of Sanitary Control of the International Ladies' Garment Workers' Union, which was set up in 1910 and whose duties comprise sanitary, medical and safety education and inspection.

In the vast majority of cases, however, particularly where labor is not organized, it becomes the function of the state to introduce regulation by exercise of compulsion upon both employer and employee. Provisions for safety were among the earliest objects of factory legislation and inspection, arising largely in response to the introduction of dangerous machinery. Gradually these provisions extended into the fields of sanitation, health and even increased comfort for the labor force during the process of production. Factory legislation now seeks to safeguard the machine, to improve general standards of factory construction, to exclude certain hazards or exclude certain groups from certain hazards, to

regulate hours and in some cases to demand fire drills or first aid systems. Specific conditions are subject to infinite variety in various branches of industry, and factory legislation has become one of the most complicated branches of all labor legislation.

Since modern industry is unable to eliminate industrial hazards completely, the question of cost remains an important one. The complacent theory of classical economics that wages will be adjusted through a process of free competition so as to include additional compensation for the risk involved has never received statistical confirmation and may be disposed of as a rather obvious rationalization of resistance on the part of employers toward assuming the cost for the injury. The voluminous legislation of the last century, dealing with employers' liability, may serve as an indication of a shifting from the point of view of purely personal responsibility to some sort of social policy in dealing with the consequence of industrial injuries.

The effects of compensation laws have been debated ever since their inception: their opponents claimed that they would lead to carelessness and malingering on the part of employees, while their supporters argued that when the financial responsibility for injury was placed on the employer and on industry preventive measures would be increased in order to avoid financial losses. The experience of the past twenty years is not so conclusive as an ideally uniform and complete system of statistics might make it. There has certainly not been any increase of carelessness or malingering on the part of employees as was feared, for even the most liberal compensation acts do not make full restitution for losses sustained and it is but seldom that the advantages of compensation exceed the disadvantages of sustaining an industrial injury. In many of the less hazardous industries the cost of workmen's compensation has not proved a sufficiently great factor to modify the system of productive organization. Undoubtedly certain establishments or corporations have shown striking results, sometimes because of an effective safety organization but more often through a fundamental change in industrial processes. The experience of the United States Steel Corporation is frequently cited in this connection. But taking industrial accidents as a whole, many communities, such as, for instance, the state of New York, continue to show an increase in both frequency and severity. Only too often is temporary reduction in the total number of accidents

or cases of disease used as evidence of increased safety when the reduction is due to a shrinkage in industrial employment. It is very likely that not only the number of accidents and diseases but also their rate increases in times of prosperity because the very tempo of industry, the congestion of establishment, the number of hours worked and the frequency of overtime and night work, all tending to influence disease and accident, vary according to the amount of general economic activity.

One of the most important influences for prevention of industrial hazards under workmen's compensation laws is the insurance carrier. It is conceivable that an employer may disregard the increased cost of compensation because of hopes of greater profits under greater industrial stress and with fewer safety measures, but the insurance carrier has a direct interest in the reduction of industrial accidents. The assertion of a recent writer that "the extension of modern accident prevention methods is due largely or almost exclusively to casualty insurance companies" may be exaggerated; but all carriers, both private and state, have played an important part by inspection, advice, premium adjustment and occasional rejection of unsatisfactory risks.

It is recognized by modern psychologists that in so far as carelessness and failure to utilize available safety measures result from definite thought and behavior patterns safety education must begin much earlier than active participation in industry. The problem of proper education to avoid industrial hazards becomes a part of the very much larger problem of adjustment of the entire educational system to the needs of processes of production. Failure of such adjustment is marked in the United States; in fact, an examination of the American system of public education might result in the impression that it is a nation of traders rather than producers.

It must be recognized that there are indications of a continual increase of industrial hazards. New types of machinery are steadily being introduced; new chemical preparations will continue to be tested out; new dangers will therefore develop. On the other hand, in so far as individual hours of work decrease, in so far as mechanical power is substituted for human effort so that the sum total of contact of man and machine is reduced, industrial evolution may reduce rather than increase industrial hazards. It is less important to dream of the total elimination of industrial hazards than to give serious thought to conquest of each hazard as it develops

and to reduction of social damage caused by industrial ill health.

That there is frequently a connection between the profit motive and private ownership on one side and the hazardous nature of industrial processes on the other cannot be gainsaid. Under existing economic relationships dangerous processes are sometimes continued because they are profitable; methods of prevention or safety are neglected because they are costly. But the careful study of industrial accidents and disease cannot lead to the conclusion that the profit motive is the only or even the most important factor. In Soviet Russia there has not only been an increase of accidents since the pre-war period but there was also a marked increase in the three principal industries, metals, mining and textiles, from 1925 to 1927. The causes are the diversity and worn condition of the equipment, insufficient mechanization, especially for conveying and lifting goods, the high labor turnover, the lack of skill and the speeding up process. These factors have apparently outweighed up to the present time the effect of thorough inspection service, compensation and hundreds of prohibitions of dangerous processes by state legislation. Hence the only practical application of the socialist theory which can be studied from actual experience offers as yet little hope of a total elimination or even a rapid reduction of industrial hazards. The imperfections of the human machine may remain a more important factor in the responsibility for industrial hazards than the imperfections of the economic machine.

I. M. RUBINOW

*See:* ACCIDENTS, INDUSTRIAL; INDUSTRIAL HYGIENE; HEALTH EDUCATION; SAFETY MOVEMENT; EMPLOYERS' LIABILITY; WORKMEN'S COMPENSATION; COMPENSATION AND LIABILITY INSURANCE; REHABILITATION; LABOR LEGISLATION AND LAW; CHILD, section on CHILD LABOR.

*Consult:* Oliver, Thomas, *Diseases of Occupation* (3rd ed. New York 1916); *Industrial Health*, ed. by E. R. Hayhurst and G. M. Kober (Philadelphia 1924); Hamilton, Alice, *Industrial Poisons in the United States* (New York 1925); De Blois, Louis A., *Industrial Safety Organization* (New York 1926); Heinrich, H. W., *Industrial Accident Prevention* (New York 1931); Williams, S. J., *The Manual of Industrial Safety* (Chicago 1927); Fisher, Boyd, *Mental Causes of Accidents* (Boston 1922); Price, G. M., *The Modern Factory* (New York 1914), and *Labor Protection in Soviet Russia* (New York 1928); United States, Bureau of Labor Statistics, *Bulletin* series: "Statistics of Industrial Accidents in the United States to the End of 1927," no. 490 (1929), "Proceedings of 17th Annual Meeting of International Association of Industrial Accident Boards and Commissions," no. 536 (1931),

"Causes of Death, by Occupation," no. 507 (1930), and "Deaths from Lead Poisoning 1925-27," no. 488 (1929); "Industrial Accidents in France," "Pulmonary Asbestosis," "Occupational Diseases in France," and Hoffman, F. L., "International Typographical Union Mortality, 1930" in *Monthly Labor Review*, vol. xxx (1930) 1295-96, vol. xxxi (1930) 74-76, vol. xxxii (1931) 615, and vol. xxxiii (1931) 95-98; International Labour Office, *Bibliography of Industrial Hygiene*, published quarterly in Geneva since 1923, and *Occupation and Health, Encyclopaedia of Hygiene, Pathology and Social Welfare*, vol. i- (1930- ); Ramboisek, Joseph, *Gewerbliche Vergiftungen, Sammlung gemeinnütziger Vorträge*, no. 416 (Prague 1913), tr. by T. M. Legge (London 1913); Lehmann, K. B., *Kurzes Lehrbuch der Arbeits- und Gewerbehygiene* (Leipzig 1919); Leclerc de Pulligny, and others, "Hygiène industrielle" in Martin, Louis, Brouardel, G., and others, *Traité d'hygiène* (2nd ed. Paris 1927) pt. 7; Pieraccini, G., *Patologia del lavoro e terapia sociale* (Milan 1906); Loriga, G., *L'organizzazione scientifica del lavoro* (Rome 1925). For current material see publications of the International Labour Office, of government labor departments, of the American Association for Labor Legislation, of the National Safety Council, the *American Journal of Public Health*, published monthly in Boston since 1911, and the *Journal of State Medicine*, published monthly in London since 1892.

## INDUSTRIAL HYGIENE

**HISTORY AND DESCRIPTION.** Although the hygiene of industry in its broadest sense deals with all the conditions under which work is carried on and under which the worker lives, in modern times its main concern is with the various harmful agents to which the worker is exposed as a result of industrial processes, such as fumes, dusts and high temperatures.

It is impossible to state with accuracy when industrial hygiene first became an object of serious study. As far back as the period of Babylonian civilization occupational diseases were known, for tablets found refer to lead poisoning and pulmonary diseases of the workers. Greek and Roman physicians were likewise acquainted with occupational diseases and there is evidence that certain preventive measures were adopted; for example, Pliny's statement that masks were used by workers in vermilion to protect themselves from metallic dust. Writers from 5000 B.C., when copper is said to have been first mined in Egypt, down to the Christian era allude to the terrible sufferings and physical deformities of women and children employed in mines and quarries. But, with the exception of an edict of the Rota in 643 A.D. making it compulsory for employers to compensate masons for injuries received when repairing houses, there is little evidence of common recognition of occupational

risks and possibilities of their elimination or compensation.

In the Middle Ages medical men were familiar with the maladies incidental to mining and smelting, and a pamphlet on poisonous fumes and vapors published in the fifteenth century suggests preventive measures. But the greatest impetus to the study of industrial hygiene was given by Ramazzini, an Italian born in 1633, who practised medicine in his native town and subsequently became professor of medicine in the University of Parma. His careful studies of all forms of occupational disease and his recommendations for their prevention make him one of the greatest authorities on the subject. Other publications, often based on his work, appeared in the eighteenth century; among these the best known are that of Hecquet in 1740, that on the maladies of craftsmen by Skragge of Uppsala in 1764, the studies of chimney sweep's cancer by Percival Pott in England in 1775, the *Annalen für Staatsarzneikunde* in Germany in 1782 and the studies of the dermatologist Willan in 1798 on the skin diseases of bakers, shoemakers and metal workers. Group action for the prevention or cure of industrial diseases seems to have been organized only in Italy, where a clinic was opened at Legnano in 1784 for sufferers from pellagra and industrial workers attacked by tuberculosis.

The rise of the modern factory system with its overcrowding, intensified productive effort and dangerous machinery emphasized the necessity for industrial hygiene measures. In some industrial centers in 1833 the average age of the working class group was found to be only half that of the upper classes, and the death rates of the two groups also showed a striking difference. The factory legislation which began in England in the early nineteenth century, somewhat later in France and toward the end of the century in Germany and the United States represents the first attempt to ameliorate the conditions leading to ill health and low physical resistance of factory workers. Under the laissez faire traditions of the time it was difficult to do more than provide protection for particularly susceptible groups, i.e. women and children. The regulation of hours, prohibition of night work and work in certain dangerous and unhealthful trades and other special legislation for these two classes of workers represent the only outstanding action in behalf of the health of the worker in the nineteenth century. Contributions to the study of general occupational risks, however, began to

appear with the rise of preventive medicine in England and France in the first half of the century, in the United States in the 1880's and 1890's and in Germany somewhat later. But the extension of health protection to all workers in the form of heating, lighting, ventilation and sanitation requirements as well as investigation and regulation of dangerous trades was slow to develop. It was not until the appearance of the industrial engineer in the twentieth century that the scattered regulations on these subjects were standardized.

Industrial health hazards arising out of the nature of the process or the substances used as opposed to those created by general working conditions may be divided into four groups: dusts, poisons, work in hot or humid temperatures or under abnormal air pressure, and incidental disease furthered by certain working conditions.

Before the introduction of the double shaft system of ventilation coal miners succumbed in large numbers to the lung disease known as coal miner's phthisis, or anthracosis. Today owing to improved ventilation of the mines this type of miner's phthisis is seldom seen, although the miner is still subject to tuberculous infection if small particles of stone from the coal are lodged in the lungs. Additional hazards to which the miner is subject are poisoning from carbon monoxide and methane gas; painful physical disabilities affecting the hands and elbow and knee joints; and nystagmus, a nervous disorder affecting the gait and vision which is particularly prevalent in England, France and Belgium. Other dusty occupations are the mining of gold, tin and lead; the shaping of grinding stones for milling purposes and for the pulverization of flints; the manufacture of pottery and china; the dry grinding of steel by emery wheels; the sand blasting of metal castings and the face of stone buildings; and the weaving of asbestos into clothlike material. Of organic dusty trades the most important are woolen and cotton manufacture, where opening of bales of raw material and spinning and weaving are usually attended by dust.

Lead causes more ill health than any of the other poisonous fumes and dusts. This results from the toxic properties of the metal and the fact that apart from the heavy industries there is no other metal so widely used. So long as a lead miner is working in ore known as galena, or sulphide of lead, and not cerussite, or carbonate of lead, he incurs no risk of lead poisoning but he does run the risk of pulmonary disease. The

harmfulness of lead compounds used in industry depends primarily upon their solubility in the juices of the body and the receptiveness of the person brought into contact with them. Among the industries in which lead poisoning is very prevalent are the manufacture of storage batteries, printing, painting and glazing china and pottery.

Copper, zinc, tin, brass and bronze considered separately are not dangerous, but the fumes and dusts arising from their amalgamation in industrial uses give rise to both respiratory and skin diseases. In any trade where the process of combustion takes place, such as the manufacture of steel, coke, cement and brick, the workers at the blast furnaces are exposed to carbon monoxide gas and occasionally suffer from serious nervous troubles as a result. In the manufacture of pig iron the inhalation of manganese fumes may contribute to illness. Particularly poisonous gases are liberated during the disintegration of ferrosilicon ores. This has on a few occasions occurred in the holds of ships carrying the ore, and the phosphureted and arseniureted hydrogen gases escaping have caused the death of sailors.

Since the World War there has been a great increase in the use of poisonous substances in industry, especially in the development in the United States of coal tar products yielding explosives, perfumes and dyes. Coal tar when subjected to fractional distillation yields benzene, toluene, naphthalene, carbolic acid and pyridine. Men exposed to the vapors of coal tar and its products and to dust arising from pitch suffer from gastro-intestinal troubles such as gastritis, from bronchial catarrh as well as from various potentially malignant skin diseases.

In addition to maladies produced by chemicals skin diseases may arise from parasites, infections, continued pressure on the skin and abrasions. One of the most serious parasitic infections occurs from the presence of spores of anthrax on wools, particularly those from Asiatic sources. If these germs are inhaled by the workers they cause an acute type of septic pneumonia, which often proves fatal within forty-eight hours. The infection is sometimes local, affecting a small portion of the body, and if early surgical measures are applied the disease may not be followed by constitutional symptoms. Machinists constitute another group of workers particularly prone to develop infections from their exposure to small sharp particles of steel or sprays of dirt laden oil, which reach abrasions in the skin and set up irritations.

Work in high temperatures is not only unpleasant but may also give rise to serious consequences to the health of the worker. The incidence of bronchial and pulmonary affections among blast furnacemen and textile workers is heavy, particularly in the latter trades, where moisture in the air is considered essential in the process of spinning the fibers.

Work in caissons used in modern bridge construction is carried on in compressed air in order to keep water out of the caisson. The process of decompression, wherein the workers go through air locks in which the pressure is gradually lessened, offsets the effects of the abnormal air conditions; but if decompression is hurried, pain and paralysis occur. The only preventive measure is strict adherence to the rules as to the length of time to be spent in leaving the caisson; treatment by recompressing and then slowly decompressing is successful unless hemorrhages into the central nervous system have occurred.

There are certain trades wherein the workers exhibit a high mortality rate from particular diseases which are not classifiable solely as industrial affections. Thus tuberculosis may arise in the case of workers made susceptible by the inhalation of dust, by employment in overcrowded and insanitary rooms or by an injury which weakens local resistance and makes tissues more receptive to the bacillus. The development of cancer after an injury received at work is coming to be recognized in some cases as explainable either because an incipient growth was already present at the time of receiving the injury or because the accident in some way or other altered the structure of the parts injured. Persons following certain occupations are particularly liable to cancer: in Germany the high incidence of cancer among gardeners and farmers suggests some relationship between malignancy and contact with earth. In England and the United States there has been observed a close relationship between a high mortality rate from cancer and work in tar and pitch as well as in trades where use is made of mineral oils.

Complete prohibition of a dangerous process is rarely possible, although it has been accomplished in a few instances where substitutes were easily available. This is true of the manufacture of lucifer matches; since the substitution of the sesquisulphide for the dangerous form of white phosphorus, necrosis of the jawbone no longer occurs among the workers. Hence the hygiene measures to be adopted in the case of the various **maladies to which modern workers are subject**

must be regulated in accordance with the special situation and depend primarily upon the method by which the injurious substance enters the body. Industrial poisons may be guarded against by individual or collective action. Dr. Alice Hamilton has added considerably to the literature of the subject and has suggested as the minimum in preventive measures the provision of bathing and laundering facilities in the factory; hot, nourishing food; and the protection of the skin by oils, powders and overalls. Periodic examinations, particularly of those employed in the more dangerous processes, are also essential. Individual protection is provided for workers exposed to both poisonous and non-poisonous dusts in the form of respirators or masks. Considerable controversy has arisen over the efficacy of the measures described above to say nothing of the inconvenience to the wearer. It is probable that collective action, offering continual means of prevention, would be more successful. Among these are the introduction of new processes, such as the use of closed receptacles where the treatment of the product can be carried on mechanically, and the use of sprays or running water to combat poisonous dusts. The latter measures have had a striking influence in reducing the number of cases of industrial lead poisoning, particularly in England. Other forms of collective action which are now quite generally adopted are the use of exhausts and the dilution of the dust by means of a ventilation system. If all possible methods of protecting the individual and of purifying the air are practised and injury still occurs, the only remedy is complete abandonment of the process or the shortening of exposure to the cause of illness.

THOMAS OLIVER

**LEGISLATION AND REFORM.** The movement for industrial hygiene has reached very different stages in different countries, with England and Germany standing first in the application of remedial legislation. The law requiring the ventilation of noxious gases was passed in England in 1855; in 1867 the removal of dust by mechanical means was first made compulsory. By 1890 the British Isles had passed measures demanding if not standardizing ventilation, heating, lighting and the like. From 1901 onward laws and orders with respect to dangerous trades were issued regularly, and an increasing number of trades were brought under the factory acts. One of the most effective devices for control in England is the compulsory notification of an increasing

number of industrial diseases and poisons. Enforcement is in the hands of factory inspectors. In spite of the great advances in certain trades, for example, the potteries and white lead works, enforcement is probably still inadequate to cope with the increasing problems of industrial illness.

Prussia took the lead over other German states in factory legislation with the factory act of 1839, which inaugurated the legal protection of the health and safety of employed children. Bismarck's opposition to general protective legislation retarded the movement in the nineteenth century, but in 1898 complete provision for the sanitation of lead storage battery plants was enforced by law. Later, particularly after the introduction of health insurance and workmen's compensation, ankylostomiasis, anthrax, benzene poisoning and other types of disease were thoroughly studied and brought under control by means of laws and orders. In Germany the expert qualifications of the factory inspectors are notable, and they establish their own hygienic standards in the process of enforcement to a much greater extent than inspectors in other countries.

Factory legislation of a desultory sort was introduced in France from 1813 onward, and that country holds the distinction of being the first European state to take male workers under its protection in the Hours Act of 1848. Factory inspection came in 1874. The hygiene and security law of 1893 marked a great advance by making detailed provisions for general factory hygiene and for dangerous processes. Special laws and orders for certain trades began under the labor code in 1913 and since the war the Ministry of Industry and Commerce has published a series of useful studies of poisons and diseases. Here too the matter of enforcement is in the hands of inspectors.

In the United States federal action has been taken in the case of phosphorus and anthrax and also in the form of suggested hygiene practises based on studies of specific hazards and published at intervals by the Bureau of Labor Statistics. Since 1930 the federal Public Health Service has extended its sphere to industrial hygiene. Most of the legal regulation has been of course in the hands of the states. Nearly all have legislated in behalf of women and children. Inspection and regulation of workshops and factories with respect to ventilation and sanitation are enforced by the department of labor in each state. State laws covering work in foundries, lead using industries, compressed air, mines, machine

shops and the like and demanding compulsory notification of certain industrial diseases vary according to the importance of the industry in the commonwealth. But it would be erroneous to suppose that health protection has reached its maximum efficiency in each state. The degree of legal regulation is in part influenced by the presence of workmen's compensation; and only a quarter of the compensation laws cover diseases and poisons, although probably every state contributes to the quota of industrial illness.

In universality and elaborateness of hygiene legislation Soviet Russia stands foremost among industrial countries. The labor code of 1922, which has frequently been amended, applies to all workers in industry. It limits hours in dangerous occupations to six, five, four or even three a day; provides special protection for women and children; makes compulsory protective devices, physical examinations and approval of new plants; and altogether prohibits the use of some poisonous substances, such as lead, in certain trades. Enforcement in each plant is in the hands of a factory committee, which is elected by the trade union members in the plant. Technical and medical inspection is under the control of the factory committee and the district trade unions. The bureau of public health cooperates with the industrial medicine section of the bureau of labor in its educational work. In spite of its elaborate legal structure, however, the merits of the movement for industrial hygiene in Russia are found in its inclusiveness and its excellent educational propaganda rather than in its effectiveness in actual practise. Lack of trained medical personnel and of experienced industrial workers has prevented the progress which would otherwise be expected under a complete and national system of control.

The movement began to take an international character toward the end of the nineteenth century, when the first international congresses, generally dealing with both diseases and accidents, were held in Europe. Among the periodical meetings at present are those of the International Congress of Industrial Diseases and Accidents and the International Congress of Pathology and Industrial Hygiene and the conferences of the International Association for the Promotion of Industrial Welfare, composed of factory inspectors. The most prominent permanent organization on an international scale is the International Labour Organization which, by means of special studies on occupation and health and its conventions offered for ratification to the various

member countries, attempts to secure advanced and uniform legislation in this field.

Private action in behalf of hygiene in industry has had its greatest development in the twentieth century, particularly since the World War. The initiative came from groups interested in social reforms, and the movement was carried forward by public health bodies and to some extent by private physicians and employers. The larger industrial countries now have research organizations, like the National Safety Council in the United States, the Industrial Health Research Board in England and the Institut d'Hygiène Industrielle in France, which are educational in character and publish periodical studies and recommendations.

The work of these semipublic bodies is retarded, however, by the slow recognition of the problem in schools of medicine and the consequent lack of cooperation in research and education. Many of the studies from the strictly medical point of view have come from the United States, where there are chairs of industrial hygiene in three universities and numerous courses in the subject. Several institutes for the instruction of physicians in industry exist in Italy and Russia; there are several chairs of industrial hygiene in Germany, one in France and one in Wales.

Action by private employers in the sanitation and hygiene of industry, as in other fields of labor relations, has been most marked in the United States. The Bureau of Labor Statistics recorded 430 plants in 1927 which maintained active hygiene departments with industrial physicians or nurses. The interest of employers in the movement was undoubtedly aroused as a result of the introduction of workmen's compensation laws, but at the present time the industrial physician has a definite professional status in industry. There are two national organizations composed of industrial physicians, whose purpose is to assist cooperation between different industries and between the private practitioner and the industrial doctor. Probably the chief reason for the greater number of industrial physicians and plant hospitals in the United States than in other countries has been the existence of large scale enterprise and the relatively low cost per worker of maintaining an elaborate medical organization. There is general agreement that for small plants the cost of special medical service is prohibitive, and the attempts to provide in the United States a cooperative service in certain localities have not yet attained great results. A further limit to initiative by employers in all

countries is the frequent opposition of the medical profession to the extension of the sphere of the industrial physician or nurse into the worker's home. At other times opposition arises from the employees, who fear that physical examinations and other medical work are discriminatory rather than remedial. Joint action by employers and employees has been effected only in the garment industry and in a few other highly organized trades in the United States, where trade agreements may contain regulations as to sanitation and protective devices to be furnished the worker; but on the whole the unions in both the United States and Europe have been noticeably ineffective in promoting the hygiene of industry by direct action.

The obstacles now facing the industrial hygiene movement obviously fall into three main divisions: lack of knowledge, lack of cooperation from interested groups and lack of power to introduce hygienic measures. There is a genuine difficulty in establishing the cause of a disease where the worker is exposed to more than one source of danger, but a hindrance to remedial measures which could be more easily removed is the indifference of the medical profession to education in the subject. Practical knowledge would also be aided by a thorough system of compulsory notification and workmen's compensation. In so far as the health of the worker depends on his home environment, his hours and wages, cooperation between the groups determining these factors and the industrial hygienist is essential. Finally, the difficulty of establishing adequate inspection and of keeping pace in legislation with the increasing number of dangerous processes in a complex industrial society still limits the effectiveness of the industrial hygiene movement.

IRMA RITTENHOUSE

*See:* PUBLIC HEALTH; HEALTH EDUCATION; INDUSTRIAL HAZARDS; HOMEWORK, INDUSTRIAL; FATIGUE; LABOR LEGISLATION AND LAW; WORKMEN'S COMPENSATION; WELFARE WORK, INDUSTRIAL; REHABILITATION.

*Consult:* International Labour Office, *Bibliographie d'hygiène industrielle*, published quarterly in Geneva since March, 1923, and *Studies and Reports*, Series 12 (Industrial Hygiene), published irregularly in Geneva since 1921; United States, Bureau of Labor Statistics, *Industrial Accidents and Hygiene Series*, published since 1912; Ontario, Provincial Board of Health, *Lead Poisoning, a Compilation of Present Knowledge* (Toronto 1923); Oliver, Thomas, *Diseases of Occupation* (3rd ed. New York 1916); Nardel, Nicole, *Le mouvement d'hygiène industrielle* (Paris 1925); Bougnard, E., *Das Problem der Berufskrankheiten in den europäischen Ländern* (Cologne 1928); Price, George M., *Labor Protection in Soviet Russia* (New York 1928); Collis, Edgar L., *The Industrial Clinic* (New York 1920);



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INDUSTRIAL POISONS. See INDUSTRIAL HAZARDS.

INDUSTRIAL RELATIONS. The complex relations which now prevail between employers and employees in most industrial countries stand in sharp contrast to the simple arrangements which governed the relations between the boss or owner and his workers during the industrial revolution and for some time afterward. At the beginning of the nineteenth century the individual employer determined the law of industry for his particular plant, subject only to the vague control of the competitive system. The striking changes in industrial relations which have taken place since that time may at first glance appear to follow no uniform pattern in the various countries, but they reflect deep seated economic and social forces which have for a long time directed the course of the principles and practises of industrial relations in western Europe, Australia and the United States.

In the course of the evolution of industrial relations the autocratic power of the employer has been attacked from two directions. On the one hand, the workers have openly or tacitly asserted the demand to be consulted in the determination of the terms and conditions of work. Their ability to achieve recognition of this right has varied considerably with the various countries and with the different industries in the same country. But in every important industrial country attempts more or less advanced have been made to apply the procedure of democratic government to the conduct of human relations in industry. On the other hand, the government has tended to participate in industrial relations and to indicate in greater or less detail and over a varying area of industry the basic principles which must govern

in the arrangements between employer and employee. By means of collective agreements entered into between the workers and the employers and by means of legislative enactments the position of labor has been continuously redefined. The early attempts to define the status of labor were concerned primarily with wages and hours and with the protection of the life and health of the workers. Modern systems of industrial relations have become more and more concerned with elaborate definitions of the status of labor in the factory and in industry as a whole, with attempts to insure labor against the economic insecurities created by modern industry and with an infinite variety of devices for regulating the division of the product of industry and for redistributing the areas of industrial control. Wherever the modern factory and large scale production have come to dominate the industry of a country, an increasing number of rules and regulations fixing the conditions of work and defining the rights and duties of labor, management and ownership have gradually been formulated and accepted and have become the law of industry. The increase in this body of rules and law has necessitated the development of machinery for their interpretation and enforcement. In all industrial countries consequently relations in industry have come increasingly under the jurisdiction of judicial and administrative agencies created for the purpose of interpreting and enforcing the rules of industry. These agencies range in authority from the private arbitration court operating under collective agreements, as in the United States, to the public industrial court, such as that of Soviet Russia.

These developments in the practise of industrial relations are traceable in the main to the swift and revolutionary changes in the technique and organization of industry and to the spread of political democracy. It is impossible to assess the influence of each of these forces, but their combined effect has been to strengthen the position of labor and to limit the powers of management and ownership.

The rise of large scale enterprise and of vast industrial establishments, many of which employ directly hundreds of thousands of workers, has profoundly modified the traditional personal relation between master and servant or between the owner-manager and his few employees. The mere employment of large numbers of workers accustomed to the concept of universal political suffrage has tended to modify the practises adopted by industry under conditions of political

and industrial autocracy. Decisions as to wages or hours or work rules, formerly made in the course of personal conversation, now in many cases wait upon the canvassing of the public opinion of groups of employees, the exercise by them of their rights of industrial suffrage, negotiations between the representatives of employees and employers; in short, upon the application of the methods of representative government.

Much of the mass of rules which now govern working conditions is a direct outcome of technological factors peculiar to large scale industry. Mass production and mechanization demand perfect precision and smoothness in the operation of the plant. Frequent and prolonged interruptions to the even flow of work may exhaust a great part of the savings in cost gained by division of labor and mechanization. Effective management under such conditions involves not only the strict enforcement of detailed specifications for all conceivable types of jobs but the application of an equally important body of rules covering hours of work, tardiness, absenteeism, all matters of shop discipline and the division of responsibility between management and labor for the care of expensive and delicate machinery. In this development the introduction of scientific management has been a very important factor. Scientific management was originally designed to increase the productivity of labor directly by adding to the skill and improving the technique of labor and indirectly by the coordination and planning of the processes of production. But it soon became apparent that the success or failure of scientific management depended in large measure on the extent to which it was able to enlist the understanding and cooperation of labor. Industrial psychologists tended to stress the importance of labor goodwill and the relatively unproductive character of repressed servile workers. In connection therefore with the advance in the purely technical elements of scientific management, constituting a species of code of factory and managerial practise, substantial progress has been made in the substance and methods of industrial relations concerned with such items as the choice of the appropriate and effective incentives for work, protection against irregularities of employment, the determination of fair standards of time-study and the granting to the workers of some share in the determination of these and other matters.

The profound and perhaps lasting developments in industrial relations, however, represent a phase of the fundamental adjustments con-

stantly being made in the structure and functions of our business society. As such they reflect the impact of ideas, the influence of political forces and the rise of a variety of social and economic institutions. The most potent single force in shaping the course of industrial relations has unquestionably been the organized labor movement. Whatever the remote origins of this movement may have been, its purpose soon became that of improving human relations in industry by protecting the status of labor against the wilful and autocratic acts of management and by attempting to secure for labor a larger and more equitable share of the proceeds of industry. Labor organization thus became the instrumentality through which large groups of workers expressed their desires for a higher standard of living and a more effective voice in determining the policies of management. Limited in its early history to a small membership among workers in relatively few and selected crafts, the labor movement expanded rapidly after the middle of the nineteenth century; it grew at a faster rate than the total working population and penetrated into entirely new industries and occupations, winning adherents among the semi-skilled and unskilled and even among salaried employees and agricultural labor.

In spite of frequent setbacks due in the main to economic and political adversities the labor movement has continuously widened the area of its control within the countries in which it had already been established and has spread into countries where labor had been unorganized. By the first decades of the twentieth century organized labor was not only firmly established in the industrialized countries of the western world but had also achieved status and substantial influence in China, Japan and parts of India. Wherever the labor movement has taken root the methods and purposes of industrial relations have been revolutionized. The collective agreement has replaced the individual bargain. The issues subject to collective bargaining and hence to joint adjudication have grown in number and significance from simple rules fixing the fines for careless work to the relation between profits and wages and, finally, where organized labor has reached the height of its power, to plans involving the socialization of industry.

Few of these advances either in industrial relations or in trade unionism would have been possible if the masses of people had not been afforded the opportunity to employ their collective political power. In a sense the trend toward de-

mocracy in industry and the organization of labor is inextricably combined with the expansion in the political rights of the common people through the rise of political democracy and the granting of universal suffrage. The increasing political power of the workers has been exerted in two directions. Where the ideas of individual freedom and rights were most firmly implanted and the political power of the propertied classes was greatest, the political influence of labor was used to secure the right to organize and to act collectively. In many countries, including the United States, this struggle in the legislatures and courts to win the right of collective bargaining has been carried on for more than a century and has been in large part responsible for the creation by labor of its many political instrumentalities, varying from complete political organizations, like the British and Australian labor parties, to the more limited lobbying agencies of the American Federation of Labor and the American railroad unions. Where labor has succeeded in mobilizing its political strength, as in England, the status of the organized labor movement has been unequivocally established; but where, as in the United States, the separate and independent political organization of labor has been opposed by the official labor movement, the legal status of organized labor although markedly improved is still confused and uncertain.

Labor movements have used their political power in another direction to seek the solution of many of the problems of industrial relations by the passage of appropriate legislation. In addition to the law of industry which has grown up under purely voluntary arrangements between organized employers and employees an increasing number of the issues of industrial relations have been brought under the law of the land. The labor legislation of England and of Germany, for example, limited in its early stages to humanitarian provisions for factory inspection and to vague assurances of the right to organize, has now reached the point where the treatment of the complex problem of industrial unemployment has come to be regarded as a function of the state. In all countries the volume of labor legislation of similar character has grown by leaps and bounds and in some instances, notably Australia and the U. S. S. R., the legal regulations affecting industrial relations are of far greater significance than the provisions of private collective agreements. Where this change has occurred, the whole machinery of industrial relations has been revolutionized. The

issue of the equitable division of the income of industry has been raised to a position of first importance, and in negotiation and bargaining political pressure has replaced economic pressure as the instrument of the power of labor.

Intangible factors have played an important part in the swift universal acceptance of the system of ideas and practices and procedure embodied in prevailing plans of industrial relations. Of these the dominant influences would appear to be the tenacity of revolutionary or radical political doctrine and the expansion in the facilities of education and communication. Throughout the history of modern industrial relations and trade unionism the dissemination of revolutionary doctrine in all of its forms, preaching the inevitability of the class struggle and the essential incompatibility of the interests of various economic classes, has been the moving force in effecting greater unity among working class movements and in directing the channels of their thought. Even during the past several decades, when in some western countries, particularly in the United States and France, the idea of class cooperation or collaboration appears to have made some headway, the traditional radical doctrine still remains the dominant influence. To the slow and persistent influence of economic and political radicalism the revolutionary forces let loose by the World War gave an added impetus. The revolution in Germany and the brief industrial upheavals and attempts at syndicalist operation of industry in Italy together with the experiments in the peaceful socialization of industry pursued by the British Labour party during the 1920's had their repercussions on the thought and programs of labor movements the world over. The actual setting up of a workers' government in Russia, while it has resulted in doctrinal schisms among the radical organizations in other countries, has nevertheless furnished an object lesson to the many who, not satisfied with capitalist economic organization, look for a solution in the Russian measures of state ownership of property and the central planning and control of industrial operations.

The universal character of trends in industrial relations is plainly attributable in considerable measure to the growth of mass education and to the development of facilities for the prompt communication of ideas. The ability to read newspapers and the circulars, journals and reports of trade unions, not to speak of the simpler texts on social and economic problems, accounts for many of the ideas held not only by the leaders

but by an increasing proportion of the rank and file of labor. The typical program in industrial relations today is an amalgam of the conclusions drawn from practical experience and generalizations gleaned from reading the views and experiences of others. The extent to which the revolutionary improvements in the facilities of communication have contributed to the creation of a common fund of experience and ideas in the field of industrial relations is indicated by the profound influence which the English and German experiments with unemployment insurance have in less than ten years exerted in America and by the world wide attention and study which have been focused on the hopes and achievements of the Soviet Five-Year Plan. Direct international educational contacts have also contributed to the wide diffusion of systems of industrial relations. The tendency of industrial relations in the Orient to follow the patterns of the Occident is due in some measure to the fact that the large number of oriental students who secured their education in the institutions of higher learning of the West carried back to their own countries the economic doctrines and the programs of social reform which they learned there.

Another factor contributing to the change in industrial relations has been the reawakened interest of various religious organizations in the status of the worker. The famous encyclical letter of Pope Leo XIII *On the Condition of Labor*, issued in 1891, has been the basis of the modern Catholic attitude toward trade unions; its basic principles were restated in the papal encyclical of 1931. The Central Conference of American Rabbis and the Union of American Hebrew Congregations have frequently expressed their interest in the problems of industrial relations, and the Federal Council of the Churches of Christ in America has sponsored studies of particular situations of conflict between employer and employee.

Despite all these forces it is probable that changes in industrial relations would under ordinary circumstances have occurred at a much slower rate than was actually the case. The economic and social consequences of the World War were principally responsible for an acceleration in pace and possibly a revision in emphasis. For the first time in modern history the leading nations of the world were forced to mobilize their entire military and industrial resources with unprecedented speed and thoroughness. The interdependence of the military and industrial machines was greater than ever before.

Even the slightest interference with industrial plans might have had serious consequences at the front. Such a vast program could obviously not be successfully carried through without the utmost cooperation and support of labor. To win this support the governments of many of the belligerent nations embarked on what may be described as a new labor policy. They granted official recognition of the right to collective bargaining. They set up industrial boards, containing representatives of labor, charged with the exercise of a large measure of industrial control. They took more than a sympathetic interest in the problems of labor. Economic forces were meanwhile likewise contributing to the growth of labor organization. The lag of wages behind prices and the cost of living, which were mounting swiftly to twice their pre-war levels, produced general unrest. The great burst of business activity and the withdrawal of millions of able bodied men from industry resulted in a universal shortage of labor. The combined effect of these favorable economic and political conditions was to add to the numbers, power and prestige of all labor movements. Between 1914 and 1920 trade union membership in the world more than doubled.

With this growth in numbers and influence came the first taste of power and responsibility. Representatives of labor were admitted into the councils of government. They participated in decisions of vast import. They proposed experiments in industrial management and saw them put into operation. Where the exigencies of war brought about the public operation of private industries, labor for the first time shared in the determination of basic policy and in the processes of management. This experience compressed within the short space of five years freed the imagination of labor leaders and of their followers, gave them a fresh conception of their place in industry and enabled them to look forward to the swift adoption of programs of genuine industrial democracy. The impetus given these movements by the war continued into the early post-war years, sustained in part by the hopes generated in the past and in part by the favorable economic circumstances arising out of the brief post-war boom in business.

In essence the war experiments in industrial relations represented efforts to extend the area of collective bargaining and to secure for workers "a greater share in and responsibility for the determination . . . of the conditions under which their work is carried on." In the United States

the first end was accomplished by the doubling of the membership of labor organizations and the adoption of manifold systems of collective bargaining in industries in which labor had hitherto had no organized voice in determining working conditions. The tendency toward greater industrial democracy was furthered in a variety of ways. Industrial relations in industries under complete government control, like the railroad system during the period of government operation, were administered by specially created labor boards, highly sensitive to the wishes of labor and eager to promote experiments in labor control. In the Rock Island government arsenal a far reaching attempt at joint management was actually initiated. As an aftermath of the war experiments the term industrial democracy came into common usage and the powerful railroad unions in 1919 went so far as to propose the famous Plumb Plan, a project for the reorganization of the railroad industry and its subsequent operation under the joint management of labor, capital and the public. Yet with all the wartime growth the total number of workers organized in trade unions in the peak year, 1920, was only 5,110,800. This represented somewhat less than 20 percent of the total number of wage earners—slightly more than 20 percent if agricultural workers are excluded. The so-called company unions covered only relatively few workers at that time. Thus even at the peak of labor organization in the United States over three fourths of the wage earners still had no organized voice in fixing the terms of their labor contract.

Developments in England during the war pursued a course similar to that in the United States. Under the aegis of the government and assisted by prosperous conditions the trade unions extended their jurisdiction and their power. Union membership reached the unprecedented figure, for Great Britain, of 8,328,000 in 1920, the peak year. This represented well over 40 percent of the wage earners of the country. Within the ranks of labor aspirations for control took a variety of forms and finally assumed considerable vitality in the demand for decentralization in the management of industry, reflected in the rise to a position of temporary importance of the shop steward movement, a revolt at once against autocratic control by management and centralized control by the trade unions. The government attempted to stimulate joint control of industry. It sponsored the Whitley report in 1917, which proposed setting up joint industrial councils with equal representation of employers and em-

ployees to achieve among other things "the better utilization of the practical knowledge and experience of the work people" in the conduct of industry. Observers of all sorts, viewing the English war and early post-war advances in industrial relations, did not hesitate to regard the progress already made as the forerunner of the immediate democratization of English industry.

On the continent there has been a greater diversity of experience. The German government, like all war governments, saw the necessity of enlisting the sympathetic support of labor and its organizations, which had been strictly limited in their activities before the war. The revolutionary change in the status of German labor and in the machinery of industrial relations dates, however, from the establishment of the republic. The republican government, the product of a revolutionary movement, in which the labor and socialist movements were at the outset at least among the most conspicuous participants, undertook to restate the terms of labor relations. In the Weimar constitution accordingly the principles of works councils, created by the German Works Councils Act of February 4, 1920, were defined. While these councils are composed solely of employees and are purely advisory bodies, their right to require a great range of information on the operations of business and to be represented on the boards of control of industry paved the way for the development of genuine joint industrial control. In Germany as in England, however, the most substantial advances in labor relations came by way of the traditional devices of collective bargaining and legally recognized collective agreements between the long established and experienced trade unions and the various employers' associations.

The course of events in the young industrial countries Australia and Canada during the war reveal no radical variations from this general picture. Industrial relations in Canada, greatly influenced by tendencies in the United States and largely carried on between Canadian industry and American labor organizations, experienced little change in their essential character during the war. In Australia the system of government arbitration courts, comprehensive labor legislation and collective bargaining, firmly established in the six states before the war, was substantially strengthened and extended under the influence of a strong labor movement and the independent political power of labor. Assisted by war prosperity, a friendly government and a vigorous trade union policy the rights of

Australian labor became more deeply entrenched and the conditions of labor vastly improved.

Economic and political readjustments following the war have served to test the validity of war experiments in industrial relations and to reveal the problems of the future. After the post-war boom from 1918 to 1920, during which prices and business activity ascended to unprecedented heights, the business of the world entered in the depression of 1920 upon a period of drastic and prolonged economic readjustment, interrupted in some countries by spells of prosperity of varying duration. In both internal and foreign markets the competition for business has been carried on with increasing intensity. Labor and other costs of production have again risen to the position of paramount importance in business calculations which they occupied before 1914, and which they apparently lost during the war. The consequent movement for lower costs has in the view of the owners and managers of industry encountered insurmountable obstacles in the inflexibilities of the wartime systems of industrial relations and in the rigid standards of wages and working conditions. Since 1920 then the struggle over the powers of management and the respective shares of the income of industry has been fiercely waged, and the methods used have been tempered only by the realization on the part of management that rights and powers once surrendered cannot be completely regained.

The nature and consequences of this struggle are exemplified in the post-war developments in industrial relations in the United States. The scrapping of the war machinery of industrial control and labor representation was followed during the depression of 1921 by frequent conflicts between organized labor and employers. No longer able to count on government support and faced in many instances by hostile courts the labor movements suffered severe defeats, losing all control in many industries and appreciably weakening in others. Industry therefore entered the decade of the twenties free to pursue its own policy and to return, if it so desired, to paternalistic methods of management. But the ideas and procedures implanted during the war could not be so easily uprooted. The desire on the part of the workers for a larger measure of industrial democracy had apparently come to stay. The management of industry exercised its ingenuity in the invention of measures designed to insure the rights of labor to consultation and to participation in the councils of industry and at the same time to preserve

freedom from trade union control. The whole series of measures, commonly described as welfare capitalism, reached a high stage of development during this first post-war decade. Their essence was class collaboration, or cooperation between employers and employees. In the machinery for the administration of these measures many industries set up their own plans of joint industrial councils, encouraged employee stock ownership, provided a range of welfare services and insurance and in some few cases even undertook to deal effectively with the problems of irregularity of employment. These measures flowered during eight years of prosperity, and although they appear to have contributed little toward the redistribution of the wealth and income of the country they have shown considerable vitality and have been effective in retarding the growth of organized labor.

The trade unions on their part underwent a similar reaction in methods and purpose. Programs of industrial democracy were abandoned soon after 1920. Moved by their experience with management, a cooperative movement sponsored by organized labor and taking the form mainly of the organization of labor banks was launched by individual trade unions. With few exceptions, however, these excursions into the field of labor ownership had collapsed by 1930. The pendulum indeed had swung to the other extreme. Under the stress of adverse economic conditions the labor movement was forced to adjust its conceptions of industrial relations and began its post-war experiments with labor-management cooperation. Notably in the clothing and hosiery industries and in the railroads the unions undertook to meet the problems created by falling prices and severe competition by accepting a larger measure of responsibility for industrial costs, by applying the technical knowledge of workers to the reduction and control of wastes and by experimenting, in rare instances, with the operation of factories owned and managed by labor itself.

These post-war problems and experiences in American industry proved to be common to all capitalistic countries. Nearly everywhere the labor movement lost a large part of its war gains in membership. The political power of labor, however, has acted particularly in Europe and Australia to retard the processes of reaction and to force consideration of vital changes in the ownership and management of industry. The English labor movement, despite its losses in membership, was able through its industrial and

political strength to retain a large measure of its power in English industry. But here also the force of persistent industrial depression and prolonged unemployment accounted finally for the crushing defeat of the British Labour party in 1931. Present tendencies in English industrial relations are apparently moving in distinctly opposite directions. On the one hand, the disappointment of labor with the achievements of the Labour party and what labor regards as the breakdown of capitalistic business have given rise to a strong movement within the ranks of labor for the swift and general socialization of industry. The influence of immediate events, on the other hand, is in the direction of the adaptation of the instruments of collective bargaining and industrial relations to prevailing economic conditions and the encouragement of further cooperation in industry of the sort proposed in the Mond-Turner conferences on industrial relations in 1928. Trends in Australia appear to be following the same pattern. There public budgetary difficulties and a high rate of unemployment arising out of the loss of a substantial part of Australian foreign trade have already resulted in the weakening of the labor parties and in efforts to limit the scope of state interference in industry, to achieve thereby greater flexibility in the settlement of the issues of labor relations.

In France and Italy radical wartime developments similar to those in other countries were dissipated in the post-war reaction. In France there was on the one hand a return to ordinary collective bargaining and on the other a development of a paternalistic and individualistic system of industrial relations, reminiscent of the state of affairs in many American industries. In Italy the reaction brought to a head by the establishment of the Fascist government produced a plan of industrial relations which, while it seems to differ from those in effect in other capitalistic countries, is substantially of the same species. The foremost industrial problem that at the beginning confronted the Fascist government was to procure peace and cooperation in the conduct of Italian industry. The achievement of this end involved the stamping out of traditional trade unionism and radicalism and the substitution of a system of industrial relations based on cooperation and class collaboration. Such a system, providing for the organization of occupational and industrial syndicates promising joint industrial control, was projected by the Italian government and has since seen some modest development under the strict supervision of the state.

Only in Germany and Russia do the prevailing systems of industrial relations differ radically not only from the pre-war and war models but from the plans in force in other countries as well. In both countries the present relations in industry are the product of political revolution. The building of a new industry and a new social system in Russia and the necessity for the drastic readjustment of German industry to a changing world economy, complicated by the tremendous problem of reparations, have imposed upon the governments of both countries the obligation of exercising extensive control over the operations of industry. The technical difficulties involved in increasing the productivity of industry in Russia have raised in the administration of Russian industrial relations the problems of reconciling the power of labor with its responsibilities in socialized industry. The perilous economic condition of Germany and the rebellious state of mind of German labor have raised a similar problem of tiding competitive industry over the dangerous rocks of depression while at the same time protecting the rights and privileges of labor.

The tendency toward ever greater representation of the workers in the affairs of industry, greatly accelerated by the war and the political upheavals following it, has in most countries apparently been not only stopped but actually somewhat reversed by the post-war reaction. But the trend toward the application to industrial relations of the procedure of democratic government appears irresistible. The most interesting and important problem in industrial relations is how soon this tendency will reassert itself and whether it will return to its pre-war rate of progress or to some accelerated rate created by new and powerful factors.

LEO WOLMAN

See: INDUSTRIALISM; INDUSTRIAL REVOLUTION; FACTORY SYSTEM; DEMOCRACY; LABOR MOVEMENT; TRADE UNIONS; LABOR DISPUTES; EMPLOYERS' ASSOCIATIONS; COMPANY UNIONS; INDUSTRIAL RELATIONS COUNCILS; INDUSTRIAL DEMOCRACY; EMPLOYEE STOCK OWNERSHIP; PROFIT SHARING; LABOR BANKING; PERSONNEL MANAGEMENT; WELFARE WORK; INDUSTRIAL; SCIENTIFIC MANAGEMENT; LABOR CONTRACT; TRADE AGREEMENTS; COLLECTIVE BARGAINING; LABOR-CAPITAL COOPERATION; COURTS, INDUSTRIAL; ARBITRATION, INDUSTRIAL; CONCILIATION, INDUSTRIAL; LABOR LEGISLATION AND LAW; LABOR, GOVERNMENT SERVICES FOR; LABOR PARTIES; COMMUNIST PARTIES; SOCIALIZATION; SOCIALISM; GUILD SOCIALISM; NATIONAL ECONOMIC COUNCILS; FASCISM.

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## INDUSTRIAL RELATIONS COUNCILS.

Two main types of industrial relations councils have developed during and since the World War: statutory works councils whose scope and functions are defined by legislation and voluntary works committees or councils set up by mutual agreement between workers and employers.

At the present time statutory works councils are to be found in Germany, Austria, Czechoslovakia and Norway. The German Works

Councils Act of 1920 represented in part a continuation and extension of the earlier system of workers' committees, legislative provision for which had been made in a permissive form in 1891. In 1905 the establishment of such committees was made compulsory in the Prussian mining industry and later in the industry throughout Germany for all undertakings employing more than 100 workers. Their powers, however, were strictly limited and their practical importance was not great. The World War gave a decisive impetus to the trade union movement, which hitherto had been struggling for recognition; and when the need for expanding the output of munitions led to the passing of the Auxiliary Service Act in 1916 the unions were able to secure the constitution of workers' committees in all undertakings coming within the scope of the act and employing more than 50 workers. In the event of disputes with the management these committees had the right to the appointment of conciliation boards (*Schlichtungsausschüsse*) which were empowered, failing a settlement by agreement, to make decisions binding on both parties. Finally in December, 1918, an order was passed which besides giving legal recognition to collective agreements (*Tarifverträge*) provided for the organization of workers' committees in all establishments employing 20 or more workers. At this stage a new factor was introduced into the situation through the permeation of a part of the German labor movement by revolutionary ideas from Russia. The success of the Bolshevik revolution was universally associated in the popular mind with the councils of workers, peasants and soldiers on which the Soviet system was based. There was a widespread reaction in Germany against parliamentary government and the centralized state and in favor of a more syndicalistic type of politico-economic organization. An armed revolt of Spartacists and other Left wing adherents broke out early in 1919; although it was crushed by the forces of the republic, there remained a strong sentimental attraction toward some form of councils system. This received official if somewhat reluctant recognition in the constitution of Weimar of July 31, 1919, article 165 of which provided for the establishment of a hierarchy of workers and economic councils involving an elaborate system of occupational representation side by side with the political representation centered in the Reichstag.

The immediate sequel to this was the passing of the Works Councils Act of February 4, 1920.



According to this act works councils are composed of the employees alone and are to be elected by a form of proportional representation in all establishments employing 20 or more workers. Membership of the council ranges from a minimum of 3 where fewer than 50 persons are employed up to a maximum of 30 where there are 15,000 or more employees. In small establishments with from 5 to 19 employees a works steward may be elected. An important distinction is made between wage earners and salaried employees, each of which elect separately councils that have exclusive competence in matters affecting their special separate interests; but when the two sectional councils sit together on matters of general policy they form the works council of the establishment. The works council is elected for one year by secret ballot and there is no provision for recall during the legal term of office, although power is given to the labor courts to dissolve a council or to revoke the mandate of individual members in the event of gross abuse of their powers. The office of works councilor is an honorary one; but any loss of working time due to the exercise of official duties is required to be made up by the employer, who also finances the administrative expenses of the council. In many of the larger undertakings it is the practise for one or more members of the council to be released entirely from productive work while receiving the normal earnings from the employer. The German works councils unlike the Austrian cannot invite or collect subscriptions from the employees for any of the purposes of the council.

Except in large integrated concerns, such as Friedrich Krupp, A.-G., at Essen, where there are numerous works in close proximity to one another, and in state undertakings no provision is made for any superstructure built up on the individual works councils. In the former case a central works council for the whole concern may be elected by the works councils of the separate establishments from among their own members. Of the latter type the outstanding example is the federal railways, where there are not only local works councils but also district councils and a central works council for the whole railway system, the members of which are elected by the whole body of railway employees.

The main functions of the works council as laid down in the law are: cooperation with the management in the promotion of industrial efficiency and in the introduction of new labor methods; promotion of industrial peace within

the establishment; supervision of the execution of collective agreements; the securing of agreement upon works rules with the employer or, failing agreement, appeal to a conciliation board; cooperation with the factory inspectors in the prevention of accidents and the promotion of works hygiene; cooperation in the administration of works welfare schemes. The functions of the sectional councils are similar but more detailed and relate to the separate interests of either the wage earners or the salaried employees. In one respect very important powers are given to the sectional councils and not to the works council as a unit: an employee who has been dismissed may protest to his sectional council against his dismissal. If the council comes to the conclusion that his protest is justified but is unable to persuade the employer to rescind his decision, it may appeal to a labor court, which can take evidence on oath. If the court rules that the dismissal was unjustified it can compel the employer to choose between the alternatives of reemploying the man or compensating him on a scale fixed by the court. The members of the works council enjoy a special protection against victimization, for they cannot normally be dismissed except with the concurrence of the council itself or, failing that, with the concurrence of a labor court.

Two important limitations to the powers of the works council should be noted. First, the management of an undertaking is solely responsible for carrying out any decision arrived at in cooperation with the works council, and the latter has no right to issue orders on its own initiative or to interfere with the executive functions of the management, nor can it require the employer to follow its advice in regard to the conduct and organization of the business. Secondly, the works councils are subordinated to the trade unions in the sense that a collective agreement always takes priority over a works agreement, and the general regulation of wages and hours of work lies outside the scope of the works councils.

The works council is Janus faced: on the one hand, it must assume the responsibility of furthering the production efficiency of the enterprise and thus of cooperating with the employer in every way calculated to increase productivity in the collective interest; on the other hand, it represents the interests of the employees as an occupational group over against the employer. In order to fulfil the first of these duties the works council is endowed with considerable and

novel powers. It has the right to elect one or two members with full voting powers to sit on the supervisory committee (*Aufsichtsrat*) whenever the undertaking is organized in the form of a company; to require the employer in all businesses above a certain size to submit a quarterly report on the position of the undertaking; to have access to wages books and other sources of information necessary to ascertain whether the employer is carrying out the terms of collective agreements; to require the presentation of a balance sheet and profit and loss account with suitable explanations of their items.

The Works Councils Act came into force during a period of great political, social and economic confusion. During the first few months a determined attempt was made by the adherents of the soviet or council system to capture the works councils and so secure in the field of industrial representation that decisive control which had been denied to them in the political sphere by the adoption of the Weimar constitution on July 31, 1919. From the resulting struggle the great trade unions emerged victorious and assumed an effective control over the works councils which they have never lost, although the attempts of the Communists to capture the councils have never entirely ceased and always threaten to become a serious menace in times of acute industrial and political dislocation such as prevailed in 1930-31. There was therefore in the early stages a certain amount of distrust between the trade unions and the works councils which the former were afraid might act as a disruptive force inside the labor movement and weaken the leadership of the unions in matters of general policy. This distrust was strengthened not only by the endeavors of the Communists but also by the tactics of the employers who sought to make with their works councils individual agreements not in conformity with existing collective agreements. The unions, however, eventually succeeded in incorporating the works councils within their organization and in making them a source of strength rather than of weakness. Experience has shown that works councils of this type must be in a sense agents of the unions or at least must work in close cooperation with them if they are not to prove powerless in face of the employers or to fall victims to syndicalist tendencies. The works councils have reacted in three main ways on the development of the German trade union movement: they have strengthened the tendency toward industrial unionism as opposed to the older type of craft

unionism; their practical experience has helped to direct the attention of the unions toward previously neglected problems of production; and, thirdly, the councils have helped to throw up a new type of leader, in closer contact with the workers, with a better understanding of both their requirements and their weaknesses.

At the outset the works councils were undoubtedly a source of additional friction and disturbance in industrial relations, but as the revolutionary wave ebbed they came increasingly to serve rather as a stabilizing factor. Their effective power over against the employer depends mainly upon the broad economic factors which determine the relative bargaining strength of labor and capital. In particular they are dependent on the power of the trade unions which stand behind them. Actual relations within any given undertaking depend very largely on the personalities and characteristics of the employer on the one side and of the members of the works council on the other. In practise in the great majority of cases the relations are satisfactory and mutually beneficial.

As might be expected the achievements of the works councils on their more constructive side—e.g. cooperation with the employer in increasing productive efficiency and with the factory inspectors in promoting works hygiene and preventing accidents—have been comparatively slight. This has been due partly to the intrinsic difficulty and novelty of many of the duties laid upon the works councils, partly to lack of expert knowledge on the part of their members, partly to the unwillingness of the employers in many cases to cooperate wholeheartedly with the works councils and partly to opposition from the employees toward any change in conditions of work to which they have become accustomed. The first three of these reasons, to which might be added the frequent change of personnel resulting from the annual elections to the councils, serve also to explain the very slight use hitherto made of the right to inspect balance sheets and profit and loss accounts and to serve on the boards of supervision of companies.

The experience of more than eleven years' operation of the German Works Councils Act shows that, although the councils have not fulfilled the hopes entertained by the socialists during the immediate post-war years, their practical value and significance are to be found in four main directions. First, in the larger undertakings throughout the country the works council constitutes a most useful standing committee with

statutory rights and duties representing the interests of the employees, with which the employer can negotiate as a responsible body. Secondly, the councils have made extensive use of their powers to protect the workers from unjust and arbitrary dismissals and have secured for them in such cases compensation amounting in the aggregate to very considerable sums. Thirdly, the existence of the councils in a statutory form combined with the right of appeal to labor courts in case of dispute has done something toward bringing the rule of law into the work place. It is no doubt still a far cry to the "constitutional factory," but the autocracy of the employer is no longer as absolute as formerly.

Finally, the works councils are making a really important contribution toward the education of the German worker, partly through the number of those who have gained practical experience as members of works councils—a partial census in 1930 covering 46,299 establishments employing 5,900,000 employees showed that there were 156,145 wage earning works councilors—and partly through the notable stimulus given to the trade unions to provide special educational facilities for works councilors.

The German legislation providing for workers' representation has been more far reaching than any other in central Europe, but the first Works Councils Act was passed by Austria in May, 1919. In the majority of its details the law is very like the German, but it differs in certain outstanding respects: the expense of the councils is a charge upon the workers; it excludes from under its jurisdiction government employees, who are covered by special decrees; and it does not attempt to provide for even a slight share in plant management. Relations with the trade unions in Austria have been friendly from the first and permanent trade union members are permitted on works councils. More detailed and far reaching than the Austrian act but hardly as effective as the German legislation, the first Czechoslovakian Works Councils Act of February, 1920, applied only to mines and allied enterprises; it was later extended to include all other commercial and industrial enterprises. The Norwegian Provisional Act of July, 1920, is much less ambitious than the legislation on the continent and is neither automatic nor compulsory. Works councils may be set up in enterprises with more than 50 workers, where at least one fourth desire representation; rights of works councils are of an advisory nature only.

In England works committees existed before the World War in a generally recognized form in the mining and printing industries, while in a number of industries there were shop stewards, who were delegates of the trade unions inside the individual works. But in the engineering and allied trades there had also developed a shop steward system which was unofficial in the sense that the shop stewards, being elected by the whole body of men in the works and not by the unions, were responsible to the men and not to the unions and were frequently recognized neither by the unions nor by the management. During the war there was a great development of this latter type of labor representation, due, first, to restrictions on the right to strike which weakened the influence of the trade unions; secondly, to government legislation providing for the "dilution" of skilled labor with unskilled and in munition works with women's labor, which involved direct negotiation with the employers in the individual establishments; thirdly, to the great extension of the piecework system under conditions without parallel before the war; and, fourthly, to the administration of welfare schemes, war charities and the like. But in addition to these purely local bodies there grew up a militant shop steward movement which went far beyond the bounds of the individual factory and came to play a considerable role in certain important industrial areas. The chief center of this movement was on the Clyde, with subsidiary centers in Sheffield and Coventry. Here it took the form of a revolt against the leadership of the trade unions and was definitely revolutionary in character. In each of these districts during 1915 and 1916 workers' committees were set up composed of unofficial shop stewards from the different works and intended to coordinate action throughout the district. The leaders under the influence of that mixture of syndicalist and guild socialist ideas which had been so prevalent before the war were advocating a complete reconstruction of the industrial system on the basis of workers' control. But the driving force of the movement derived from the great discontent of the workers with the wartime restrictions on the freedom of action of labor and from the revolt of the rank and file against the support given by the leaders of the craft unions to the government measures for the prosecution of the war. During the later stages of the war the militant shop steward movement, drawing fresh strength from the Russian revolution, became increasingly entangled in political crises,

notably in an open hostility to the prolongation of the war; but its influence was mainly confined to the centers referred to and did not spread to the bulk of British labor. In May, 1919, an agreement was made between the engineering employers and trade unions, recognizing the existence of shop stewards elected by trade unionists within the works and providing for the establishment of joint works committees, consisting of not more than seven shop stewards and an equal number of representatives of the employers. The subsequent prolonged depression in the engineering industry and the great amount of unemployment have, however, driven the whole movement into the background and deprived it of the strength which it enjoyed under the abnormal wartime conditions. The shop steward movement has not played an important role in other British industries, and such works committees as exist (apart from a few set up under the Whitley scheme) are to be found in certain large firms, such as Cadbury Bros., Ltd., Imperial Chemicals, Ltd., Hans Renolds, Ltd., and others, where they have been set up on the initiative of the management.

The general ferment of ideas during the war, the widespread demand on the part of many employers as well as employees for a larger measure of industrial self-government, the reaction against centralized state socialism, the influence of wartime control of industry and the ardent desire of the nation that the end of the war should usher in a new era of industrial peace—these were among the motives which led the British government in 1916 to appoint a strong committee under the chairmanship of the speaker of the House of Commons, Whitley, "to make and consider suggestions for securing a permanent improvement in the relations between employers and workmen." The outcome was the establishment of Whitley councils—the formation within an industry by voluntary agreement of a National Joint Industrial Council representing the organizations of employers and employees in the whole industry: a sort of industrial parliament meeting regularly and discussing every kind of problem affecting the interests of those engaged in the industry. The Whitley Committee had also recommended the formation of district industrial councils and of joint workers' committees, but neither of these proposals has been put into practice to any appreciable extent. A large number of Whitley councils was formed within a short time and by 1922 as many as 73 were working, but many of these

did not survive for more than a year or two and by 1925 the number had fallen to 43. In December, 1930, there were 42 in operation. Whitley councils are mainly confined to industries in which machinery for conciliation and arbitration of the old type did not exist; they are not to be found in the cotton, coal, iron and steel, shipbuilding and engineering industries. On the whole they have done useful work in maintaining good relations; but they seem to have been most successful in those cases, such as the boot and shoe and pottery industries, where they have deliberately excluded wage negotiations from their sphere of activities. Where the councils consider wages this vital question tends to monopolize attention to the detriment of other matters and also commonly tends to harm relations between the two parties on the council. The decisions of a Whitley council, even when unanimous, are not binding on those engaged in the industry, and this fact has led to a certain amount of agitation for statutory enforcement; but hitherto the opposition to any legal recognition of agreements arrived at by the councils has been strong enough to prevent the government from adopting this proposal. It is noteworthy, in view of the official origin of the scheme for Whitley councils, that the state itself at first refused to adopt the plan for its own employees and eventually only did so under pressure and in an attenuated form.

A further development of the idea of voluntary cooperation between the two great parties in industry took place in November, 1927, when a group of leading industrialists headed by Lord Melchett (then Sir Alfred Mond) invited the General Council of the Trade Union Congress to enter into discussions with the aim of securing a closer cooperation between labor and capital in the task of reorganizing British industry. As a result the Mond-Turner Conference came into being and in July, 1928, a unanimous interim report was issued. After a preliminary declaration that the support and goodwill of the trade unions were essential to industrial reorganization the report made a number of concrete recommendations dealing with such matters as recognition of the trade unions affiliated to the congress, victimization of trade unionists, rationalization and similar matters. Its most striking proposal, however, was for the creation of a National Economic Council composed of members of the General Council of the Trade Union Congress and of an equal number of employers' representatives to act as a parliament for all

industry throughout the country, although only with advisory and consultative powers. Partly owing to constitutional reasons the two great organizations of British employers declined to adopt the report, and with the intensification of the economic crisis and the death of Lord Melchett negotiations were suspended.

In the United States impetus was given to the voluntary works council, or "employee representation," by increased production demands due to the entry of the country into the World War. Introduced by the government in certain war industries as an emergency measure, industry gave the system scant attention until after the war. Then the opportunity it afforded for non-union collective dealing was taken advantage of by many companies. Between 1919 and 1926 the number of works councils increased from 200 to 900, the number of companies having such councils from 145 to 432 and the number of workers from 400,000 to 1,370,000. In 1926, 58 percent of these workers were concentrated in 16 undertakings, each employing 15,000 persons or more.

The employee representation movement was probably influenced by the experience of the English Whitley councils, but it developed only in single establishments or in groups of plants under the same management. There have been only a few instances in the entire country of industrial councils composed of representatives of different firms in the same industry. The most striking difference, however, between the English and the American systems is the position of the trade union in relation to the works councils. In England the trade union, supplementing the works council, is the recognized body with which employers negotiate. In the United States except in a handful of establishments the works council is permitted no association with the trade union, from which the management—particularly when it initiates employee representation—will brook no interference. In the United States the works council as a rule is but a local, isolated and comparatively powerless substitute for the trade union in matters of paramount economic importance to the worker. That is why the American Federation of Labor, although in 1918 it favored the movement that was to have been modeled on the Whitley system, has since denounced employee representation as an attempt to break down the strength of the unions and prevent their further development and as a menace to genuine collective bargaining.

All of these varied movements and measures represent attempts to achieve what is vaguely termed by some economic self-government, by others economic democracy, by others workers' control of industry. These vague phrases embody strongly felt aspirations—on the part of many employers for more freedom in the control of industry in relation both to the state and to their own employees; on the part of the workers for a greater voice in the determination of industrial policy and of their own working conditions. Such changes as have taken place down to the present have gone only a very short way toward satisfying such aspirations, and it is abundantly evident not only that these are in many cases mutually irreconcilable but also that very great difficulties inherent in the nature of the state itself and of modern capitalistic industry must confront any attempts to bring about far reaching developments in these directions.

C. W. GUILLEBAUD

See: INDUSTRIAL RELATIONS; INDUSTRIAL DEMOCRACY; COMPANY UNIONS; ARBEITSGEMEINSCHAFT; CONCILIATION, INDUSTRIAL; COURTS, INDUSTRIAL; TRADE UNIONS; COLLECTIVE BARGAINING; LABOR-CAPITAL COOPERATION; SYNDICALISM; GUILD SOCIALISM; NATIONAL ECONOMIC COUNCILS.

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LABOR TURNOVER

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*Wilhelm Grotkopp*

*E. Smurlo*

*S. Rawidowicz*

*M. Valters*

*Rodolfo Mondolfo*

*Franz Sommer*

*Jan H. Hofmeyr*

*A. A. Vasiliev*

*Eckart Kehr*

*Eliot Jones*

*Max Sylveius Handman*

*Arthur W. Hummel*

*W. F. Albright*

*S. Procopovitch*

## See DIFFUSIONISM

*Oscar Jászi*

*M. Searle Bates and Frank*

*Wilson Price*

*Ernst von Hippel*

*Oscar Jászi*

*Emil Lederer*

*J. B. S. Hardman*

## See BLACKLIST, LABOR

*J. B. S. Hardman*

## See WORKERS' EDUCATION

*Ralph F. Fuchs*

*John A. Fitch*

*Karl Diehl*

## See EMPLOYMENT EXCHANGES

*Royal Merker*

*Felix Frankfurter and Nathan*

*Greene*

*Edwin E. Witte*

*Robert L. Hale*

*William Seagle*

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| LABOR, METHODS OF REMUNERATION FOR | <i>H. S. Person</i>     |
| LABOR MOVEMENT                     | <i>John R. Commons</i>  |
| LABOR PARTIES                      |                         |
| GENERAL                            | <i>J. B. S. Hardman</i> |
| GREAT BRITAIN                      | <i>H. N. Brailsford</i> |
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Encyclopaedia  
of the  
SOCIAL  
SCIENCES



# Encyclopaedia of the Social Sciences

INDUSTRIAL REVOLUTION is the name given to those economic and technological developments which gathering strength and speed during the eighteenth century produced modern industrialism.

As a label it is admittedly unsatisfactory. One writer calls it "an unhappily chosen epithet for a singularly constructive epoch" (Beales); another doubts whether the term, "though useful enough when it was first adopted, has not by this time served its turn" (Unwin); Lipson occasionally puts it in inverted commas. The chief objection is to the word revolution. Yet that use goes back to the period to which it is applied. Yarn making machines, coke smelted iron, Watt's engine and Wedgwood's ceramic triumphs were described by contemporaries as "great and extraordinary," "most wonderful"; their effects must be "beyond the power of calculation." The steam engine would "produce great changes in the appearance of the civilized world"; and "a revolution is making," said Arthur Young in 1788 when he saw the textile machines spread from the cotton to the woolen industry. Frenchmen after 1789 naturally used the word even more freely in reference to changes in technique, organization and commercial policy; and it became part of the socialistic vocabulary. Blanqui in 1837 declared that by the revolution industrial conditions in England had been more profoundly transformed than at any period since the beginnings of social life. Engels used the word in 1845, and the Marxian thesis was that the technological revolution had transformed the economic and social structure and would do the same to political and intellectual life. Toynbee knew Marx' *Capital*, had studied the German socialist movement and was undoubtedly influenced thereby in his use and understanding of the term he put into academic circulation. Mill and Jevons also spoke of revolution; and in 1852 Michael Angelo Garvey, an English barrister, published a little volume called *The Silent Revolution*, which dealt with the effects of steam transportation and the telegraph on "the condition of mankind."

To Toynbee the use of the word seemed en-

tirely justified. He envisaged a peaceful eve followed by a stormy dawn. Prior to 1760 the "old industrial system obtained"; industry was in the hands of small independent master manufacturers who combined farming and industry, employed a journeyman or two and trained an apprentice. Between master and man was a "warm attachment"; the employee was the "cherished dependent." The class of capitalist employers was "as yet in its infancy"; there was some putting out of materials by merchants to be worked up in the operative's home, and a few large factories were in existence. But small scale organization predominated, and the gulf between employer and wage earner was narrow. Over this "quiet world" of "scarcely perceptible movement," this "slowly dissolving framework of medieval industrial life," hung the comprehensive code of state regulation of production, trade and distribution. Internal free trade had come in Great Britain, but foreign and colonial trade were fettered and free movement or enterprise was checked.

This old order "was suddenly broken in pieces by the mighty blows of the steam engine and the power loom," the spinning machines, the improved roads, the expansion of domestic and foreign trade and the *Wealth of Nations*. The "two men who did most to bring [the revolution] about were Adam Smith and James Watt"; aided by the other inventors, they "destroyed the old world and built a new one." A period of "economic revolution and anarchy" resulted, in which productive methods changed, economic beliefs were revolutionized and the state swung over from regulation to laissez faire. Population was "torn up by the roots" and, like industry, was dragged "from cottages in distant valleys into factories and cities," there to become a collection of hands, "the living tool, of whom the employer knew less than he did of his steam engine." Population grew rapidly in numbers, but the number engaged in agriculture declined both relatively and absolutely; the factory system became the "all-prominent fact" in industry; overproduction and depressions—"a phenomenon quite unknown before"—became normal

parts of business life; landlords and manufacturers waxed rich, but the wage earner fared badly. True, he now had personal freedom, but war prices and the "innumerable evils which prevailed in this age of confusion" made his sufferings acute and long. Eventually his lot improved, thanks to organized self-help, the repeal of the corn laws, and factory acts; but meanwhile he had been in the track of a social tornado, which had torn him from his old moorings and left him damaged in status and living standards.

Toynbee put the industrial revolution into the series of historical phases. Henceforth it was apparent that for any understanding of the nineteenth century one must take account of English economics as well as of French politics. The term became popular, and at least two recent writers have described post-war efforts toward rationalization and the changes resulting from the coming of electric power and new chemical processes as "the New Industrial Revolution" (Meakin) and "the Second Industrial Revolution" (Jevons). But economic historians use the phrase with increasing hesitation and many mental reservations. They dislike the suggestion that revolutions in any generally acceptable sense of that term happen in economic affairs. "Sudden catastrophic change is inconsistent with the slow gradual process of economic evolution," says Birnie; "On the vast stage of economic history no sudden shift of scene takes place," says See; while Lipson emerges from a study of the seventeenth and eighteenth centuries with the conclusion that there is "no hiatus in economic development, but always a constant tide of progress and change, in which the old is blended almost imperceptibly with the new."

The modern view springs from a fuller knowledge of the periods both before and after 1760 than was possible in Toynbee's day. It is now known that the revolution did not "break" on an almost unchanging world of small scale non-capitalistic units, that the speed of transformation was far from rapid, that the ground was not quickly captured and that a picture of the social and economic evils of the period from 1760 to 1850 is far from filling the whole canvas. In the first place, the notion of an "eve" is blurred, if not blotted out, when it is discovered that the revolution had in 1760 "been in preparation for two centuries" (Unwin); that large scale enterprise under capitalistic conditions existed from at least the sixteenth century; that the changes in technique were "the completion of tendencies

which had been significantly evident since Leonardo da Vinci" (Usher); and that the developments between 1760 and 1830 "did but carry further, though on a far greater scale and with far greater rapidity, changes which had been proceeding long before" (Ashley). In the second place, the changes in productive methods depended on far more than a handful of inventions in Lancashire and Glasgow and with one or two exceptions took decades to work themselves out. The machines and engines raised as many problems as they solved—problems of metal supply, machine design, mechanical engineering, power transmission and so on. Machine production could improve only as quickly as did the production of machines and the invention of refinements to make their operation more efficient. The nature of some processes or materials was such that change was long delayed; wool combing refused to yield to machinery until about 1850, and wool yarn was so frail that even in 1860 the power loom in a woolen mill could work no more quickly than did the hand loom. In some industries change resulted from chemical discoveries rather than mechanical invention; in others, such as pottery, advance depended upon the discovery, by countless experiments, of new bodies, glazes, methods of decoration, better understanding and control of kiln temperatures as well as upon easier access by road and canal to raw materials and markets. Mining had no revolution; its story was one of "better methods, . . . slowly forged from the painful experience of common men, and only gradually did a new idea or a new device spread from pit to pit or from one coalfield to another" (Ash-ton). Building, one of the biggest fields of employment, suffered no revolution in methods until cheap steel and concrete were available. Thus with the one exception of spinning and its preliminary processes there was no sudden breaking of old methods or organization by "mighty blows." Professor Clapham's survey of British industry between 1820 and 1850 is a study in slow motion. He finds that "no single British industry had passed through a complete technical revolution before 1830" and reminds us that while the revolution had cut deep into the cotton industry by that date the Lancashire cotton operative was not the representative workman of the day. Even the typical town operative was "very far indeed from being a person who performed for a self-made employer, in steaming air, with the aid of recently devised mechanism, operations which would have made his grand-

father gap." Thus it is not until well into the nineteenth century that one finds the economic transformation approaching a stage that can be described as complete. A revolution which continued for 150 years and had been in preparation for at least another 150 years may well seem to need a new label.

Yet despite all hesitation the term stands and no better one has been devised. For there is in the period which began about 1750 something different in tempo and temper from that of any earlier epoch. The long inventive effort comes to a head in increased productive power, capital increases its power and resourcefulness, economic freedom is gained, domestic and foreign trade expand, the nature of the soil begins to be understood, goods can be moved more rapidly in greater bulk at lower cost for longer distances, and there is at least a "partial introduction of the methods of exact science in economic affairs" (Clapham). Any one of these things would have made a deep mark on the economic life of Europe; but when they came contemporaneously they interacted on one another and produced results which were far reaching and fundamental. From this "unprecedented social and economic development" (Unwin) the material appearance of England was changed "more profoundly than at any other time since the epoch of the last geological changes" (Tawney).

The familiar question, "Why did the changes come when and where they did?" is now best answered if the changes are regarded as the outcome of developments which had been under way since at least 1600. Those developments included a great expansion in the volume of domestic, colonial and foreign trade; an improvement in commercial and financial structure; some growth of large scale organization and production; some advances in industrial equipment; and some scientific discoveries capable of industrial application. British trade grew fitfully but substantially during the seventeenth and eighteenth centuries: the European demand expanded; the American colonists provided a growing market for textiles and hardware; the door into the Spanish possessions was forced wider open; while Africa, the West Indies and the Orient provided good markets and profitable materials for carriage to Europe. Such statistics as exist show that exports from Great Britain doubled between 1720 and 1760 and again by 1795. Meanwhile the British population grew rapidly after, at latest, 1730, thanks chiefly to a declining death rate. It lived on the largest free

trade area in Europe; the wealth which flowed in from overseas trade gave its people a larger spending power and fund of capital; and some of the goods it imported stimulated natives to find ways of making these articles at home, e.g. cottons and pottery. The French story is somewhat similar. Export trade grew almost fivefold between 1715 and 1789 and was probably larger than that of Great Britain in the latter year. Shipowners and merchants flourished, and capital accumulated. Holland and Scandinavia also shared in the general trade expansion.

Economic organization improved during the seventeenth century. Banking and exchange facilities became more abundant and satisfactory, and joint stock companies were established for a large variety of purposes. Industries which served large or distant markets (textiles), which needed large sums of capital for equipment (mining, finishing trades), which worked on costly raw material (silk, precious metals) or which supplied customers who demanded long credit and were slow in paying their bills (London high class tailoring, coach building) were passing into the hands of large entrepreneurs. Sometimes these men were big industrialists who had risen from small beginnings; but often they were merchants who established control over the production of the wares they sold. The merchant had capital or knew where to get it; he could afford to buy raw materials in bulk; he knew the needs of the market and he could allow long credit. He therefore sometimes gave orders to independent master manufacturers instead of buying what was offered in the open market; he supplied working capital to the mines from which he obtained his coal; but in some industries he took control. He bought raw materials and put them out to be processed by domestic workers; he supplied patterns and specifications and possibly the tools and equipment as well; while the final processes whether of finishing or assembling might be done in his own workshop. Independent master manufacturers still existed, who worked aided by the members of their family, journeymen and apprentices and sold their wares in fairs or local markets; such men could be found in the urban handicrafts catering for purely local needs and in the woolen districts of Yorkshire. But in the great staple industries—especially textiles—of France, the Low Countries and England the merchant was gaining control and sometimes counted his dependents by the hundred or even the thousand. At times the economics of supervision, discipline



and time saving were realized by gathering many of these workers under one roof; while in mining, brewing, soap making, smelting, shipbuilding, tanning and the finishing trades large groups of men had to work together by reason of the very nature of their work or of the equipment they used. Sometimes these groups worked under full factory conditions at machinery driven by power. Polhem's factory set up in Sweden about 1700 was remarkable for its use of machinery, water power, division of labor and mass production methods.

The sixteenth and seventeenth centuries also witnessed some advance in industrial equipment and scientific knowledge. Leonardo da Vinci's notebooks contain sketches of a spinning machine, a power loom, roller bearings, universal joints, gears, lathes, drills, rollers for shaping iron, coin presses, turbines, steam cannon and other things, but no one can tell how far they depict contemporary equipment or are the product of his fertile imagination. The stocking frame, invented about 1589, was said to contain over two thousand parts; and cloth finishing machines caused much controversy in the same century. Glassmaking, tinning, gold and silver refining, were all improved after 1600; makers of clocks, jewelry and instruments of precision obtained better equipment; a ribbon loom capable of weaving a dozen or more widths at once appeared in Danzig, then in Holland and finally in England; the Dutch developed the wind saw-mill and other devices for speedy production of ships; the French experimented with the "draw loom," by which patterned cloths could more easily be woven; Polhem's factory was full of power driven metal shears, slitting mills, rollers and hammers; and a silk throwing machine which had been known in Italy before 1300 was copied north of the Alps and reached England in 1718. The harnessing of water, wind and animal power became more efficient, as did the use of gears, while the use of treadles seems to have spread. The work of the growing body of scientists on atmospheric pressure had by 1700 laid a foundation on which the steam engine could be built. True, the seventeenth century saw more technical problems than it was able to solve but it was far from being devoid of inventive inquisitive minds.

The motives which led to the technical progress of the eighteenth century were many and varied. Steam engines and coke fuel came as aids to men who were fighting a losing battle. Shallow deposits of coal, tin and copper were being ex-

hausted, yet existing pumps could not cope with the water which seeped into the lower levels; ruin was inevitable unless the pumping problem could be solved. Ironmasters were faced with vanishing charcoal supplies as the forests near iron deposits were cut down; they must find a new fuel or abandon their furnaces. Many inventions aimed at saving labor, at making possible the use of children for processes formerly done by adults and at overcoming a scarcity of skilled labor. The whole textile industry was hampered in its growth by the fact that a large number of workers was needed to prepare yarn for one weaver; a cotton loom used the yarn made by four or five spinners; a woolen weaver kept nine or ten people busy; while in the sail-cloth industry Arthur Young found twenty yarn makers to each weaver. Since much of the spinning was done by country dwellers, weavers were often idle in summer when the spinners went to gather the harvest. In making patterned cloths the silk weaver needed the aid of three women to raise or lower the warp threads prior to the passage of the shuttle. In the metal industries the cutting of cogwheels for watches and other implements was slow and unsatisfactory until a machine was designed which "reduced the expense of workmanship to a trifle in comparison to what it was before and [brought] the work to such an exactness that no hand can imitate it" (Campbell). Watt, Roebuck and Wedgwood all had great difficulty in finding tools and men capable of making goods exact in measurement: there was an error of three eighths of an inch in a cylinder made for Watt. Wilkinson's boring machine was designed to make possible the production of cannon and cylinders which would be uniform in diameter.

Inventive ingenuity was also stimulated by the hope of monetary reward. Leonardo da Vinci had planned a needle polishing machine which was to bring him the income of a Medici, and eighteenth century opinion grew more tolerant toward the inventor's claim to compensation. Even when patent rights were challenged, it was agreed that the inventor should be rewarded by some gift from the state or from some organization set up to encourage invention. Kings and parliaments protected or rewarded innovators, and such bodies as the Society for the Encouragement of Arts, Manufactures, and Commerce, established in London in 1754, offered premiums, medals and prizes.

The spearheads of the technological advance in the eighteenth century were iron, cotton and

pottery, and it is no mere accident that this should be so. For these industries were virtually new to England and were free from vested interests and government control. More important still, they had two markets, one to be captured, the other to be created. They strove to capture existing demands which were already met by supplies from the continent or the Orient; but in addition they saw the vast demand which would spring into being if they could offer cheap cottons, crockery or iron. Wedgwood showed his grasp of the situation when he established a Useful Branch as well as an Ornamental Branch. In the latter he won a luxury market once served by Dutch, French, German and Oriental potters; in the former he created a new demand among all sections from the middle class to the poor. Lancashire cotton goods ousted oriental produce from the European, African and plantation markets and eventually invaded the Orient itself; they stole some ground from the linen and woolen producers; but the total was insignificant when compared with the new demand for more clothing and for domestic decoration which the cheap fabrics created. The story is not one of insistent demand compelling changes in productive methods; it is rather one in which changed methods and lower production costs resulted in a commodity which created a new big demand.

These many stimuli to industrial change were at work in both France and Britain all through the eighteenth century. In each country invention and imitation were active, and the search for new ideas was made abroad as well as at home. England had welcomed the Huguenots after 1685; Lombe had copied the silk machine from Italy in 1718 and become a big factory owner; London paper makers strove eagerly to learn the secret of French, Dutch and Italian superiority; London calico printers imitated the methods practised in Hamburg; while tin plate makers set up rolling mills of Swedish design. The English countryside was sprinkled with methods, rotations, crops and implements picked up by English gentlemen during their "grand tour"; and such publications as the *Annual Register* and the *Gentleman's Magazine* gave space to descriptions of industrial and agricultural innovations. If one dare talk of "the spirit of the Age," that spirit in the mid-century was certainly a powerful stimulant to interest in and search for new and better methods. Of that spirit nearly all sections of society were drinking.

Of the outcome of this enthusiasm no detailed account can be given here. The great inventors

and discoverers whose names are known often built on foundations laid by scores of obscure men; their work was frequently an improvement or refinement upon that of others and in turn needed still further improvement before it became really satisfactory. Crompton's mule was, as its name suggests, at least a crossbred and did not do its best work until it was made self-acting nearly fifty years later. Watt's engine was originally only an improvement on that designed by Newcomen sixty years before, and until it obtained a crank action was little more than a somewhat more economical pump than its predecessor. Some men went searching on wrong tracks, and their chief contribution was that of warning others not to seek solutions in those directions. Cartwright's loom, for instance, seems to have been almost worthless. In the gallery of inventors some canvases are too large, some should not be there at all and many deserving ones have not yet been painted, much less hung.

By 1780 it was becoming apparent on both sides of the English Channel that Britain was pulling ahead of its nearest rival in industrial and agricultural technique. Young boasted that France had no counterparts to Arkwright, Wedgwood, Darby, Wilkinson or Boulton and those Frenchmen who opposed the Anglo-French commercial treaty of 1786 pointed to the advantages Britain enjoyed through its lead in equipment; its comparative freedom from state interference; its supplies of iron, coal, china clay and water power; its access to raw materials; its abundant supplies of capital in London, Liverpool and Glasgow; and the power which its industrialists and merchants wielded in political life. These assets did much to make Britain the workshop of the world during the next fifty years; the Napoleonic wars strengthened its grip on the seas and weakened France's access to raw materials and markets, while the demands of these wars strengthened the demand for mass production of many commodities, a demand which the British inventions were particularly fitted to meet. Meanwhile France, which had been eagerly copying the British cotton and iron equipment before 1789, fell back; and although there was some development in the production of cotton, iron and sugar during the revolution and war it ended that period economically weaker, with foreign trade crippled, capital scarce, transport facilities disorganized and many skilled workers killed. Not until about 1830 did French economic effort begin seriously the task of modernization, and even in 1850 there was little that

deserved to be called an industrial revolution. Fuel and raw materials were insufficient; capital was scarce; facilities for industrial investment were scanty; and the Frenchman was wedded to individualism, agriculture and small scale enterprise. Alsace-Lorraine was lost before ways were found of turning its ore into steel. Hence nineteenth century France fell behind its traditional rival; Holland had no resources on which to build up the new kind of industry; and of the two countries which were best fitted to follow the English lead only Belgium moved quickly; Germany remained almost stationary until 1850, if not later. It had to wait until the Zollverein and railroads overcame the obstacles to easy movement of persons and goods. In Italy industrialization was retarded by political disunity and later by lack of raw materials.

Great Britain was therefore left almost alone in developing the new technique and organization. France did contribute something to the common stock of invention and discovery—silk throwing machines, the Jacquard loom, the tubular boiler, the water turbine, chemical bleaching, a sewing machine and other things. Germany gave attention to the relations between science and production; Justus von Liebig put agricultural chemistry on its feet in 1840; nearly a century before that date Margraaf had found there was sugar in beetroots; while in 1802 the Silesian Achard found a way of extracting it on a commercial scale and thus gave Europe a new industry. After 1800 the North American contribution began to be important, and by 1850 American machine tools and machine products were entering the European market. The keynote of the American development was mass production of standardized articles, each part of which was made by machinery designed for one task. Skilled labor was scarce; the frontier consumer wanted goods which were cheap, serviceable or labor saving rather than polished, well finished and long of life. The designing of special machines which could be attended and fed by unskilled workers therefore became the first manifestation of "Yankee ingenuity"; these machines produced parts which were of standard sizes and which could therefore be assembled quickly by the same kind of labor. From the making of muskets and revolvers this method of production spread to that of clocks, woodwork, sewing machines, harvesters, locks and the like. English observers in the 1850's marveled at the "fearless and masterly manner" in which "correct principles" were applied by American engi-

neers. Still the crucial developments which led to production by power driven machines did take place chiefly on British soil; it was there that the new factories, metallurgical plants, big coal mines, engineering shops, railroad and steamship were worked out and the resulting social problems had first to be faced.

The workshop of the world exported industrial products to all parts; but soon its customers wished to import industrialism instead, and the encouragement of that importation has figured largely in the politics of most countries. The motive of this state fostering of industrialization was the belief that it was derogatory, disgraceful and dangerous to remain a nation of farmers and handicraftsmen; dangerous because the handicrafts would be destroyed by the competition of imported machine products, because there would be no openings for those whose inclinations and talents were not rural and because the nation could not make its own war equipment; derogatory because the standards of the nineteenth century seemed to place the townsman on a higher plane than the rustic and the man who lived near a factory chimney above the hewer of wood, the shepherd or the cultivator; disgraceful because it was shameful to depend on other nations for the goods that one could and should make for oneself. If China, Japan and India were to count in the eyes of the western world they must westernize their industrial equipment as well as their judicial and educational systems; if Canada, Australia and even the United States were to emerge from colonial status or stature they must cut the ties that bound them to the factories of Lancashire, Yorkshire and the Black Country; if new or reborn nations, such as Germany or Italy, were to make their unity or freedom real they must translate nationalism into factories, mines, banks and statistics of industrial output; and if Russian communists wished to justify their faith and place in a hostile capitalistic world they must teach a nation of peasants how to make electricity, tractors, cloth, electric lamps and cheap matches. Hence the political thought of nearly every nation has been obsessed with problems of protection and self-sufficiency and of nurturing industrial growth in face of the competition of more highly industrialized countries. Only the crack of doom will end the debate concerning the extent to which success, where it has come, has been the result of governmental action in granting tariffs, bounties and the like or has sprung from such other causes as abundant natural

resources, improved transportation facilities, large home markets and the inventive ability, organizing capacity and industrious habits of the population.

In the New World there was some industrial revolution, but many industries came so late that they were able to begin operations on the modern plan. In the United States and to a slight degree in Australia and Canada there was some small scale and domestic industry to be destroyed or superseded. Colonial America had its frontier household manufacture of cloth, clothes, furniture and implements, its farmhouse processing of land and animal products, its charcoal smelting of bog iron, its nail shops, town handicraftsmen; distilleries, potash plants and shipyards. It had some putting out and some artisans who rambled round the countryside or worked in their own shops on materials belonging to their customers; and its flour, fulling or sawmills often treated customers' grain, cloth or lumber. But frontier conditions usually decided that the settler should rely on others only for those goods which he could not make for himself. Gradually most of these occupations passed into factories and workshops; there was a steady shedding of by-occupations by the farmer and a corresponding concentration on his main task. Improved roads, canals and finally the railroad brought a wider area within reach of factory products and spinning wheel, churn and candle mold became antiques. The interruption of Anglo-American relations during the revolution stimulated domestic production, while the period from 1807 to 1814 saw some adoption of machinery and factory organization; tariffs after 1815 helped the textile and iron industries over some of their difficulties with foreign competitors; the westward flow of population called for the production of settlers' effects at such inland points as Pittsburgh; the Erie Canal made it possible to process farm products at such centers as Buffalo and Rochester and to send them to eastern markets; the scarcity of labor stimulated the production of labor saving farm implements and industrial machinery; while engines had to be designed and built suitable to American railroad conditions. But agriculture and commerce remained the chief interests until the Civil War; capital and enterprise found their richest rewards in the unoccupied areas of the west; in the production of staples for the seaboard or the European market, in land speculation, in supplying the stream of settlers and in shipping. The really serious industrialization of the country did not

set in until after 1860; by that time the methods and organization which seemed most suitable had already been worked out in New or old England and only needed to be adapted when adopted. The extension of industrialization to the south of the United States, slowly since 1890, with increasing rapidity since 1914, has again involved the imposition of known industrial techniques on an agricultural economic organization. Australia and Canada had little of the old order to sweep away; their industries could begin on the modern pattern. The South American countries are still predominantly agricultural, the only important traces of industrialization being the penetration of modern methods of finance, large scale plantation organization and the spreading use of machinery in the extractive industries.

In the Near and Far East the machine technique has met a social organization far older and more stable than that which it superseded either in the countries of the New World or in Europe; but here too changes which may be called industrial revolutions have occurred or are in progress. The first of the oriental countries to feel the impact of industrialism was India. Conquest, railways and foreign goods introduced the system. The dissolution of the old princedoms and their courts, followed by the rapid introduction of improved methods of transportation, and the prohibition of the importation of Indian cottons and silks into England had gone far toward destroying the highly developed urban and village industries of India even before the products of English machines appeared upon the Indian market. Loss of older means of livelihood drove increasing numbers of artisans back upon agriculture, and meanwhile the relentless growth of population continued. By 1880 there were many observers who felt that the one solution of India's economic difficulties was the development of modern industries. The factory system appeared first in the 1850's with the building of cotton and jute mills. While the jute industry was developed almost entirely by English capital, the cotton mills were started by native Bombay merchants and the industry has remained largely in native hands. The growth of the cotton textile industry was slow until about 1880, when it began to expand rapidly. As has been true in most countries, machine spinning was at first far more important than weaving, large quantities of machine spun yarn being used by Indian hand loom weavers; even larger quantities were exported to China and for a time to Japan. This

Chinese market was eventually lost to Japan, and after the World War Japan became a formidable competitor in the Indian market itself. Until 1914 India depended entirely upon imports for her machinery and industrial equipment. Early attempts to establish an iron and steel industry failed; and though the stimulus of war demands caused a rapid development of that industry after 1914, it is still unable to supply the country's needs. The war led also to some development of chemical industries, oil and water power. India has today over a million factory workers, and the Calcutta jute mills are large scale units. But industrialism has touched scarcely more than the fringe of Indian life as yet; banking and finance are little developed, and the factory worker is often a villager who has come to town for a few weeks or months in order to earn money to supplement the inadequate income of the farm.

The same is true of China. Attempts at factory spinning of cotton were made as early as 1860 and were successful after 1880. These early mills were owned by Chinese masters, who gathered in their kinsfolk and thus retained something of the family unit. After China's defeat by Japan foreign capital was invested in cotton mills, and a large spinning industry—half Japanese, partly Chinese and slightly British—grew up in the Shanghai area. In that region about 250 factories now exist making textiles and a wide range of other consumer goods, including even fountain pens and gramophones; but elsewhere there has been little industrialization, except in Manchuria under Japanese influence.

The rapidity of the modernization of Japan seems to make the phrase industrial revolution particularly applicable in its case; but it is significant that the commercial and financial transformations have been more far reaching than the strictly industrial. Even before 1868 important changes in economic organization had been taking place in Japan; throughout the eighteenth and the early nineteenth century the feudal system was gradually being transformed by the development of a money economy, including a wage system. Under the modern government of the Meiji era industrialization became one of the first objectives of economic policy. Government subsidies secured by borrowings abroad made possible the construction of railroads and later of public utilities, gas and electric power works. The government established model factories and schools for the training of workers. Nevertheless, the progress of industrialization was slow;

not until after the Sino-Japanese and Russo-Japanese wars did Japan's factory industries develop on any large scale. The World War caused an enormous expansion of all industries and offered an opportunity for Japan to capture the markets of the Orient; but the troubled economic and political conditions of post-war years forced a considerable recession. In 1927 Japan had 49,000 factories employing 1,700,000 workers. The most important factory industries are silk reeling and cotton spinning; but the weaving of cotton is still preponderantly a domestic industry, while silk weaving is negligible. Raw silk remains Japan's principal export and the majority of the population is still agricultural or rural, engaging in handicraft industries as a subsidiary occupation. Japan is already experiencing difficulties in finding an outlet for its cotton yarns or textile goods in India or China, and the development of the heavy metallurgical industries is costly because of its lack of raw materials.

In one sense the vast changes in progress in Soviet Russia do not constitute an industrial revolution, since they do not represent the substitution of one form of industrial organization for another. But this industrialization of an agricultural country is in another sense completely revolutionary. It could occur of course only after the methods and instruments of industrialism had been fully worked out in other countries. The logic of large scale production, the factory system and the machine technique are being adopted more completely in Russia, through their extension to agriculture, than anywhere else. The pattern of industrialization, which has been much the same for most countries, is completely changed in Russia. The heavy industries are being developed first rather than last; industrialization, while depending on foreign aid and the exports necessary to pay for it, is not based on a foreign market for consumers' goods. The social consequences of the industrial revolution in Russia are also vastly different; great as the hardships involved may be they fall most heavily on such classes as the kulaks and the merchants, not on the factory worker. Russia possesses all the natural resources necessary for a most complete development of the machine industries; a labor force is in process of creation. It is easy to overestimate the rapidity of progress, but these changes do have a spectacular quality which the first industrial revolution never possessed even in retrospect.

In all lands where it came to displace an established industrial structure the industrial rev-

olution ran a roughly similar course. The textile industry was usually the first to be affected, then the making of clothes, metal articles and food-stuffs; the large scale manufacture of iron and of steel represented often a distinct step forward but one not easy to take, while the manufacture of machines and producers' goods generally was a hazardous venture. Indeed it is this final step toward complete industrialization which has been most difficult for more recently industrialized countries. In lands coming late to industrialism the easiest success has been won in industries which process the natural or farm products, which produce simple wares such as blankets or plain cotton pieces or which enjoy the natural protection of distance from possible competitors.

Migration of industry from manual domestic or shop conditions to the factory varied in speed from industry to industry. Spinning went quickly; weaving, knitting and some metal trades passed through a transitional workshop period, in which workers were gathered under one roof but continued to use the old equipment. In the clothing industries the sewing machine could be used in the home, and many women clung to the putting out system but had to submit to sweated conditions. The shoemaker and hand loom weaver put up a long fight, and the victory of the laundry and bakery is still far from complete in Europe.

Dependence on coal and water power led to industrial concentration on the coal fields, river valleys and such belts as the fall line in America. Water power had only a limited effect in causing concentration, for it strung the factories all along the banks of rapidly flowing rivers, and for certain textile washing processes an ample supply of water was almost as important as a supply of fuel or power. Where water and coal were found together, as in the Pennine valleys and eastern Belgium, industry was spread over the whole region in villages or towns. For the metal industries location was determined by the coal supply, since it was easier to bring the metal to the coal than vice versa; but this involved the construction of adequate transport facilities, such as the railroad between Lorraine and the Ruhr.

The movement of population to the industrial areas still needs further study. But for England it is now evident that there was no simple mass transfer of people from the south and east to the north and west. The industrial towns grew by drawing workers in from the hinterland, and the void thus made was filled by people from

slightly further afield. Journeys were generally short, except in the case of the Irish who swarmed across the Irish Sea to Lancashire, Glasgow and Yorkshire. Only later, when the railroads made longer journeys easier, was there any serious long distance migration. In newer countries, such as the United States, native population was for long streaming away from the eastern industrial centers and a continual inflow of immigrants was necessary to insure an adequate labor supply.

Problems of urban health and housing were probably most acute in those towns which were the homes of the early spinning factories. In looking at them it should be remembered that until 1835 many British manufacturing centers had no adequate municipal government, that knowledge about the essentials of public health was scanty, that cheap production of pipes, bricks and woodwork did not come until about 1840, that house building depended on the willingness of someone to sink capital in dwellings and that the rate of interest current or the profits to be made in industry might be more tempting than the return on house property. A glance at the housing of the poor in non-industrial towns of the eighteenth century and at the difficulties which have surrounded the provision of working class dwellings since 1914 should provoke a more merciful judgment of the "jerry builder" of the early nineteenth century. In the United States living conditions in the early textile towns of New England were very good; only with the coming of wave after wave of foreign laborers did the worst slum conditions appear.

Of labor conditions no easy generalization is possible. Long hours, child labor, employment of women, insanitary conditions, payment in truck, unemployment, low wages, capitalistic tyranny, labor unrest, industrial fatigue, occupational diseases and the "cash nexus" were not inventions of industrial factory capitalism. Night work was a new thing in the textile industries; but the only novelty about child labor was that children now worked in large groups, were subject to factory rather than parental discipline, discharged more responsible tasks, had to leave the hearth to work and were kept rigorously at their day or night tasks. It should be noted, however, that child labor was universally regarded as natural and that the children's earnings were larger in the factory than they had been at home. When child labor was forbidden, something else—education—had to be developed to fill the waking hours of the young. The

hazards to life and limb might perhaps have been prevented before they were attacked by legislation but they had first to be recognized as such, and the apathy toward them was as marked among the operatives as among employers. Such conditions and attitudes repeated themselves in most countries or regions where the factory system was introduced.

As to wages and employment light and shade alternate. In the early stages the new industries, especially cotton and pottery, seem to have paid much higher wages than were prevalent in the older industries, and the demand for hand loom weavers to cope with the flood of machine made yarn raised the rates paid for weaving. In England the long war with France lifted many nominal wages and some real ones, but the slump after Waterloo lowered levels in industry and agriculture alike. The hand loom weaver and some other manual workers suffered when they stuck to their benches in face of the machine; but elsewhere conditions seem to have improved because of rising wages and falling prices after about 1820 or 1830. Some occupations passed from male to female hands, but new occupations were opened up and old ones expanded—metallurgy, mechanical engineering, the construction and operation of railroads, shipbuilding, mining, building—and the opportunities for skilled well paid work multiplied accordingly.

In short, the industrial revolution increased rather than decreased the material welfare of the mass of the population; but some sections suffered from the transition, war and business fluctuations disturbed wages and prices and the dangers latent in the employee's lot became apparent. Unfortunately much of our view of the social aspects of the revolution is drawn from reports of official investigations, which in their very nature are full of complaints and grievances. From them one can paint the industrial revolution as "an orgy of soulless cupidity" (Tawney) and assume that to be the whole picture. But quantitative studies such as that by Clapham; detailed business studies of Oldknow, Owen, Wedgwood, Boulton, Gott, Krupp and others; and a more detailed knowledge of pre-revolutionary conditions tone down the picture and make at least some of the industrial leaders appear more like human beings and less like incarnations of ruthless self-interest. Moreover it is still far from certain how much the revolution was "a triumph of the spirit of enterprise" (Tawney). Enterprise there was but not always triumph, and the industrial field was strewn

with the wreckage of men who failed. The trouble with machinery that broke down, with workmen who refused to use it, with customers who demanded long credit yet refused to pay their debts, with booms that burst, with banks that refused any more loans, with wars that closed markets, all made the road stony. Inadequate supplies of working capital wrecked many a venture, and when a successful period came the profits had to be plowed back into the business. The industrial revolution has not yet been studied through the records of bankruptcy, but enough is known to show on what a treacherous sea the entrepreneur of the early machine age launched his boat.

HERBERT HEATON

See: INDUSTRIALISM; FACTORY SYSTEM; ORGANIZATION, ECONOMIC; GUILDS; PUTTING OUT SYSTEM; CAPITALISM; SCIENCE; INVENTION; MACHINES AND TOOLS; TECHNOLOGY; POWER, INDUSTRIAL; LOCALIZATION OF INDUSTRY; LARGE SCALE PRODUCTION; RAILROADS; TEXTILE INDUSTRY; IRON AND STEEL INDUSTRY; METALS; BANKING, COMMERCIAL; CREDIT; CORPORATION; MARKETING; IMPERIALISM; LABOR; HOURS OF LABOR; WOMEN IN INDUSTRY; LABOR MOVEMENT; URBANIZATION.

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INDUSTRIAL UNIONISM. See TRADE UNIONS.

INDUSTRIAL WORKERS OF THE WORLD. The Industrial Workers of the World, a revolutionary industrial union, was organized in 1905; its object is to organize the working class industrially not only for the everyday struggle against employers but for the final overthrow of capitalism. It was originally a socialist organization but since 1908 it has combined the indigenous American doctrine of industrial unionism with the ideology and practices of syndicalism.

The emergence of the I. W. W. was the result of the convergence of two forces: the frustration in the east of the socialists who wished to commit the American Federation of Labor and the Knights of Labor to socialist programs and the sharp differences beyond the Mississippi between the socialist Western Federation of Miners and the conservative, opportunist American Federation of Labor. In the early nineties Daniel De Leon and his followers in the Socialist Labor party were aggressively working in the east to convert to socialism the two chief national labor bodies of the country—the declining Knights of Labor and their vigorous competitor the A. F. of L. These efforts failed and the De Leonites, insisting that the conservative unions hampered the emancipation of labor, organized in 1895 the Socialist Trade and Labor Alliance, which was avowedly socialist and revolutionary. The alliance created considerable agitation but was not a success; dissatisfaction with these manoeuvres of the De Leonites, which were linked up with fundamental differences involving revolutionary and opportunist conceptions of socialism, led the opportunist faction to bolt the Socialist Labor party and at the turn of the century to set up the Socialist party, which opposed organization of dual unions and advocated "boring from within" the A. F. of L. Soon after its organization in 1893 the Western Federation had affiliated with the A. F. of L. but broke away in 1897; it waged ten great strikes during the period 1893 to 1903. In 1898, three years after the launching of the alliance, the Western Federation set up the Western Labor Union (after 1902 the American Labor Union), of which the federation itself



was the chief constituent. The American Labor Union was an industrial union, class conscious and strongly socialist; it proposed industrial unionism and independent political action "of all wage workers" as "the only method" of working class emancipation—in essentials the program subsequently adopted by the I. W. W.

By 1904 both the alliance and the American Labor Union were extremely weak—the one a purely propagandist body, the other important only as the expression of the Western Federation of Miners. Meanwhile new and aggressive labor struggles provided an opportunity for the agitation of revolutionary unionism. The defeat of the steel workers' strike in 1901 glaringly revealed the limitations of craft unionism; the victory of the coal miners one year later stirred labor everywhere. There was an increasing discussion of the need for a new labor organization, as the result of which a constitutional convention met in 1905 and organized the Industrial Workers of the World. The most important organization represented in the convention was the Western Federation of Miners; other organizations were the alliance, the American Labor Union, the United Metal Workers' Industrial Union and a few disaffected locals of the A. F. of L. There were also a number of individual delegates from both the Socialist Labor party and the Socialist party. The proceedings were dominated by De Leon, William D. Haywood, Eugene V. Debs, William E. Trautmann and Vincent St. John.

The I. W. W. arose primarily out of dissatisfaction with the craft unionism and conservative policies of the A. F. of L. The latter had repudiated the Knights of Labor policy of organizing all the workers, skilled and unskilled; its constituent unions were composed overwhelmingly of skilled workers among whom craftsmanship was still an important factor, and these unions refused to organize the unskilled workers (e.g. in the iron and steel industry). The I. W. W. on the contrary proposed to organize all wage workers, regardless of craft distinctions; it proposed moreover to organize them into industrial unions which would embrace all the workers in a particular plant, enterprise and industry. The I. W. W. thesis was: machinery is rapidly eliminating the craftsman's skill; the unskilled workers are becoming preponderant and it is necessary to organize them; without the organization of these workers into industrial unions, an integrated unionism paralleling the integrated structure of modern industry, it is impossible to wage effective

war on the great combinations of capital. The craft structure of the A. F. of L., insisted the I. W. W., is not only incapable of organizing all the workers but develops the conservative policy of defense of exclusive craft interests (frequently at the expense of the unorganized workers) instead of the revolutionary policy of the overthrow of capitalism.

Although the I. W. W., including its predecessor the American Labor Union, was strongly influenced by the traditions of earlier experiments in radical unionism, it made important departures. The I. W. W. accepted the Knights of Labor idea of organizing all workers including the unskilled but it repudiated the K. of L. leaders' middle class ideology and adopted a definitely socialist policy. The I. W. W. agreed with the Socialist Trade and Labor Alliance that unions should organize for the overthrow of capitalism, but it substituted industrial unionism for the craft unionism of the alliance. This industrial unionism was an essentially indigenous product and constitutes an American contribution to revolutionary labor theory and practice; it grew primarily out of the rapidly increasing concentration of American industry. This concentration, in socialist theory, represented the socialization of production upon which socialization of industry and socialism depend; the I. W. W. accepted that conclusion but added a new concept—the industrial unions, paralleling the integration of industry, would become the basis of the future socialist society (whence the theory of "forming the structure of the new society within the shell of the old"). This conception was given its most brilliant formulation by De Leon, who considered it the fulfilment of Engels' theory that the government of socialist society would be an "administration of things"; Lenin accepted the conception as an adumbration of the Soviet system and as the ultimate form of government in communist society.

Within one year a split took place in the I. W. W., which led to the secession of the Western Federation of Miners, depriving the new organization of nearly one half of its 60,000 members. The split involved issues of revolutionary or moderate tactics and left control in the hands of the more revolutionary elements under De Leon, Trautmann, St. John and Haywood.

The secession did not, however, end internal controversy; a new struggle developed between the advocates and opponents of political action. Although in theory the I. W. W. was a product

of modern concentrated industry it drew its strength from casual labor in the west and immigrant workers in the east, men who by the nature of their work and social position had no stake in voting and who developed an antistate complex. This complex was emphasized by the frontier traditions of "direct action" which influenced western workers. In consequence a strong antipolitical tendency developed, aggravated by the struggle for party influence within the I. W. W. between representatives of the Socialist Labor party and the Socialist party. De Leon opposed the antipolitical tendency, emphasizing the Marxist conclusion that "every class struggle is a political struggle." The controversy over political action came to a head at the 1908 convention. The De Leon delegates were expelled and thereupon set up a rival I. W. W. with headquarters in Detroit, but it was never more than a propagandist group. It declined with the general decline of the Socialist Labor party, changed its name in 1915 to the Workers' International Industrial Union and struggled on to formal dissolution in 1925. The majority I. W. W., sometimes called the anarcho-syndicalist group, espoused revolutionary industrial unionism without affiliation or cooperation with any political party. The antipolitical bias of the groups now dominant in the I. W. W. was reinforced by syndicalist theory. But there were important differences between syndicalism and the I. W. W. The I. W. W. was an industrial union, while the European syndicalist groups were essentially craft organizations; moreover, where syndicalism envisaged the future society in terms of autonomous, loosely federated producers' groups, the I. W. W. proposed a more integrated economic organization of society and more highly centralized social control—the fundamental difference between the anarchist and the socialist conceptions.

In the midst of controversy and secession the I. W. W. was becoming a militant expression of class war in the United States. It made its appeal to all wage workers regardless of occupation, creed, color or sex, attempting to link up the immediate struggle with the necessity for the overthrow of capitalism. It opposed the intervention of intermediate agencies, such as the state, in labor's struggles with the employers and emphasized direct action in the form of strikes, boycotts and so on but not collective bargaining, which it considered an interference with labor's only weapon, the strike. Unlike the A. F. of L., which considered time agreements necessary

and sacred, the I. W. W. rejected them because such contracts make it more difficult to declare strikes at moments most embarrassing to the employers. The I. W. W. avoided violence and sabotage in spite of the emphasis on direct action; it talked much of those tactics but did almost nothing to apply them. Its tactics included intermittent strikes and strikes "on the job." In the course of its history the I. W. W. directed or participated in not fewer than 150 strikes, the most important of which were the Goldfield, Nevada, miners' strike of 1906-07; the Lawrence, Massachusetts, textile workers' strike of 1912; a lumber workers' strike in Louisiana in the same year, in which many Negro workers participated; the Paterson, New Jersey, silk workers' strike of 1913; and the iron miners' strike on the Mesabi Range, Minnesota, in 1916. The period from 1905 to 1914 was one of rising prices and stationary real wages, of aggravated labor discontent; these conditions provided an opportunity for I. W. W. militancy, and its activities were considered a serious revolutionary threat. Most of the I. W. W. strikes were marked by severe repression on the part of the public authorities; and along with their strikes the I. W. W. waged numerous "free speech" fights when their attempts to organize were interfered with. Arrests and convictions were numerous. The strikes were marked by temporary accessions to the I. W. W. ranks, the frequent winning of some or all of their demands and, at the end, abandonment of the battlefield without any serious attempt to build up a stable organization. This defect in I. W. W. tactics was aggravated by the difficulty of organizing unskilled workers, particularly when they were foreign born and spoke many languages.

During the World War the I. W. W. took an antimilitarist position, opposed the participation of the United States in the war and continued to organize strikes in spite of the truce proclaimed by the A. F. of L. The government acted swiftly and drastically; 166 of the I. W. W. leaders were indicted, 113 arraigned and tried and 93, including Haywood, convicted; they all received severe sentences, twenty years' imprisonment in the case of the more important leaders. The post-war years were marked by further prosecutions of the I. W. W. under the criminal syndicalism statutes of various states. In Washington agitation and strikes among the lumber workers aroused considerable tension; on Armistice Day, 1919, a group of American Legion men in Centralia attacked the I. W. W. hall

and met forcible resistance. In the struggle four legionnaires were killed and a number of I. W. W.'s arrested; seven were sent to prison for from twenty-five to forty years; and although seven jurymen have since repudiated their verdict and there is a general demand for their release, the I. W. W.'s are still in prison. Wholesale prosecutions effectively broke the strength of the organization for a period of years—perhaps permanently. They forced it to concentrate what strength it had upon legal defense and campaigns for amnesty. Its energy was further sapped by bitter internal controversy over the conditions on which its members should accept amnesty. The I. W. W. played no part in the great strike movement during the period 1919 to 1922.

This decline was sharpened by I. W. W. losses to the communists. The communist revolution in Russia profoundly influenced the I. W. W., some of whose former members were active in the Bolshevik party. At first the I. W. W. was sympathetic to the Bolshevik Revolution; but as communist theory and practise with their emphasis on a political party and the capture of the state were better understood, a violent controversy over communism broke out. The controversy was aggravated by the organization of an American Communist party which struggled for hegemony over the revolutionary movement. An appeal issued in 1920 by Gregory Zinoviev in the name of the Communist International recognized the "long and heroic service of the I. W. W. in the class war" and urged it to join the International; the appeal said that the existing revolutionary situation did not permit of waiting until "the new society is built within the shell of the old," that the struggle of the workers must be a struggle for political power and that the I. W. W. theory of the general strike is incomplete unless it includes the final necessity of armed insurrection. The appeal was rejected; the I. W. W. emphasized its syndicalist orientation and became increasingly hostile to communism and the Soviet system. The Communists, however, were aided in the struggle by the fact that their program included fundamental elements of the I. W. W. program (as well as that of the Socialist Labor party); on the whole the I. W. W.'s have been Bolshevik and anti-syndicalist in their concepts of industrial unionism and the structure of the new society and syndicalist and anti-Bolshevik in their rejection of political action. The essential theoretical differences are: the I. W. W. believes in the gradual

acquisition of control of industry by economic action "on the job" and has no clear idea of how the final overthrow of capitalism is to be accomplished; the Communists accept industrial unionism but insist that it is necessary to overthrow the capitalist state and organize a dictatorship of the proletariat in order to build up the new society. These differences were at first a matter of discussion, and the Communists tried to win over the I. W. W.; in recent years the differences have become practical and have assumed the form of an open struggle for leadership over the revolutionary labor union movement. The Communist organization, the Trade Union Unity League, is opposed to the I. W. W. as well as the A. F. of L. In this struggle for leadership the I. W. W. has rapidly lost ground to the Communists. Left wing strikes which in pre-war days would have been led by the I. W. W. are now led by Communists. Many prominent I. W. W. leaders, such as Haywood and William Z. Foster, joined the Communist party, and an appreciable proportion of this party's membership is composed of former members of the I. W. W.

In 1924 the I. W. W. suffered a serious split over the question of centralization of power within the organization. Still smoldering differences regarding amnesty were also involved. The so-called Emergency Program, or E. P., faction, supported especially by western groups, favored the loose federation of highly autonomous locals. The eastern, or Administration, group favored continuance as an amalgamation of local units subordinated to a highly centralized national organization. The decentralizers were defeated but set up a Reorganized Faction with headquarters in Portland, Oregon, and formulated an emergency program calling for the abolition of certain national offices and the per capita tax to the general administration. In July, 1925, the E. P., or Reorganized Faction, adopted a new constitution which provided for the decentralization of the industrial divisions of the organization, called industrial unions, into job branches having local autonomy. Although this faction is still in existence it has even less influence than the dominant administration group. In Los Angeles it publishes a monthly paper, the *New Unionist*, which is extremely syndicalist in its theory and strike tactics.

The enrolled membership of the I. W. W. has never been large and has always been of a shifting, unstable character. The organization probably reached the peak of its popularity and

prestige at the time of the textile workers' strike in 1912, when it may have had 100,000 members. During the post-war period its membership and influence have been low and steadily declining. In 1930 it probably numbered less than 10,000 members.

Few skilled workers have been attracted by the I. W. W. Its strength has always lain in its effective appeal to the casual and migratory worker in particular and the unskilled worker in general. These groups, which the A. F. of L. has largely ignored and failed to reach, the I. W. W. has successfully recruited. Its more important branches are made up of such workers in lumbering, construction, agriculture, longshore work and marine transport. It has been strongest on the Pacific coast and in the wheat belt but has succeeded temporarily in the textile mills of Massachusetts and New Jersey, in the lumbering industry in Louisiana, in the coal mines of Colorado and in the oil fields of Oklahoma. Its chief centers of influence in 1930 were the wheat belt, the northwest woods and the docks of the chief port cities. It attracts most strongly the immigrants and the native Americans who drift into migratory work. Its leaders have for the most part been Americans, although some foreigners, especially Italians, have played active roles in its affairs. The activities and influence of the I. W. W. have been confined almost entirely to the United States and Canada, although there have been set up "foreign administrations," which simply reflect the propaganda activity of seagoing I. W. W.'s. The organization has no other international affiliation.

Of crucial significance is the practical result of the I. W. W.'s inability to combine effectively the struggle for immediate improvements with the struggle for final working class emancipation, a defect aggravated by its guerrilla strike tactics and lack of organizational solidity. The result is that the I. W. W. has been far less successful as a disciplined labor union than as an organization of propaganda and protest. Unless immediate benefits can be offered—and won—workers do not stay in unions. This is why, although the I. W. W.'s have staged numerous strikes and free speech fights, these dramatic activities have borne little or no fruit so far as permanent, stabilized organization is concerned.

Although there have been among the I. W. W.'s not a few "two-card" men, holding union cards in some A. F. of L. union as well as in the I. W. W., the relations between the I. W. W.

and the federation have been for the most part bitterly hostile. The I. W. W. was conceived in hostility to the federation and since 1905 has been a most persistent critic of that organization and its policies. The federation, which is opposed to both syndicalism and communism, is highly conservative and represents primarily the interests of the skilled craftsman; the I. W. W. is radical and represents the unskilled worker, who is ignored by the A. F. of L. and whose interests demand more aggressive action. The two organizations typify sharply contrasted points of view—on doctrine, on tactics, on form of organization—as well as sharply contrasted groups of workers to whom they appeal. Many clashes have occurred between the I. W. W. and the A. F. of L.; the two organizations have denounced each other consistently and interfered in each other's strikes. During I. W. W. strikes the A. F. of L. unions of skilled workers would refuse to come out and were in consequence accused of "organized scabbery." These antagonisms are not simply a product of theoretical differences; they express the conflict of interests between the skilled and unskilled workers, the organized and unorganized, which constitutes an important aspect of the American labor movement.

The I. W. W. has been a significant influence in the American labor movement. Unquestionably it galvanized the A. F. of L. into taking more interest in the organization of unskilled labor; amalgamation proposals in the A. F. of L. are one result of the I. W. W. propaganda for industrial unionism. The industrial structure of some of the newer unions, like the Amalgamated Food Workers and several unions organized by Communists, such as the Needle Trades Industrial Union, is to be traced in part to the I. W. W.; indeed industrial unionism is an accepted idea of American communism. The I. W. W. has been responsible indirectly for state legislation more adequately to control private labor exchanges. It improved conditions among many groups of workers, especially in the lumber camps, and it has made it easier for Negro workers to organize into unions; in fact the I. W. W. was the first labor organization which actively organized the Negro. There is, finally, the influence of the I. W. W. upon the communist movement. The I. W. W. was an American expression of the revolt against moderate socialism which developed in all sections of the international socialist movement. In the pre-war days the I. W. W. stimulated the development

of a strong left wing group in the Socialist party; the struggle between revolutionary and opportunist was waged over the issue of industrial unionism. During the war the new left wing, which led directly to organization of the Communist party, was influenced, although in minor degree, by I. W. W.'s, while the Communist party now claims the revolutionary heritage of the I. W. W.

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See: LABOR MOVEMENT; DUAL UNIONISM; SYNDICALISM; CRIMINAL SYNDICALISM; DIRECT ACTION; VIOLENCE; SABOTAGE.

Consult: Brissenden, P. F., *History of the I. W. W.: A Study of American Syndicalism* (2nd ed. New York 1920); Industrial Workers of the World, *Proceedings of the First Annual Convention* (New York 1905); St. John, V., *The I. W. W., Its History, Structure and Methods* (rev. ed. Chicago 1917); Ebert, J., *The I. W. W. in Theory and Practice* (2nd ed. Chicago 1922), and *The Trial of a New Society* (Cleveland 1913); Haywood, W. D., *Bill Haywood's Book* (New York 1920); Brooks, J. G., *American Syndicalism: the I. W. W.* (New York 1913); Parker, C. H., *The Casual Laborer* (New York 1920); Trautmann, W. E., *Industrial Union Methods* (Chicago 1912); De Leon, Daniel, *The Preamble of the I. W. W.* (New York 1905; new ed. with title *The Socialist Reconstruction of Society*, New York 1918), and *Industrial Unionism* (New York 1920); George, Harrison, *The I. W. W. Trial* (n.p., n.d. (1918)); Fraina, I. C., *The I. W. W. Trial* (Chicago 1918); American Civil Liberties Union, *The Truth about the I. W. W., Facts in Relation to the Trial at Chicago, by Competent Industrial Investigators and Economists* (New York 1918), and *The Issues in the Centralia Murder Trial* (New York 1920); Todes, Charlotte, *Labor and Lumber* (New York 1931) chs. viii-x; Hutchins, Grace, *Labor and Silk* (New York 1929); Industrial Workers of the World, *I. W. W. Songs* (22d ed. Chicago 1926); Saposs, D. V., *Left Wing Unionism* (New York 1926) chs. ix-xi; Foster, W. Z., "Old Unions and New Unions" in *Communist*, vol. VII (1928) 399-405; Gambis, J. S., *The Decline of the I. W. W.*, Columbia University, Studies in History, Economics and Public Law, whole no. 361 (New York 1932). See also the I. W. W. organs, *Industrial Solidarity*, published weekly in Chicago since 1909, and *Industrial Worker*, published weekly in Seattle since 1916.

**INDUSTRIALISM.** Every age and every people has a character stamped upon it by the way it gets its bread. This is true not only of the modern era, which has been called the age of industrialism, but of all eras from the beginning of man's time on earth. It is as true of prehistoric peoples or of the ancient world as of modern Britain or the United States. Modern industrialism did not create man's dependence on his means of living or first cause society to take a shape governed by the nature of his economic

activities. It only sets a new shape in place of the old and causes societies to organize themselves in different ways.

Industrialism represents essentially a particular stage in human knowledge and in man's command over nature—a stage at which man has learned the arts of machine production and the use of mechanical power on a large scale but has not yet become so much the master of these new arts as to bring them to full maturity or under fully satisfactory control. It is a phase in material progress, but only a phase, destined to be superseded when its development has become sufficiently complete.

The point has not yet been reached when the world will have so thoroughly solved the problem of producing material wealth that it will cease to be a problem at all and men will be left free to turn their attention to the satisfaction of other needs and desires. Nor can one expect such a point to be reached over the world as a whole for a long time. Indeed in many countries poverty due to the underdevelopment of productive power is still by far the most pressing economic problem. The masses in China and India are still desperately poor, not from unemployment or misdirection of productive energy but from sheer inability to produce enough to provide a reasonable standard of living. Their great problem is still to increase production in order to raise their own power to consume.

But in the great industrial countries of Europe and America the situation is rather different. Not that enough is being produced to give all the citizens even of these countries a satisfactory standard of life—but in their case the further increase of actual production seems to be held back far less by a failure of productive power than by an inability to find means of distributing the increased real wealth which they are in a position to produce. Their problems are primarily unemployment, unremunerative prices, lack of proper balance between the output of different kinds of goods, dislocation of regular trading relationships between countries and a creaking of the financial mechanism by which the exchange of goods has to be carried on. They could produce far more with their existing resources than they are producing at present; but they cannot do this because there is something seriously wrong with their methods of distributing and exchanging wealth. And there seems little chance that their powers of production will be allowed to develop as they could until these fatal defects in the structure of indus-

trial society have been somehow remedied. Meanwhile production and the standard of life advance only by fits and starts; and progress is again and again interrupted by crises which cause the industrial nations deliberately to restrict their output of goods in an endeavor to create scarcity in place of a plenty which they have not learned to control.

How does such a situation arise? Obviously the power to create more real wealth ought to be the means to a higher standard of living for the community as a whole. Obviously on the whole and in the long run it has hitherto been so—witness the great advance in the real incomes of all classes in industrial countries during the past century. But it is no less obvious that this advance is less than it might be if the existing powers of production were being used to the full, and that even so it is made precarious by the liability of the economic system to recurrent crises and business depressions.

Industrialism is fundamentally an affair of productive technique. It is based upon the discovery and exploitation of improved methods of producing wealth, primarily in the processes of manufacture but also to an increasing extent in agriculture and in the extractive industries yielding primary products. It is closely associated with an increase in the scale of production, with the development of capitalistic methods in both manufacture and marketing and with the employment of wage labor. Its secondary effects have included hitherto a concentration of the population in densely inhabited urban areas, a very rapid increase in the volume of international trade, much lending of capital for development by the more advanced countries to those less advanced and a very rapid increase in the numbers and social importance of the middle classes, including those engaged in the professions as well as in the administration and supervision of industry and commerce.

At the basis of industrialism is the machine. Both capitalism and wage employment are much older than industrialism in the sense in which the term is used in this article; and there were many factories before there was a factory system based on mechanical power. But industrialism can be said to have begun when machinery driven by a central supply of mechanical power became the typical method of manufacturing production. For from that point industry replaced commerce as the directing force of economic life, and the scale of production and the forms of business organization came to be deter-

mined by the growth and character of mechanical power.

Thus in England, where the industrial revolution proceeded a stage ahead of its development elsewhere, the industrial employer step by step ousted the merchant from his previous predominance. The typical rich men of the seventeenth and the early eighteenth century were merchants and financiers engaged in buying and selling goods gathered together from a host of small scale producers. The few big employers who did exist were not typical. The rich clothier whose memory is kept alive by his monuments and benefactions in countless English churches was not primarily an employer of labor but a merchant, although the position of the small producers who supplied him with the goods he distributed may often have differed little in effect from that of wage workers. The bourgeois class to which the aristocrats of England and France before the great changes of the eighteenth century were compelled to pay some attention was above all a class of merchants.

The industrial revolution, based upon a great series of mechanical inventions and above all else on the economic utilization of steam power, radically changed the situation. It substituted for a relatively static system of production an essentially self-expanding technique. The merchant of the seventeenth or eighteenth century had indeed an incentive to expand his sales as a means to additional profits. But there was for him as a rule no economy in buying on a large scale or in larger total amount, since the small producers who supplied him could not produce more cheaply merely because they were asked to produce more. It is a commonplace among economists that handicraft production tends to obey a law of "constant cost" and indeed that, if additional workers have to be pressed rapidly into the service in order to meet an expansion of demand, costs will tend to increase on account of both the greater demand for labor and the less skill of the new labor attracted into the trade. This was undoubtedly the position in hand loom weaving in the eighteenth century, in the "golden age" of the hand loom weavers that preceded the introduction of the power loom. The desire of the eighteenth century merchant to purchase more goods from the small producers was therefore conditional on his ability to sell more without reducing the price or even while increasing it; and this, owing to the rapid expansion of trade with both America and the East, he was in fact often able to do.

But as fast as machine production based on mechanical power superseded handicraft, the situation was radically altered. Until then the pace of production had been set by the orders of the merchants, to whom the producers were for the most part merely subservient. But now under the new factory system the industrial employer himself had not only an incentive to get as large orders as he could but also a means of stimulating the merchant's demand. For in most cases he could produce more cheaply by increasing his output; and he was therefore, unlike the handicraftsman, in a position to offer the merchant goods at lower prices if only the merchant would increase his purchases. This enabled the merchant in his turn to take new steps in stimulating demand by offering goods at lower prices to the consumer both at home and abroad, and the increased orders given by merchants under these conditions reacted upon industry. But the initiative in the new system passed more and more into the hands of the industrial employer, whose offers of more goods at lower prices became the driving force of material progress. From this point of view the coming of industrialism was in manufacturing industry the transition from a condition of constant to one of decreasing costs.

The industrial employer, who thus became the pivot of the new economic system, found himself urged on to new conquests by the pressure of the machine itself. He had to be abreast of his competitors in reducing prices; and this was a perpetual incentive to him both to increase his scale of production and to avail himself of the improved machines that were constantly being produced. There was doubtless, even when the industrial revolution was at its height, an optimum size for any given business beyond which it could not grow without loss of productive efficiency. But as the optimum was growing larger with very great rapidity, the great majority of businesses were probably well below it and racing to catch up. Accordingly machine technique gave the employer the greatest possible stimulus to increase his scale and quantity of production in order to cut his prices and thus enabled the merchant to take full advantage of the elasticity of demand, especially in overseas markets.

This last qualification is necessary because the strong competitive pressure on employers to reduce costs and prices, while it was a powerful stimulus to improved productive technique, reacted unfavorably upon the level of wages and

therefore upon the consuming power of the domestic market. The employer could cut his costs not only by improving the efficiency of production but also by reducing wages or taking a firm stand against their increase; and this course appealed strongly to the less efficient employers, who were threatened otherwise with extinction. Relatively few employers could be brought to believe in Robert Owen's doctrine of the economy of good wages and conditions; and perhaps relatively few were efficient enough to make it true in their own case. The rapidly falling costs of the new industrialism were based on low wages as well as on a rapidly improving technique of production.

There was a second and no less powerful reason why wages and consuming power in the home market remained low in the period following the advent of industrialism. The new employers under a constant necessity of improving their machinery and expanding their scale of production were avid for fresh supplies of capital which they could apply to these purposes. But capital was hard to find in the days before the recognition of limited liability and the working out of the modern solution of joint stock companies and corporations based on widely diffused and easily transferable shares. The employer was therefore compelled to expand his business out of his own resources as far as possible, living frugally himself and putting back his profits as capital. Under this pressure he was disposed to resist demands for increased wages as sheer waste, the devotion to useless expenditure of resources badly needed for the expansion of output.

It is true that money thus saved was spent on buildings and machinery. But the constructional trades, powerfully stimulated as they were by these new conditions, did not quickly respond to the new technique or pass over from handicraft conditions of constant cost to conditions of decreasing cost. Building remained and remains in part even today a handicraft industry in which prices tend to rise rather than fall with any quick expansion of demand. And machine making continued for a long time to be a highly skilled job, demanding the services of highly skilled craftsmen who were limited in number and incapable of being reorganized on a basis of mass production. Not until the methods of producing iron and steel and of forging and casting had been revolutionized in the latter half of the nineteenth century did the engineering trades become at all generally subject to the conditions

of decreasing cost which had come to prevail in the cotton trade more than fifty years earlier. Consequently spending on building and machinery did not expand production in the same degree as spending on consumers' goods, which were on the whole more easily mass produced. This helps to explain the intense concentration of the new industrialism on the development of exports and the constant search for new markets abroad.

Industrialism grew then at first chiefly in the textile trades, making Manchester the effective capital of the new industrial world. It was no accident that the economists who based their doctrines upon industrialism in this first phase came to be called the Manchester school or that their outstanding dogma was a supreme faith in *laissez faire*. For their own experience seemed plainly to demonstrate the self-expansive nature of the new industrial system, its capacity constantly to increase the supply of goods while lowering their cost, and the value of competition in weeding out the inefficient producers and compelling the survivors always to adopt the latest advances in technique on penalty of being left behind in the race. What could be better than a self-acting system which at once benefited the consumer by lowering prices, rewarded the efficient with the high profits of the pioneer and weeded out the inefficient who misused the resources of production? It was not clearly seen at this stage how far those results depended on the superior efficiency of Great Britain over other countries, of whose markets she was therefore able to take her pick, or how low wages must retard the growth of consuming power in the home market. These difficulties came later; and before they had been fully realized the character of industrialism had been greatly changed.

For in time the new technique was extended from industry to industry until it came to embrace the industries producing capital as well as consumers' goods. The development of railways played a dominant part in this transformation, not only because the railway enabled the interior of countries and continents to be opened up for economic exploitation but also because the demand for railway material gave an enormous stimulus to the metal trades and compelled them to devise and resort to mass production methods. The new steel making processes of Bessemer, Siemens, and Gilchrist and Thomas gave the metal using industries for the first time a reliable and durable raw material to which methods of standardized production could be applied and

thus made possible the development of large scale enterprise in the engineering and kindred trades as well as in the translation of shipbuilding from wood to metal. The same causes revolutionized the coal industry, greatly expanded already in the earlier phases of industrialism, and created a new and powerful grouping of "heavy industries" to balance the older textile trades. With the coming of these new forces the authority of Manchester began to wane; and industrialism, no longer so fully wedded to *laissez faire* and competition, entered on a new phase which led on before long to the growth of trusts and combines, the recrudescence of tariffs and in general to a renewed attempt at regulating just those processes of production and sale which the Manchester school held should be left severely alone.

The explanation of this difference is not hard to find. In the first phase of industrialism the maximum expansion of wealth could be secured by concentrating as far as possible on those forms of production which most clearly showed their obedience to a law of decreasing costs—in other words, primarily upon textiles. This could be done as long as there was adequate scope for the expansion of the sales of industrialized countries in markets where native producers were well behind in efficiency. But in time it became clear that this expansion could not continue unabated unless steps were taken to develop the complementary powers of production of these less industrialized countries so as to increase their supply of goods which they could give in exchange for the mass produced manufactures of industrialism. The railway was the great instrument of this development, opening up in the less industrialized countries vast new sources for the supply of raw materials and foodstuffs. Incidentally this expansion helped greatly to raise wages in the industrialized countries, both because it enabled export to go forward at a greater pace and because it secured an abundant supply of cheap foodstuffs. In the fourth quarter of the nineteenth century there was a rise in both money wages and the purchasing power of money with the result that a great stimulus was given to consumption in the home markets of the industrialized countries.

In building railways and in supplying railway material and later in the supply of machinery produced on a large scale the industrialized countries advanced to a new type of export trade vitally different from the old. The sale of cotton textiles or woollen goods was essentially a cash



transaction to be balanced at once by an equivalent purchase of goods. But the sale of railway material and other classes of capital goods could not be conducted on these terms, for the purchase price could be paid by the buyers only if and when the railway or the factory became productive. Payment for such exports had to await the economic development of the countries to which they were sent and had then to be made in the products which their use had caused to be created. Consequently this second phase of industrialism was marked by a great increase in the export of capital—that is, in the loan of capital in order to make possible the export of capital goods—from the industrialized to the less developed parts of the world. Great Britain especially exported huge masses of capital to all parts of the world and above all to its own dominions and India, to the United States and to the South American republics. Capital was exported also to the continent but was as a rule more speedily repaid and railways and factories built with British money were bought back by native investors.

It would be far beyond the scope of this essay to describe the reactions of this growth of foreign investment on world politics and international rivalries and on the development of economic imperialism; here only its effects on industrialism in a narrower sense can be considered. It made possible a very rapid growth of the industries producing capital goods and speeded up in them the development of an intensified technique of mass production. Whereas in the first half of the nineteenth century the typical instance of large scale production was a cotton mill, by its close the types of large scale enterprise were to be found above all in the heavy industries in the great steel making plants of Bethlehem or Middlesbrough, the great armament factories, the shipyards and the great coal mines already closely linked with steel. In the heavy industries there was already a growing tendency for combination to replace competition and for the size of the business unit far to transcend that of the single manufacturing plant.

Even before this period technical development had begun to influence business structure. As has been noted, the earlier industrialists were sorely hampered by shortage of capital. There was no investing public in the modern sense and broadly speaking no one could invest money in industrial development unless he either lent it to a business man on his personal security or became a partner in the business without the

protection of limited liability and therefore at the hazard of his entire fortune. The gradually extended recognition by law of joint stock organization and limited liability removed this difficulty and opened the door to industrial investment by all who had savings or resources to spare.

Joint stock and limited liability not only increased immensely the total resources available for business expansion but also removed the limits to the size of the capitalist concern. Before this the entrepreneur's difficulty had lain in gathering together enough capital to equip and run a plant large enough to take full advantage of the economies of large scale production. But now he was able not only to do this but readily to expand the scale of business organization so as to bring a number of separate plants under a unified control. While the scale of business organization was still expanding under the inherent necessities of improving industrial technique, it was now able not only to reach these limits but also to pass beyond them. Indeed, as the larger concerns were often at an advantage both in raising fresh resources in the capital market and in getting credit from bankers and others, to some extent a premium was put on a scale of business organization considerably larger than that made necessary by the technique of production itself. In the early days of the trust movement there was a marked tendency for the increase in the size of the business unit to be dictated by financial rather than technological considerations, and this tendency was strongly manifested again in the troubled years after the World War in the gigantic mergers and concerns organized by Hugo Stinnes in Germany and in the unwieldy aggregations of businesses gathered under one control by Vickers or Lord Leverhulme in Great Britain.

There was also, however, a new technological tendency leading toward an expansion of the business unit on a scale very much larger than that even of the largest single plant. Under the earlier conditions of industrialism the plant was the essential technical unit and each plant could face its own technical problems independently of the rest. But the modern development of industrial technology is making the separate plants growingly interdependent in a variety of ways. In the first place, it is often essential, if the maximum economy in production is to be secured, to group together in very close relation and under unified control plants engaged in complementary industrial processes—in order,

for example, to save intermediate transport costs on bulky half finished goods or in order to utilize a waste product, such as blast furnace gas, in a subsequent manufacturing process. Secondly, it is often advantageous from the standpoint of economic production to reduce and simplify the varieties of a particular commodity placed on the market and for that purpose to secure at least as much unity of control as is necessary. Thirdly, the maximum economy is likely to be realized in many trades if each plant instead of producing a wide variety of goods in competition with the rest is in some degree specialized to the manufacture of a limited range of products and thus enabled to produce within this range upon a larger scale.

The first of these technological requirements leads to a growth of vertical combination; that is, the linking up of successive stages of production under a common control. The second leads to fairly loose horizontal agreements between firms at the same stage of manufacture but need not disturb the independence of each distinct business. The third leads to much closer horizontal integration, as it is found in such businesses as Imperial Chemical Industries, Ltd., or the English Steel Corporation, Ltd., or the Vereinigte Stahlwerke, A.-G., in Germany.

Karl Marx, whose analysis of the industrialism of the first half of the nineteenth century remains the most penetrating study of capitalist development, has often been arraigned as a false prophet because he predicted a growing concentration of capital and an increasing polarization of the two rival economic classes of capitalists and laborers. It is indeed the case that there is in modern industrialism no sign of the disappearance of the small employer and that the growth of joint stock organization has increased immensely the number of small part proprietors of capitalist business. But, on the other hand, the small employer has become increasingly an agent or subcontractor or a hanger on of large scale business; and the great body of shareholders in modern industry has literally no say at all in its conduct or control. There has been a tremendous concentration if not of the ownership at any rate of the control of capital. The old personal nexus between employer and worker has been snapped; and the real struggle for power today is to an ever increasing extent between the few controllers of large scale industry and finance and the organized force of the labor movement, with the middle classes and the small investors largely passive spectators of the

conflict. Even the growing body of industrial technicians, who should, one would suppose, occupy a key position in the modern world, have been able to assert themselves but little as an independent force. They have been in the main merely the executive servants of large scale capitalism, although in many cases their personal sympathies might range them rather on the side of labor.

It has been pointed out how industrialism in its first phase concerned itself mainly with the sale of cheap consumers' goods in the markets of the less developed countries and how in its second phase it supplemented this form of trade with the sale of capital goods fostered by the lending of capital and credit overseas. The second of these processes like the first cannot be expanded indefinitely without check. The first fails when it reaches the limits of the power of the less developed countries to offer more goods in exchange until their own productive resources have been more fully developed. This check leads on to the second phase; and this in turn fails when the burden of external debts upon the less developed countries becomes so large as to check further loans. Moreover as more and more countries pass under industrialism their rivalry in selling goods and lending capital to the less developed areas fills up the available markets more swiftly. The advanced countries find growing difficulty in selling their goods and lending their capital overseas on favorable terms. They scramble for openings and concessions; and, as Marx foresaw, international rivalries are intensified and cries of "overproduction" raised.

All this time the technological revolution knows no pause. It is always impelling industrialists to produce on a larger and larger scale and to create plants, based on heavier and heavier capital expenditure, which can be operated at a profit over and above the interest charges involved in their construction only if they are able to work full time and to find buyers constantly for their full output. Post-war Germany, for example, when it rationalized many of its industries with borrowed American capital, created a productive machine capable of producing very cheaply while it was fully employed, but only at high unit cost if the volume of output had to be cut down through a failure of markets. The same conditions apply to many types of business in the United States and Great Britain and in every advanced industrial country.

It is therefore plain that the technical conditions of modern industry imperatively demand

from the world of today an increase and a stabilization of consuming power. In default of this many of the greatest technical improvements are apt to mean not low costs but high because of the heavy expense of the capital equipment on which interest has to be paid. These high costs serve further to restrict demand both because they result in high prices, often artificially maintained, and because they throw potential consumers out of employment and so cut down their purchasing power.

But the increase of consuming power up to the expanding limits of productive capacity is a matter that industrialism under present conditions finds very hard to arrange. Herein lies the chief importance for the world of the gigantic experiment in socialist industrialism that is now proceeding in Soviet Russia. The Russians have set themselves not only to bring their industries up to the very last point of modern technological development—largely with the aid of American engineers—but also to industrialize in their vast country with its millions of peasant proprietors the technique of agricultural production. The socialized factories of Russia are of far less potential significance for the future of the world than its socialized farms.

But the importance of the Russian experiment does not lie mainly in the mere fact that the Russians are forcing on industrialization at a hitherto unprecedented pace but rather in the fact that they are doing this under conditions which insure an outlet in consumption for everything that they are able to produce. With the entire control of production and distribution centralized those in control are able to order what things shall be produced and in what relative quantities and also to distribute enough purchasing power among consumers to insure a sale for all that can be produced. All this of course can be done only within certain margins of error and subject to the export of enough goods to pay for what must be imported. But with the export trade in the hands of the state exports are not restricted to those that can be sold at a money profit. Foreign trade is in essence barter, and the state can put on imports prices calculated to represent the value of the exports needed to pay for them. Under these conditions Russia appears to be immune from the fears of overproduction or underconsumption which beset the rest of the industrial world. To whatever other objections its economic system may be open, it seems to have solved the problem of balancing production and consumption and thus

have set itself free to make the fullest use of every technical improvement in the arts of production.

This example of Russia raises a fundamental issue. How far are industrialism and capitalism the same thing viewed from two different aspects? Or how far are they two different and separate things connected only at a particular stage of the world's evolution? Historically the connection is close, but they can by no means be identified. For, as has been pointed out, capitalism existed long before industrialism and took at first a mercantile rather than an industrial form. It is arguable that as capitalism preceded industrialism and was modified by its coming so industrialism is destined to outlive capitalism, taking on a new shape, as in Russia, under socialist control.

For manifestly socialism, the child of industrialism, will not speedily take up arms against its parent. Industrialism bred socialism because it required the concentration of the workers into factories, their subjection to a common discipline of monotonous labor and an opposition between their demand for higher wages and the demand of the owners of the instruments of production for interest and profits. But socialism is not hostile to industrialism; basing itself on the demand for a higher standard of life for all, it therefore cannot afford to dispense with the fullest possible use of every technical device which will serve to increase production and lighten the burden of labor. It is true that the workers today may sometimes oppose the introduction of labor saving devices or other instruments of higher production through fear of unemployment or out of hostility to the capitalist controllers of industry. But if under a socialist system they get the instruments of production into their own hands, as they have done in Russia, they are bound to be on the side of changes designed to increase output or to lighten labor. Possibly at a later stage of the world's history, when the problem of producing enough to afford to all a satisfactory standard of material living has been fully solved, the mass of the people may declare against industrialism and express in deeds its preference for some other system; but assuredly that time is not yet. The advent of socialism would intensify and not retard the progress of industrialization.

This remains true despite the common indictment of industrialism that it condemns the great mass of the workers to a life of dull, monotonous and even irksome toil. It is easy to contrast the

skilled, varied and interesting labor of the handicraftsman with the deadening monotony of purely repetitive machine minding. But before industrialism arose what part of the whole population consisted of skilled handicraftsmen? Was it ever as large proportionately as the number of persons, including those in supervisory and professional work, to whom the modern economic system affords interesting and colorful employment? If the modern machine minder is to be contrasted with the guildsman of the Middle Ages, he should be contrasted with the mediæval peasant as well. And if one is to stress the effects of machinery in destroying craftsmanship, it should not be forgotten what effects it has had—and the far greater effects it might have under proper control—in eliminating hard, disagreeable, unskilled and brutalizing labor.

The modern world cannot yet afford to restrict its use of machinery, both because there is much drudgery still to be eliminated and because the growth of working class power means an ever more insistent demand for a high and rising standard of life. If therefore capitalism gives place to socialism, the first phase of socialism will be more intensely industrialist than capitalism has ever been, because for the first time the whole community will be pulling together toward higher production over the whole field of industry and agriculture as well as in the management of domestic affairs to remove the burden of the drudgery of housekeeping now laid on half the human race.

It does not follow that industrialism need in its later phases preserve certain of the features most prominently associated with it up to the present time. Urbanization is still proceeding unchecked in the industrial countries, but its causes are now social quite as much as economic. The development of cheap road transport and of widely diffused electrical power is removing the technological reasons for close urban concentration of industry and preparing the way for a rediffusion which will enable it to be carried on under far healthier conditions. Little advantage has yet been taken of these opportunities, because no less essential to business than accessible power and cheap transport is an available supply of labor with sufficient housing and kindred accommodation. The business that wants to set up in the country has to attract its labor and often to house it and help provide it with the amenities of life. It cannot readily take on fresh workers to meet a rush or discharge work—when times are bad for fear of losing them

altogether. Accordingly only businesses catering for a stable demand are able to move out of the towns, and even such businesses are often deterred by the difficulties and initial capital costs.

Nor is this the only factor. Urban life has for the worker many attractions: its cheap amusements, varied society, the hurry and bustle of life and a sense of nearness to the center of things. It increases his freedom to change his job and his independence of his employer, whose eye cannot always be on him out of working hours. Men and women leave the country for the town from preference as well as from necessity, and business tends to stay near the sources of labor supply.

But here again a socialist system might make a great difference. For with the power of coordinated planning of industry in its hands it would have also the power of town and regional planning. It would be able, as the Russians are endeavoring, to create new small towns in the country areas and to equip them with the means of a varied and satisfying life, as only a few capitalists here and there have tried to do with garden villages and the like. Even so the socialist state would not succeed in decentralizing and de-urbanizing industry if the preference of the great mass of men was for living close together in great towns; but at least the other obstacles in the way of decentralization could be removed.

If under a socialist system industrialism should be intensified in order to provide a higher standard of life, there would nevertheless arise also a keener demand for leisure. The necessity of reconciling these two demands would only increase the pressure to make the most productive use of labor, to push rationalization to the furthest possible point and to eliminate all preventable waste of human energy. Hours of labor would doubtless be reduced; but the tendency would be to put more labor into each hour and then to aim at reducing the burden of this labor by increased mechanization of processes. If mechanization were applied with the conscious object of making labor less hard and intense as well as more productive, a great deal that is barely attempted as yet could be readily accomplished. The demands for more leisure and for more production do limit each other in some degree, but they are by no means incompatible.

Industrialism then does not connote capitalism, although it is historically connected with it. The essence of industrialism lies in certain technical forms of productive activity which are capable of being directed to various economic

ends and by radically different forms of economic organization. It may be, as Marx insisted, that capitalism has played an indispensable historic role in the development of industrialism, because only under the control of the autocratic individual entrepreneur could the new technical forces have found free play. Certainly it needed a strong directing authority to break up and replace the mercantile capitalism of the pre-industrial era, to destroy the domestic system of small scale production and concentrate the workers in factories and towns, to accumulate capital at the expense of the immediate standard of living and to force upon the state an attitude toward industry consistent with the free growth of the new powers of production. Certainly the state itself, based on the aristocratic power of the landed classes, was at the time of the technical revolution quite unfitted to assume this directing role; and certainly the working class was equally unfitted, for it lacked cohesion and became a force only as a result of its experience of concentration and discipline under the new industrial system. Capitalism was therefore for the countries that led the way into industrialism an indispensable stage; but it does not follow that industrialism once created depends on the survival of capitalism for its effective operation.

Indeed, to use again a Marxian phrase, there are signs today that capitalism has become a fetter upon the limbs of the industrial giant, holding back industrial development and checking the increase of production for fear of glutting the market. For the capitalist system of productive organization is based essentially on the incentive of private profit. The capitalist entrepreneur will not and cannot go on producing goods unless he can make a profit by their sale. His market is therefore limited not by the needs of the consumers but by their willingness and ability to pay him a remunerative price. As the prices he can get tend to fall as the supply of goods on the market is increased, the entrepreneur is disposed to retaliate by restricting production in order to keep them up to a remunerative level. But this reacts on his costs, which tend to decrease with larger and to increase with smaller output. Everywhere in the world today frantic efforts are being made to hold stocks of goods off the market, to buy up "redundant" factories in order to close them down and to maintain prices by valorization schemes at the cost of limiting demand. These are surely signs of something amiss with the capitalist world.

Some say that all would be well if capitalists

would but abandon their attempts to control the market and go back to competition and *laissez faire*. But there is no chance of their doing this, because so many of the factors of production that they have to use are now under external control. The state limits their authority by legislation, and trade unions are too strong both economically and politically to allow wages to be governed by the mere higgling of the market. Moreover, even if all these obstacles could be removed, where could world capitalism hope to sell the vast mass of goods industrialism is capable of producing unless it were prepared to let wages rise to a point fully corresponding to the growth of productive capacity? And that would ruin the capitalists of any one country unless that country were isolated from the rest of the world or unless all other leading countries did the same.

A return to *laissez faire* is impossible. The concentration of capital needed for the full exploitation of modern productive resources is too great to be left uncontrolled by the state; for those who have this concentrated capital in their hands will assuredly control the state unless it controls them. The attempts of capitalist combines to control production and prices are apt to defeat themselves, creating artificial scarcity, depression and unemployment in place of the plenty which man's technical command over nature is making possible. Is not the truth then that partial controls set up by groups of entrepreneurs for the maintenance of profits will have to be gathered up into a wider unified control of industry based on maximum production balanced by an equivalent emission of consuming power? There is nothing in this idea inconsistent with the development of industrialism. On the contrary, it seems that industrialism has now reached a stage at which its fuller development requires above all else coherent planning and unified control from the standpoint of consumption as well as of productive technique.

G. D. H. COLE

See: INDUSTRIAL REVOLUTION; ORGANIZATION, ECONOMIC; MACHINES AND TOOLS; TECHNOLOGY; FACTORY SYSTEM; LABOR; POWER, INDUSTRIAL; LARGE SCALE PRODUCTION; MARKETING; CAPITALISM; CORPORATION; COMBINATIONS, INDUSTRIAL; RATIONALIZATION; LAISSEZ FAIRE; GOVERNMENT REGULATION OF INDUSTRY; SOCIALISM; GOSSPLAN; LABOR MOVEMENT; FOREIGN INVESTMENT; IMPERIALISM; URBANIZATION; REGIONAL PLANNING; LEISURE.

INFANT MORTALITY. See CHILD, section on CHILD MORTALITY.

INFANTICIDE is the murder of a newborn child committed by the parents or with their consent—a practise that stands apart both as to its origin and its associations from the killing of another man's child, which is simple murder. In some cultures parents are allowed to decide whether the newborn child shall be reared; if their decision is positive they will not thereafter under normal circumstances kill it. Older children are sometimes killed in times of famine—such cases have been known in Europe during sieges—but far from being customary these acts have been regarded as a breach of the moral law. Likewise if a mother, like Medea, kills her children as an act of spite against her husband, her deed is regarded as a crime and is remembered with horror.

Judging from its wide distribution, infanticide is probably extremely ancient. Destruction of human progeny is universal whether in the form of infanticide, abortion or contraceptive measures. Infanticide is the most primitive, since prenatal destruction involves anatomical and physiological knowledge. Even with this knowledge abortion is hazardous and consequently has never been as prevalent as infanticide, except where the latter is treated as murder.

The primary cause of infanticide is the difficulty of obtaining sufficient food, whether because the population has reached a saturation point or because of some temporary shortage. Among peoples such as the Africans and South Sea islanders, who suckle their children for as long as two years, a child born before the preceding child is weaned is sometimes killed. In communities such as those of the Australian aborigines, where women are indispensable for the food supply, no discrimination in infanticide is made between the sexes. In Rome, Greece, Arabia, India and China women of the upper classes, relieved by the males of the harder tasks both as an effort to keep them young and as a sign of rank, became an economic burden; and consequently infanticide fell mainly on the females. The necessity of finding a dowry for daughters contributed to a selection of female children for infanticide in China and India. Ancestor cults of Greece, Rome, India and China, which could be transmitted only through the males, also resulted in the destruction of girl infants. When a sorcerer or astrologer was consulted before deciding the fate of the infant, it was usually killed if the omens were interpreted as indicating that it would bring ill luck or calamity—a motive for infanticide familiar in

myths, such as that of Oedipus. The Roman Twelve Tables forbade the rearing of deformed children; in Sparta the newborn child was submitted to the elders, who exposed deformed infants to death. Athens did not enforce such infanticide, but Plato and Aristotle advocated the practise. In ancient Greece exposure often proceeded from affection for the previous children, from a desire to procure for them a standard of living which numbers would have made impossible. Illegitimate birth, which has been a common cause of infanticide, has remained practically the only cause in modern Europe, where infanticide has declined with the spread of contraceptives.

The decision as to whether to rear or kill a child is usually made at birth, probably because the parents become attached to the child if it is allowed to live for some time. In some countries there is a ritual reason: as long as the child has not gone through some sacrament it is not accounted a full human being or a member of the tribe. In Athens the decision was made prior to the *amphidromia*, a ceremony at which the child was carried round the hearth and so associated with the cult of the ancestors. The Frisian father could destroy the child only before the child had taken food and by this act had entered into communion.

The usual method of infanticide is by suffocation, by choking or by drowning; the infant's blood is rarely shed. The child may be exposed to starve, to die of cold or to be eaten by dogs—sometimes for the purpose of insuring death but more frequently in order to give it every chance of being picked up and reared by a stranger. Foundling hospitals have been established in China and in modern Europe to provide for infants so exposed. Conflict between parental affection and necessity also betrays itself in the rationalizations offered for the practise, such as the one found among the Chinese that female children by being killed are given a chance to be reborn as males.

In China edicts have frequently been issued against infanticide. In Europe the church in 305 decreed excommunication for life as the punishment for women guilty of the double crime of adultery and consequent infanticide; this sentence was reduced in 314 to ten years, in 524 to seven. The Council of Toledo in 589 directed clerics and civil judges to unite in their efforts to prevent infanticide due to poverty, which proves that the Theodosian code, which prescribed death, had remained ineffective. Infan-

ticide is condemned in the Koran (xvii: 38). Modern English and Scottish laws treat infanticide as murder—English law defines infanticide as the killing of the child after the entire body is brought from the womb alive; Scottish law from the time the child has breathed, whether or not it is completely out of the womb. The crown has usually exercised its right of mercy when defendants have been found guilty of this charge. French law also treats infanticide as murder; in practise juries find extenuating circumstances and acquittals are common. The penalty for infanticide in the German code is from three years' penal servitude to death. The Italian code reduces the penalty from between eighteen and twenty years to between three and twelve if the child is killed before being entered in the civil register, not more than five days after birth.

Child sacrifice is distinct from infanticide, for it is not a family arrangement but a public function usually ordered by persons other than the parents; it bears equally on males and females, particularly on first born, instead of last born; it knows no age limit; and rather than being performed for the purpose of keeping down numbers it is often resorted to in order to insure further progeny.

A. M. HOCART

**See:** ABORTION; BIRTH CONTROL; POPULATION; ILLEGITIMACY.

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## INFECTIOUS DISEASES, CONTROL OF.

**See** COMMUNICABLE DISEASES, CONTROL OF.

**INFLATION AND DEFLATION.** Although employed earlier, the terms inflation and deflation did not come into general use until the World War. Only with the severe currency disturbances initiated at that time was anything approaching a technical sense applied to them; and even now the meaning which an economist associates with them is apt to vary in accordance with his general views regarding the money-credit-price mechanism.

Some use the terms inflation and deflation in connection with expansions and contractions of currency only; others, with a better knowledge of money and banking phenomena, expand them to include primarily credit movements; still others limit their application to currency and credit disturbances connected with price movements more or less general and violent. In contrast, many associate inflation and deflation above all with the movements of foreign exchange rates and consequently are inclined to ridicule the idea of a gold inflation, however great the accompanying credit, currency and price expansions. Finally, there is in the United States a small group who insist on basing the definitions largely on the liquidity of banking assets, inflation increasing as liquidity declines.

Perhaps the most generally accepted definition of inflation is that it is the issue of too much money; deflation is commonly taken to mean the opposite of inflation—the issue of less than the right amount of money. The question is thus raised as to the standards or norms, the deviation of the circulating medium from which is considered to be either inflation or deflation. One group vaguely measures the extent of inflation or deflation by the deviation of the circulating medium from "the legitimate needs of trade." Sometimes inflation is defined equally vaguely as the multiplication of money in relation to goods, sometimes as the increase in the volume of purchasing power in relation to the total volume of transactions. A few refine slightly their definitions so as to make inflation or deflation mean an increase or decrease in the circulating medium in relation to "the legitimate needs of trade" at some given price level. Most of those using the above definitions are proponents of the quantity theory or of some modification of it; hence such deviations are expected to lead to or to support changes in the price level. Whether or not price changes largely supported by changes in the velocity of circulation would be considered as inflation or deflation is generally not clear.

Some writers go even further and make price change the sole criterion of inflation or deflation. Cassel, who has given perhaps the best although a far from exact statement of this position, maintains: "If no scarcity in commodities exists . . . the rise in prices is to be accounted for as a result of the more plentiful supply of currency—in other words as a result of inflation. The general level of prices, on this hypothesis, is a measure of the extent of inflation. If a scarcity of commodities sets in, . . . the rise in prices is thereby intensified. But even this further rise in prices may be regarded as a result of a too plentiful supply of currency and consequently of inflation. . . . In both cases the essential point of inflation is a too plentiful supply of currency. In the former case we estimate this excess only from the standard which prevailed before; in the latter case we also take into consideration the excess in the supply of currency which arises through the former standard being retained even after the supply of commodities has diminished" (p. 61–62).

Keynes too makes price change the criterion of inflation or deflation; but he distinguishes between two types, which affect the economic equilibrium quite differently. Changes in the price of output as a whole, which measure the extent of inflation or deflation, may be reflected in changes either in the cost of production per unit (or income per unit) or in profit per unit (profit being the difference between sales price and cost of production including the normal remuneration of entrepreneurs). A price change reflected in income inflation gives entrepreneurs no incentive to expand the scope of their operations, but a price change reflected in profit inflation leads them to attempt expansion and results in a tendency toward a boom. Thus a stable price level would not necessarily maintain business equilibrium. If as a result of marked improvements in technique and organization the cost of production per unit fell while prices were kept stable, profit would absorb the difference, at least temporarily, and business expansion might result. If, on the other hand, prices were kept stable in face of higher costs of production, entrepreneurs would suffer negative profits and business contraction might result.

An altogether different criterion of inflation is advanced by a small group of writers who tend to identify inflation with extension of bank credit on the basis of unliquid assets.

According to Laughlin, one of the leaders of this school, only price changes resulting from monetary factors are to be considered inflation or deflation, since price changes caused by a scarcity or abundance of goods are only the natural and desirable result of such a condition. Further no expansion of credit based on liquid goods can lead to a rise in prices, as the newly created credit is exactly counterbalanced by the goods on which it is based. It is only when credit is granted on assets which cannot be liquidated without loss to repay the loan at maturity that credit is depreciated in terms of goods and inflation exists. Robertson and others pointed out that this coining of even liquid goods into money may lead to rising prices as the resulting deposits circulate from hand to hand. It might be argued further that since the liquidity of assets is usually high in periods of rising prices and low in periods of falling prices, inflation of credit, as Laughlin uses the term, would be most conspicuous in a period of declining prices; inflation as generally understood is of course usually associated with rising prices.

The writers prefer to define inflation (none too exactly) as an increase in the general level of prices growing out of an increase in expenditures while goods available for purchase are not correspondingly increased in amount. Likewise deflation is defined as a decrease in the general level of prices growing out of a decrease in expenditures while goods available for purchase are not correspondingly decreased in amount. Unfortunately in the present state of knowledge the relative importance of different factors in price change cannot be ascertained. It cannot even be said that all price changes have the same significance; some may lead to economic disequilibrium while others may be necessary to maintain equilibrium. Keynes has attempted, although not yet entirely successfully, to distinguish these changes.

In the past, major instances of inflation seem always to have been associated with government finance. An increase in government expenditures even if unusually large does not of itself lead to inflation provided the government finances itself by taxation. Under such conditions the increased demand for goods and services on the part of the government is approximately counterbalanced by decreased means of purchase on the part of its citizens. A rise of prices is not, however, excluded: it is possible that citizens will secure additional credit to avoid too large a



reduction in their expenditures. Yet inflation initiated by governments with balanced budgets is rare. In a period of war, when military requirements necessitate huge and sudden increases in government expenditures, it has usually been found inexpedient on economic as well as on political grounds to raise more than a small portion of the newly needed revenues through taxation. In such cases resort may be had to loans from private investors or banks or even to the direct issue of government paper money.

If loans from private citizens are relied upon, the effect may or may not be inflationary, according to the conditions of the borrowing. If each individual who lends to the government curtails his own expenditures by an amount exactly equal to the sum lent, total expenditures will not thereby be increased. The chief result will be a redistribution of the demand for goods. Whether or not price indices change would depend upon the articles included in the index and the extent of individual price changes resulting from the redistribution of demand. In most instances, however, individuals do not decrease their expenditures by amounts equal to the sums lent to the government. The unwillingness suddenly to change spending habits, the need of expanding production to satisfy increased demand by the military, the possession of highly acceptable collateral in the form of government securities and the usual liberal discount policy at the banks lead government creditors to restore the funds at their disposal at least partially by borrowing from the banks on the basis of the purchased government securities. If these bank loans are not offset by decreased loans of other types, the result is a net addition to bank credit likely to be used to demand goods.

The World War finances of the United States government furnish an excellent example of this type of inflation. Individuals were encouraged to "borrow and buy" government securities. To the extent that banks loaned on these securities without reducing their other earning assets the effect was much the same as it would have been had they loaned the same amount directly to the government. Gold exports were forbidden except under special permit. Reserve requirements of member banks were lowered and all reserves were required to be held at the Federal Reserve Banks; thus most of the reserve money of the country was concentrated in the central banks and the basis of credit expansion was much enlarged. At the same time rediscount rates were

kept low and member banks were encouraged to borrow on government security collateral at a preferential rate of interest.

If a government decides to finance its operations either wholly or partially by an expansion of bank credit or by increased paper money issues or by both, the sums it must raise will depend partly on the volume of goods and services needed and partly on price movements. If the prices of the goods which it purchases move slightly or not at all, the government will be able to balance its budget with relatively smaller issues. If these prices rise in direct proportion to the increase in the circulating media, the new funds required to purchase the same physical volume of goods will increase correspondingly. If, however, as is frequently the case, prices increase faster than the circulating media, the treasury may find that every inflationary attempt to balance its budget tends to create a greater deficit.

Major instances of inflation show that although the movements of circulation and prices are in general in the same direction, wide fluctuations in one may occur with only retarded and disproportionate or even dissimilar changes in the other. Perhaps more surprising is the fact that during such inflations the movements of prices tend to be far more correlated with the movements of foreign exchange rates than with circulation. The relationship between prices, circulation and foreign exchanges may be illustrated by the history of the World War and post-war inflations in France and Germany.

Soon after the outbreak of the war the French government, unable to raise sufficient funds by taxation and private loans, was forced to make up the difference by borrowing from the Bank of France. Throughout the inflation period these loans increased almost continually and by large amounts as receipts from other sources became more and more inadequate. Commercial loans instead of falling off to balance the increase of treasury loans rose as the lag of production costs behind prices increased commercial profits. At the very beginning of the inflation the increase of circulation may conceivably have preceded the rise of prices, but soon thereafter prices began to rise earlier and faster; it was only in 1926 during the last stages of the inflation that circulation did not lag perceptibly. Although prices probably moved slightly ahead of foreign exchange rates from 1919 to 1923 and exchange rates slightly ahead of prices from 1923 to 1926 during much of the period the-

moved approximately simultaneously, with a slight tendency for exchange to precede. The lag of circulation behind both prices and exchange rates led to an insistence on the part of the French that the increase in circulation did not cause the rise in prices but was itself caused by the price rise as the existing circulation became inadequate to meet the needs of government and industry. In fact the increase in government purchases led to increased business activity and to price rises and these in turn to currency expansion as fast as the government warrants were cashed into notes of the Bank of France.

The German war and post-war inflation paralleled in many respects that of France. Shortly after the outbreak of the war the Reichsbank was allowed to suspend specie payments and to substitute discounted treasury bills for commercial bills as non-cash cover for its notes. Although the government had borrowed large sums from the Reichsbank and the latter's notes had increased considerably, the extent of inflation at the end of the war was not greater than that in several other of the belligerent countries. In the post-war period, however, large reparations payments and other heavy expenses made impossible—politically if not economically—the balancing of the budget, thus necessitating heavy inflationary borrowing from the Reichsbank. Even more than in France the movements of prices seem to have preceded in time and exceeded in extent the movements of circulation. As a contributing factor to the price rise the velocity of circulation showed a great increase, especially in the period of most rapid inflation. Evidently people were attempting quickly to exchange their money for goods in order to escape further loss of purchasing power. Although as in France the correlation between their movements was high, during most of the period prices showed a noticeable lag behind foreign exchange rates. With this tendency of prices to follow exchange and to increase more rapidly than circulation the government was forced to borrow in progressively larger amounts in order to get needed supplies. From industry too came the insistence that there was a shortage of credit and money and that instead of causing the price rise the increased volume of notes was itself made necessary by previous price advances.

The fact that during inflations the rise of prices tends to exceed the increase in currency is directly connected with the increase in the velocities of circulation of all types of cur-

rency: people attempt to reduce to the minimum the amount of funds on hand in order to escape the loss due to depreciation. Another explanation suggested by the fairly steady lag of circulation behind prices is the fact that prices of goods purchased on credit or manufactured to order are recorded two or three months before currency is needed to close the transaction. In countries where deposit currency is used in all business transactions of any magnitude the lead of the general index of wholesale prices over the issue of banknotes and paper money for hand to hand circulation may correspond roughly to the lead of wholesale prices over retail prices and wages.

One explanation of the close relationship between prices and foreign exchange rates is offered by the purchasing power parity theory championed in recent years by Cassel. Since, according to him, a monetary unit as such, that is, apart from its value as a commodity, has no utility other than its power to command goods in exchange, the demand for currency of country A in exchange for currency of country B is simply an offer to exchange purchasing power in one of the countries for that in the other. Therefore the valuation of one currency in terms of the other will depend upon the relative purchasing power of the two currencies in their own countries. Following this line of reasoning Cassel contends that apart from slight fluctuations the exchange rate between the currencies of two countries will remain unaltered so long as no variations take place in the purchasing power of either currency and no obstacles are placed in the way of trade. Should inflation occur in country A and the purchasing power of its currency be consequently reduced, the value of currency A in country B will necessarily fall in like proportion. If at the same time currency B has undergone inflation, the valuation of currency A in terms of currency B will as a consequence rise in corresponding degree. Cassel arrives thus at the following rule: "When two currencies have undergone inflation, the normal rate of exchange will be equal to the old rate multiplied by the quotient of the degree of inflation in the one country and in the other" (p. 140). He recognized that underlying his rule is the assumption that the prices of articles for export move in the same degree as the general price index. If the prices of exports rise more than the general price index, the country's money will buy correspondingly less of the foreign currency; but if the prices of a country's

exports rise less than internal prices, its money will buy correspondingly more of the foreign currency.

This theory has been subjected to severe criticism on several points. Keynes states that it is only a truism to say that the relative value of two currencies can be derived by finding their relative purchasing power over goods entering into trade between the nations involved, but he would deny validity to the assertion that rates of exchange can be found by comparing comprehensive indices of internal purchasing power. The observed similarity between actual exchange rates and theoretical purchasing power parities arrived at by comparing wholesale price indices he would explain largely by the fact that those indices as at present constructed are dominated by articles enjoying an international market.

Nogaro points out that as goods purchased in international trade can often be produced at home only at prohibitive or very high costs, Cassel's contention that merchants will refuse to purchase a currency quoted above its purchasing power parity is too strict to be tenable. He prefers the older, less strict and in his opinion more nearly tenable theory that if foreign exchange rates rise faster than prices, exports will be encouraged and imports discouraged, thus tending to restore the balance of payments and to reduce the disparity between price and exchange movements. Further he denies the existence of a purchasing power parity, from which any deviation will set into operation influences tending to restore the norm. Internal prices are not fixed by factors independent of exchange rates. If foreign exchange rates rise faster than prices, the cost of imports in terms of home currency rises. At the same time the high price obtainable for bills of foreign exchange raises the price of exportable goods in the home market. Certain psychological effects may also ensue. Considering the rise in foreign exchange as evidence of probable future price increases, consumers may hasten to exchange their money for goods. Sellers instead of basing sales prices on actual cost or on cost of replacement may base them on prevailing or even expected future exchange rates—a practise common in Germany during the period of most rapid inflation. Thus a rise of exchange rates above the purchasing power parity resulting from exchange speculation or from any other factor in the balance of payments may serve to draw internal prices with it and thereby establish a new purchasing power parity. Nogaro also points out

that this tendency of internal prices to move with exchange rates prevents the automatic adjustment of the balance of payments which would result from the encouragement of exports and from the discouragement of imports and hence to that extent fails to stabilize exchange.

Of the evils of rapid inflation there can be little doubt. Although for some time the rise of selling prices above costs increases profits and stimulates production, when inflation becomes extremely rapid entrepreneurs often hesitate to enter into contracts drawn in money and production becomes deranged. Long term creditors find their claims virtually wiped out, and the amount of new capital offered for long term investment soon declines. The banks do a rushing business in extending short term loans despite the rise in interest rates. During progressive inflation, however, the rise of the market rate of interest compensates but slightly for the depreciation of the principal; business enterprises are thus not only largely relieved of their bonded indebtedness but are tendered a continuous subsidy by the banking system of the country. The victims of inflation are those whose money incomes do not rise as fast as prices; creditors, salaried workers and wage earners find their real incomes reduced as the monetary unit loses purchasing power.

The end of inflation is usually marked by credit stringency and numerous bankruptcies. The ensuing scramble for liquidity intensifies the liquidation of both business and banks, until in turn the volume of credit and prices are reduced far below their otherwise normal levels. Only by drastic measures, which are rarely applied except by accident, has the downward movement been speedily checked. With the decline of prices come decreased production and a shift in distribution. Recipients of fixed incomes, wage earners, salaried workers and creditors find that their money incomes have greater purchasing power than before. This gain may be more than balanced, however, by loss of employment and defaults in payments. Entrepreneurs and debtors, on the other hand, find their incomes greatly decreased and their obligations harder to pay.

While major inflations receive their impetus from treasury needs and are later fostered by business expansion, minor inflations commonly occur during the upswing of the business cycle. Although inflations characteristic of recurring periods of prosperity never attain the heights reached during inflations fostered by governments they follow a similar course. Some occur-

rence or group of occurrences leads to actual or prospective profits. Expansion of operations and of borrowing ensues, which gradually becomes more general and further increases profits. With new and increased loans made to profitable and expanding business a rise in prices is sure soon to follow. Inflation has thus made its appearance through normal business processes. As in the major cases, the end is frequently set by the limitation of credit either at home or abroad; liquidation and usually deflation ensue.

JAMES HARVEY ROGERS  
LESTER V. CHANDLER

See: MONEY; COINAGE; PAPER MONEY; CURRENCY; BANKING; COMMERCIAL; FOREIGN EXCHANGE; WAR FINANCE; BUSINESS CYCLES; DEBT; STABILIZATION; BUSINESS; PRICE STABILIZATION; CENTRAL BANKING; MONETARY STABILIZATION.

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INGENIEROS, JOSÉ (1877-1925), Argentinian psychiatrist and sociologist. Ingenieros, who holds a commanding position in Latin American thought, elaborated the economic interpretation of history traditional in Argentina by ultimately explaining economic behavior in terms of biological processes. From this point of view he wrote on the living and working conditions of the proletariat and on the history and thought of Argentina. In his approach to the problems of psychology and philosophy he was

neopositivist. He condemned mediocrity but recognized the part played by the average man in preserving and transmitting the variations useful for the continuity of the social group. In criminology, which was his earliest sociological interest, he is best known for his classification of delinquents, which categorized criminals according to whether their delinquency was associated with the intellect, the feeling or the will. He was critical of the value of Spanish culture in South America, opposed Pan-Americanism as an instrument of imperialism and led a group which turned its intellectual sympathies from France to Soviet Russia. The Unión Latino-Americana, established in 1925, was a result of a campaign which he initiated. In addition to his many stimulating and widely read books in all fields of the social sciences he founded and edited the *Archivos de psiquiatria y criminología, medicina legal* (12 vols., Buenos Aires 1902-13) and the *Revista de filosofía* (1915- ), which is still published.

C. BERNALDO DE QUIRÓS

Important works: *Simulación de la locura ante la criminología* (Buenos Aires 1903, 8th ed. 1918); *La simulación en la lucha por la vida* (Buenos Aires 1903, 12th ed. 1920); *La criminología* (Buenos Aires 1911, 7th ed. 1919); *El determinismo económico en la evolución americana* (Buenos Aires 1901; 7th ed. with title *Sociología argentina*, 1918); *Principios de psicología biológica* (Buenos Aires 1911); *El hombre mediocre* (Madrid 1913, 3rd ed. Buenos Aires 1917); *Itaria una moral sin dogmas* (Buenos Aires 1917, 2nd ed. 1919); *Ciencia y filosofía* (Madrid 1917); *Proposiciones relativas al porvenir de la filosofía* (Buenos Aires 1918); *La evolución de las ideas argentinas*, 2 vols. (Buenos Aires 1918-20); *Los tiempos nuevos* (Madrid 1921, 2nd ed. Buenos Aires 1925); *Las fuerzas morales* (Buenos Aires 1925, 2nd ed. 1926).

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INGERSOLL, ROBERT GREEN (1833-99), American lawyer and lecturer on agnosticism. Born at Dresden, New York, the son of a Congregational minister, Ingersoll spent his boyhood in small town parsonages in his native state and in Ohio and Illinois. He was admitted to the bar in 1854, entered Illinois local politics as a Democrat and saw brief service in the Civil War as

colonel of the Eleventh Illinois Cavalry (Volunteers). In 1863, having resigned from the army following his capture and parole, Ingersoll resumed the practise of law and joined the Republican party. He immediately attained fame as a lawyer and was especially noted for his ability in rapidly assimilating a brief and for his skill in gracious but devastating examination of witnesses. As leading counsel for the defendants in the notorious "Star Route" trials he performed one of the outstanding legal feats of the second half of the nineteenth century by securing their acquittal in 1883.

For a whole generation because of his great oratorical gifts and his enthusiastic acceptance of the tenets of Republicanism Ingersoll was one of the chief adornments of his party. At the nominating convention of 1876 his designation of Blaine as a "plumed knight" almost saved the day for his candidate. He campaigned for Garfield. His violent attacks on the leveling doctrines of Bryan in 1896, his defense of the war with Spain and his acceptance of McKinley's expansionist program put the stamp of approval, for many, on the newly developed capitalistic-imperialistic policies of the Republican party. Ingersoll might well have attained high public office had it not been for his radical religious beliefs; his conservative views on political and economic questions made his social acceptability assured.

It was as a foe of religious orthodoxy that Ingersoll was best known. For thirty years, using the lecture platform largely as his medium and talking before great assemblages, he expounded with great force and eloquence a simple agnostic creed the chief articles of which were a protest against the doctrine of eternal punishment, a denial of the certainty of the existence of God and a rejection of the inspired character of the Old Testament. These orations were singularly effective and succeeded in shaking the faith of thousands. Not an original scholar, he had an alert and absorptive mind and was familiar with the popular scientific writings of his day, particularly those of Huxley, and with the higher Biblical criticism. He selected as his own guiding principles those of "observation, reason and experience." On the other hand, he did not concern himself with the part played by organized religion in the support of dominant economic and political groups. Among Ingersoll's more notable lectures were "Some Mistakes of Moses," "The Gods," "The Ghosts," "Superstition," "The Truth," "Some Reasons Why,"

"The Foundations of Faith," "What Is Religion?" "The Liberty of Man, Woman and Child."

HARRY E. BARNES

*Works: The Works of Robert G. Ingersoll*, 12 vols. (New York 1900).

*Consult: Kittredge, Herman E., Ingersoll: a Biographical Appreciation* (New York 1911); Rogers, Cameron, *Colonel Bob Ingersoll* (New York 1927); Baker, Isaac Newton, *An Intimate View of Robert G. Ingersoll* (New York 1920); Smith, Edward Garstin, *The Life and Reminiscences of Robert G. Ingersoll* (New York 1904); Dibble, R. F., "The Devil's Advocate" in *American Mercury*, vol. iii (1924) 64-70.

INGRAM, JOHN KELLS (1823-1907), Irish scholar and sociologist. For the major part of his life Ingram was connected with Trinity College, Dublin, where he was successively scholar, fellow, professor of oratory and English literature, professor of Greek, librarian and senior fellow. He wrote on mathematical, statistical, philological and literary subjects and also published a volume of poems. But he is chiefly important as an economist and sociologist. After studying the writings of Comte he became at the age of twenty-eight a convinced positivist. His main works in this field are devoted to an exposition of positivist views on ethics and religion in their relation to society. They include *Outlines of the History of Religion* (London 1900), *Human Nature and Morals According to Auguste Comte* (London 1901), *Practical Morals* (London 1904), *The Final Transition* (London 1905) as well as *Passages from the Letters of Auguste Comte* (London 1901).

Ingram's conception of economics was largely determined by his positivist sympathies. He considered orthodox political economy—as represented, for example, by Cairnes—to be at fault in that it tried to study wealth in isolation from other social phenomena, was abstract and inhumane, deductive and unhistorical. In his view economics should be treated as merely a part of "sociology"—the empirical study of the evolution of social life and institutions in general. In opposition to the German historical school he held that such a study need not be confined to description; it could formulate laws, not indeed of static equilibrium but of changing development. This thesis he first enunciated in his address to the British Association in 1878, published the same year as *Present Position and Prospects of Political Economy* (London 1878). It is implied throughout his *History of Political Economy* (Edinburgh 1888, republished from

his article in the ninth edition of the *Encyclopædia Britannica*, vol. xix, 1885; new ed. with supplementary chapter by W. A. Scott and introduction by Richard T. Ely, London 1915), which constituted the first comprehensive and authoritative history of economic doctrine in English. These two works, although exaggerating the interdependence of the social sciences, were nevertheless influential along with the writings of Ingram's fellow countryman Cliffe Leslie in broadening the basis of economic studies throughout the world. In the United States they provided one of the chief sources of inspiration for Richard T. Ely and the "new school of economics." Ingram also wrote a *History of Slavery and Serfdom* (London 1895).

LINDLEY M. FRASER

*Works:* A complete bibliography of Ingram's writings has been published by T. W. Lyster (Dublin 1900).

*Consult:* Falkner, C. L., "A Memoir of the Late John Kells Ingram" in *Statistical and Social Inquiry Society of Ireland, Journal*, vol. xii (1906-12) 105-24; Keynes, J. N., *Scope and Method of Political Economy* (4th ed. London 1917).

INHERITANCE is the entry of living persons into the possession of dead persons' property and exists in some form wherever the institution of private property is recognized as the basis of the social and economic system. But the actual forms of inheritance and the laws and customs governing it differ very greatly from country to country and from time to time. There is no "natural" law or principle of inheritance, which is essentially a changing thing, based on the changing forms of economic and social organization; for the special laws and customs governing inheritance are always and everywhere part and parcel of the general structure of property relationships. Changed ways of owning and using property will always bring with them in the long run alterations in the laws and practices relating to the inheritance of wealth.

Unless there is private property, owned or possessed by individuals, the question of inheritance hardly arises. For whereas an individual dies and his property, if he has any, has to be disposed of in one way or another, a group, such as a clan or tribe or family, does not die. Members die and are replaced by new members in the common enjoyment of the property of the group. The property itself, however, never changes hands or needs to be disposed of. Under such conditions there is no inheritance, in the sense in which the word is used in this article, because the group is conceived of as the

repository of the right of possession. This is one reason why inheritance plays a very small part in the life or laws of most primitive societies. The group holds in common and is tenacious of its rights. The individual does not hold but only shares in the use; and accordingly, when he dies, there is nothing for anyone else to inherit.

Even when there is in primitive societies individual property of a sort it can seldom be inherited. For where most property is group property, what is recognized as a man's own is usually limited to things so personal to himself that it would appear impious to hand them over to another at his death. His weapons, his simple tools and utensils are thought of as extensions of his own personality, as in modern times Hegel and other philosophers have thought of property over a far wider field. As part of his personality they are often to be burned or buried with him; and this tendency is the stronger because it is commonly believed that the dead will have need of them in another world. The deceased must take his means of creation and expression of his personality with him to the other world; and consequently no one else may inherit them in this. The very idea of inheritance in any shape or form is slow to develop in societies where private property scarcely exists.

But as fast as private property develops, and especially as soon as it touches the means of production beyond mere tools of a craftsman's trade, inheritance comes with it. Indeed property in the sense of ownership is not essential; it is enough that there should be private possession and use, for rights over things can be passed from the dead to the living as well as things themselves. There is a right to succeed to a tenancy as well as to the ownership of a farm; and many forms of inheritance are in effect successions to rights and sometimes to duties rather than to things. This is obviously true of hereditary titles and offices as well as of many forms of feudal and similar tenure. Indeed in one sense all inheritance is of rights or duties; and these rights and duties are only sometimes embodied in material things.

The inheritance laws and customs of societies are apt to be most complicated where they are still based, in part at least, on a lingering sense of group possession or ownership. Complete freedom to bequeath property or to give it away during a man's lifetime can develop only under social and economic conditions based on highly individualistic notions about property. A thing must be absolutely a man's own in a most indi-

vidual sense for him to have a full right to give or bequeath it to whom he will. Indeed only among English speaking peoples, where in general only dower or similar rights created by statute limit free disposal by the testator, does full freedom of bequest exist today or has it ever existed; and even in their case it is fairly modern, a product of an increasingly individualistic economic system. It does not exist in Scotland even now or wholly in the United States; and there is no continental country in Europe that even approaches it. Everywhere except in England and in countries which have borrowed their legal institutions largely from England property still retains something of a group character. It is not purely personal, and it has functions apart from the purposes of its possessor for the time.

This is most clearly seen in such institutions as the legitim, the legally enforceable claim of widows and children to at least a part of a dead husband's or father's estate. The legitim takes many different forms but it exists in some form and degree in the great majority of countries, including South American and important European states, exclusive of Russia, and Louisiana in the United States. Nor is it reasonable to regard it simply as a restriction on the right of bequest; for that would imply free disposal of property by will or gift to be the natural and obvious thing. It is so far from being natural or obvious, however, that it has never occurred to the great majority of mankind that it ought to be the main way of disposing of property. On the contrary, in all peasant countries there is still a strong tendency to think of real property at least as belonging to the family rather than the individual. It is the family's means of life, from which no member can be shut out except for positive misconduct. Property is no longer common to the family, as it used to be to the clan or tribe; but neither is it purely the personal property of the head of the family.

Naturally the notion of a group right or claim clings most tenaciously to forms of property which the group actually uses as instruments of production. The more property ceases to have this character and takes the form of money or shares in undertakings which are not purely family affairs, the less the group feeling remains attached to it. The family's claim to money or to shares in a joint stock concern is far less deeply rooted in tradition and seems far less compelling than its claim upon the family estate as a means of life. Townsmen in India often exist on pitances derived from the family land, which is

regarded as charged with the maintenance of all the members. Even where property takes a money form or that of paper claims on the earnings of businesses outside the family's control, the notion of the estate as a group possession usually dies hard. It is not dead even in England or the United States; there it asserts itself not only in the laws governing intestacy but also even more powerfully in social custom, influencing the wills men actually make, even when they have full legal freedom to make what wills they like.

Modern forms of economic organization are very powerful solvents of the group notion of property, for they tend to make the claims to income arising out of property divisible without the need for dividing the property itself. The chief argument against the legitim in most of its forms is that it tends to a more and more minute subdivision of property. Where landed property is the chief form of wealth, this may have very serious results not only in the breaking up of large estates but also in the subdivision of peasant holdings to a point which makes agricultural improvements impossible and reduces holdings to a size too small to admit of a tolerable standard of life. The institution of primogeniture has been upheld mainly on the ground that it keeps estates and agricultural holdings together, thereby making possible their more efficient development for the production of wealth. When, however, property comes to consist largely of stocks and shares, the arguments against division have far less force. In public companies and corporations the parceling out of the shares among a larger number of holders has little effect upon management; even in the case of family businesses charges can be made on the net earnings for different members of the family, and where such a business is turned, as now often occurs, into a private company, actual shares can be issued and the business still carried on without change of policy. It can be urged that the setting up of charges on the business or the diffusion of the ownership of shares makes the accumulation of capital out of reserved profits harder than it would be if the whole business were inherited by a single owner. But this is only one aspect of the wider argument that great inequalities of wealth and income are necessary for the adequate accumulation of capital in modern societies. In general there is no doubt that the institution of shareholding in joint stock concerns as the outstanding form of property ownership has made far

easier and less open to economic objection the diffusion of estates at their owners' deaths.

This diffusion tends to a more individualistic conception of property rights; for, save in the special case of businesses which retain their family character, the divided property loses all unity and becomes simply part of the separate estates of the various inheritors. It may still be regarded as the duty of the richer members of the family to help maintain the poorer; but this becomes a purely social duty, unconnected with the conception of a family estate charged with the maintenance of all the members. Only in the case of landed estates does this notion retain any force in developed industrial societies and even there it has been greatly undermined. In peasant societies, on the other hand, the idea of the family holding as charged with the family maintenance still retains great force. Often most of the family are driven or impelled to go away and work elsewhere, as factory hands or laborers or in a higher stratum of society as doctors, civil servants or lawyers. But even when they have left the family property, the notion of its responsibility for helping them in adversity survives with almost undiminished force.

In modern industrialized societies, where the conception of property has become highly individual and the family survives as a social rather than an economic institution, the tendency has been to leave inheritance as free as possible from regulation by the state and therefore to extend continuously the right of unfettered bequest. The state has still to postulate what is to happen in cases of intestacy, but with the increase of the will making habit, fostered both by the growth of education and by the enlarged freedom of bequest, intestacy becomes of less practical importance. Most people with anything considerable to leave do dispose of their property by will, and in most English speaking countries they are left a very wide discretion—practically complete freedom—to carry out their wishes.

In the early nineteenth century, in England at any rate, freedom of bequest came to be widely regarded as an integral part of *laissez faire*. The classical economists, especially McCulloch, argued strongly against the legitim and in favor of primogeniture as a social institution, on the double ground that division of property operated against its efficient exploitation and that the disinheriting of younger children gave them the maximum incentive to make their own way in the world. A secure competence they regarded as disastrous both for society and for the indi-

vidual who enjoyed it; and they urged that men would be spurred on to make the best use of their powers only by need and by emulation of the rich. Inequality was defended as a means to the accumulation of capital and primogeniture favored on the ground that although it might be bad for the heir by making him lazy it was good for the younger children and the community. According to McCulloch it was a positive privilege to be disinherited; but it never entered his head that the best thing would be to disinherit everybody.

Although primogeniture was favored, there was no desire to enforce it by law; for freedom of disposition by will was regarded as a necessary incentive to the accumulation of capital and it was intended that the father should be able to leave his property away from his children, thus having the whip hand over them while he lived and the authority to induce in them virtuous and industrious habits. The object was to give men the greatest possible incentive not only to make but also to save money; and this would be best secured by putting what they made and saved absolutely at their free disposal. Despite Jeremy Bentham's pleas for limitation of inheritance the nineteenth century doctrine of property and inheritance developed in England on purely individual lines in strict keeping with the philosophy of *laissez faire*. In this field as in many others it was left for John Stuart Mill to go back on the classical tradition and to propose in addition to some restrictions on the right of bequest a severe limitation of the sum which any one individual would be allowed to inherit from any source. Mill is hesitant, for he is impressed with the undesirability of doing anything to check capital accumulation. But he also dislikes and desires to reduce inequality and his wish is at several points the forerunner of modern doctrines dealing with taxes on inheritance.

Before Mill the question of inheritance was considered, except by the socialists, almost solely in relation to the accumulation of capital and the efficient use of productive resources and hardly at all as a problem of social justice. In Mill the two points of view are in conflict; and from his time the question has always to be considered from both standpoints. On the one hand, inheritance and freedom of bequest are defended as necessary incentives to saving and as means to the more effective use of capital; for, given freedom of bequest, it is held that men will tend to leave their capital in such ways as to promote its effective use. On the other hand, in-



heritance is attacked as one of the greatest sources of social and economic inequality and proposals are made to limit or even to abolish it in order to secure a better distribution of income.

Abolition of inheritance, however, can hardly be urged as a self-contained and sufficient reform, for if property is to lapse to the state at its owner's death, and that is what abolition involves, the state will have either to make use of it for production under collective control or to let it out to the individuals who seem best qualified to use it. The former is the socialist solution; the latter has been urged by various small groups from time to time and is urged today by the followers of Rudolf Steiner. In either case the abolition of inheritance involves a radical change in the economic as well as the social system and especially new methods both of accumulating and of using capital. It would also involve, at any rate in the first generation, some restrictions on gifts *inter vivos*, such as a real enforcement of the legitim also demands; but whether such restrictions would remain necessary after the first generation would depend on the opportunities for fresh capital accumulation still left to the individual.

There can be no doubt that under any socialist system, even if it fell far short of communist thoroughness, the right of inheritance would be in practise very severely restricted, for with the instruments of production in the hands of the state the chief means and therewith also the need of private accumulation would be gone. The accumulation of capital would clearly become a collective function of society. Incomes would be distributed after subtracting the amounts needed for the provision of new capital equipment; and they would be meant for spending, not for saving. Inheritance would thus be restricted at most to things of use and could not include instruments of production, except during a period of transition. Probably even within these limits it would be further restricted by law, at any rate as long as any considerable inequalities of income existed; for with the development of social services the argument that a man needs to provide for his children would be progressively undermined. Probably the bequest of personal possessions up to a limited amount would be allowed; but inheritance in excess of this would be likely to disappear, not so much because it would have been deliberately stamped out, though this might be the case, as because the need and opportunity for it would alike have gone.

There has been a good deal of dispute among economists about the extent to which the inheritance of wealth is in modern societies the principal cause of inequality. Its influence is likely to be greater in older settled countries than in new countries still largely at a pioneering stage, since the older countries have already much larger masses of inherited wealth and usually greater opportunities for investing it securely so as to perpetuate its existence. Invested money, from which the owner simply draws a revenue without venturing it in risky undertakings, is in old settled countries largely self-perpetuating. There are losses of course and men do sink from class to class on occasion, but under ordinary conditions in such countries reasonable prudence secures the perpetuation of wealth once acquired.

In older countries also there are usually fewer opportunities for the rapid acquisition of wealth by those who start life without it. There are some of course, and there are plenty of chances for the rich to become richer. But the older and the more settled in its economic habits a country is, the more likely wealth is to go to those who have some already and the smaller is the proportion of men likely to rise from nothing to great fortunes.

There can then be no doubt that in the older settled societies inheritance is a very big factor indeed in causing economic inequality, although the whole question of the relation of inheritance to economic inequality demands a more thorough investigation than has as yet been made. It counts for a good deal not only in perpetuating large fortunes but also in giving those who inherit even quite small fortunes a very long economic start over those who do not.

In the newer countries the influence of inheritance is probably less decisive, both because the current accumulation of new capital bears a higher proportion to the amount of inherited wealth and because, conditions being less settled, there are more opportunities for a man to rise either by accumulating capital for himself out of profits or by being placed at the head of a big business on the score of ability alone. Such countries, however, as they grow in wealth rapidly accumulate heritable property and begin to develop a propertied class distinct in some degree from the class of successful business men. The United States has already a large class of this type, although inherited wealth still probably counts relatively for less in America than in either Great Britain or France.

In nearly all countries the proportion of those dying who have anything substantial to leave is very small indeed. In England and Wales, according to estimates made by Professor Henry Clay, before the World War only 15.6 percent of all persons possessing incomes of their own had a total capital wealth of over £100 and only 6.8 percent had more than £500. Even in 1920-21, when prices were very high, only 24.6 percent had £100 or over and less than 12.3 percent £500. In Prussia, according to Dr. King, only 14 percent had over 6000 marks in 1908.

Inheritance in any economically significant form is thus confined to a comparatively small section of the population. Nor can there be any doubt that in the main those who die leave most of their money to persons of the same social class as themselves. There are of course many small legacies to poor relatives, servants and employees, but apart from charitable bequests the bulk of property tends to pass to relatives occupying a similar social status to those from whom they inherit. This causes inheritance even on a basis of freedom of bequest to act as a powerful force in perpetuating inequalities in the distribution of wealth and income. Gifts and bequests to charities have indeed an opposite tendency, for they usually result in the distribution of increased incomes or services to the poorer sections of the population. But in no country, not even in the United States, is the amount of gifts and bequests for education and charity large enough seriously to affect the distribution of wealth in society as a whole. Comprehensive figures are unavailable on this point but, according to Wedgewood, less than 1 percent of the estates of French persons were bequeathed to public and charitable institutions in 1912 and 1913. In Great Britain the proportion is probably somewhat higher. It is fairly certain that in the United States a much larger percentage of the wealthy man's property goes through gifts *inter vivos* or bequests to philanthropic institutions than in England or on the continent, although in the United States such bequests now seem to be declining.

The inheritance of wealth lies then at the very roots of the class structure of modern communities. Class divisions would not necessarily disappear if it were abolished; for if the change stood alone, differences of wealth and income arising within the lifetime of the individual would still be enough to lead to wide differences in education and in equipment for money making. The rich parent could still give his children

a preferential start in life by expensive professional training or by setting them up in business for themselves. It is, however, inconceivable that the abolition of inheritance should stand alone. If it came about it would certainly be accompanied by increased public provision for higher education, which would undermine class monopolies in the professions, and by a restriction of opportunities for the application of private capital to business enterprise. Inheritance is by no means the only source of class divisions and great economic inequalities, but it is difficult to imagine their persistence in anything like their present forms without it. This is the case, however, primarily because of the other social changes which the abolition of inheritance connotes and only secondarily because of the direct effects of its abolition.

Short of abolition the rights of bequest and inheritance can of course be drastically restricted without the immediate necessity for any complete change of economic system. Mill's proposal to limit the amount that can be inherited instead of the amount that can be bequeathed has nowhere been acted upon; but one state after another has introduced some form of inheritance taxation and thus confiscated to the public purse some part of the fortunes of those who die with any considerable property. Such taxation has many forms in different countries; but it usually involves some degree of graduation according to the total value of the estate and also some discrimination according as the property is left to nearer or remoter relatives or to strangers. Although inheritance taxes are not chiefly a method of influencing freedom of bequest but rather a method of taxing big accumulations of wealth, they are not nearly considerable enough to have noticeable effects in reducing inequalities of wealth or income.

It is sometimes suggested that this failure to reduce inequality by taxation of inheritance is in itself a sign that most big fortunes are made rather than inherited and that inheritance is not so powerful a factor as has been supposed in causing inequality of income. But this suggestion ignores the great power of large fortunes to attract more money. If it were not for death duties, the distribution of income in Great Britain would be still more unequal than it actually is. What is left of such fortunes after taxation, however, is ample enough to serve as a preferential basis for the accumulation of further wealth. It is not denied that in Great Britain, unlike the United States, economic inequality

has been somewhat diminished of late years; but this is a result far more of the heavier taxes on incomes than of the taxation of inheritance.

It is in effect impossible to divide the wealth of the richer classes into two parts, the one inherited or the result of those gifts *inter vivos* which are really a form of inheritance, and the other acquired by the owners' personal exertions; for this is to ignore the truth that money breeds money and that it is far easier for a man who inherits money both to make more and to save out of his income than it is for one who starts with nothing. Fresh capital accumulations are in part the result of saving out of inherited fortunes, and the invested capital on which large profits are made is in part inherited money. What a man makes in his own lifetime may be fully as much a result of his inheritance as of his personal skill, luck or exertion. It is therefore a sheer impossibility to isolate in any quantitative sense the results of inheritance, but it is fully possible to say that income and property would be very differently distributed if everyone started with an equal supply of capital.

However great the social and economic influence of inheritance is admitted to be, the institution will not lack defenders as long as it is considered necessary for the accumulation of capital. It is true that the growing tendency for industries to finance their own expansion out of reserved profits has led to some substitution of group for individual saving and has thus to some extent lessened the need for private accumulation out of incomes; and it may be that this method of group saving foreshadows a time when industry will be wholly self-financed or, at any rate, when the calls for capital out of individual savings will be much reduced. But for the present individual investment continues to play a large part in financing production and it is therefore deemed necessary to keep up the rate of saving. Some economists, notably J. A. Hobson, have suggested that in prosperous times capitalist societies attempt to save and invest too large a proportion of their incomes, which results in a deficiency in the demand for consumers' goods. There is much to be said for this view, which would provide an economic justification for measures tending to reduce the volume of saving in prosperous times, including the higher taxation of inheritance at such times and the appropriation of the proceeds as revenue and not as capital. It cannot be held, however, that this tendency to oversaving exists, in the same degree at any rate, when times are bad; while it

is precisely at such times that the state, hard pressed for revenue, is likeliest to use capital taxes for meeting current expenditure.

In any case the need for private accumulation of capital does still exist in a considerable degree in modern societies and inheritance will continue to find defenders on the ground that it promotes this end. It will indeed be defended not so much in spite of its tendency to aggravate inequalities of wealth and income as because of this tendency; for there is a school of economists that maintains that the richer the rich are, the richer will the poor be also, because the highest production and the highest wages will be secured when profits are highest and profits will tend to be highest where the accumulation of capital has been pushed to the furthest point. This view has of course some plausibility; admittedly inequalities of wealth and income are greatest in the richest societies and these have also the highest real wages. But it does not follow that the high productivity on which this wealth is based is the product of economic inequality or that unrestricted inheritance is necessary to its maintenance.

Admitted, however, that any severe restriction on the right of inheritance would, unless the state used the proceeds as capital, reduce the rate of capital accumulation; the question is how far severer taxation of inheritance would react on the individual's will to accumulate.

That high inheritance taxation stimulates gifts *inter vivos* is evident enough. That it does not have this effect in a far greater measure is a clear sign of the tenacity with which the aging tend to cling to their money. Most of them remain unwilling to surrender ownership or control to their children, except on a small scale, despite the possibility of avoiding a good deal of taxation. This bears out the point that in general the psychological incidence of taxation is upon the inheritor and not on the testator.

If this is so, it seems reasonable to suppose that taxes on inheritance will not much affect the will to save. It is moreover highly relevant to point out that among the richest members of a community saving is largely automatic in that it represents surplus income beyond the desire to spend. Clearly saving of this sort will not be affected by taxation except to the extent to which gifts *inter vivos* and charitable donations may be stimulated. Graduated taxes on large incomes by reducing automatic saving react far more decisively on the volume of accumulation than do death duties.

In the case of small fortunes taxes on inheritance where they exist at all are usually at a low rate and unlikely to affect saving, although they may to some extent direct it to forms of saving that are exempt from the tax, such as life insurance policies.

If a state should, however, merely by gradually increasing its taxes on inheritance seek to abolish inheritance altogether, it would reach a point, far short of actual abolition, at which the taxation would react sharply on the volume of saving. Accordingly any state pursuing such a policy would have to take steps in the course of it to bring into being alternative methods of capital accumulation on a collective basis and would have to apply the product of its inheritance taxes as capital and not as income.

Plans for the abolition of inheritance are necessarily anticapitalistic; for they involve either direct collective operation of capital resources or collective control and rationing of their use. They are not necessarily socialist but they do imply the supersession of capitalism as an economic system. It is not possible to advocate the abolition of inheritance on purely ethical grounds without being prepared to suggest alternative methods for the accumulation of capital; and to this difficulty socialism presents the most obvious answer. Moreover if inheritance is abolished or even if taxation of it is pushed very far, it becomes inevitable for the state as the taxing authority to take over actual assets, since beyond a certain point the proceeds of inheritance taxes could not possibly be collected in money. The state then would become in effect the heir and it would be difficult to avoid the conclusion that the state should administer the assets acquired by way of taxation.

The economic and the ethical aspects of the question are thus closely intertwined. Many persons who are not prepared to defend inheritance directly on ethical grounds nevertheless uphold its economic desirability, because they mistrust the effects on production of an approach to socialism, and are ready to advocate the taxation of inheritance up to the point at which they think it will interfere with the private accumulation of capital. This was in essence Bentham's position and it has still powerful upholders in the world today.

To others the ethical arguments, which are directed partly against inequality in general and partly against inequalities resulting from inheritance and not from a man's own exertions, constitute a strong inducement to consider

favorably any economic system which will make these inequalities unnecessary. The case for socialism, which is based on a mingling of economic and ethical considerations, gains here a powerful reinforcement; for it can be pointed out that what the legatee in fact inherits is not a sum of money but essentially a claim on the productive capacity of society. This capacity, the result of centuries of development, is in reality a social product, the common heritage of civilization, in which it would seem that all are entitled to share. In other words, when a man saves under present conditions, the result is to secure to him much more than he saves because he acquires a preferential share in the social heritage. It seems unfair that a man should be able to pass on this preferential claim to his successors without limit. Most states have passed legislation to prevent "perpetuities" and to limit testators' rights to prescribe for generations ahead how their money is to be used or to order that it shall accumulate at compound interest for a long period. But in spite of these restrictions there is nothing to prevent the claim itself from being perpetual; this seems to many people to be manifestly unjust.

It is true that capital does not in most cases survive forever in an unbroken line of succession. Physical instruments of production, except land, wear out; and even where the capital they represent is perpetuated by the provision of adequate allowance for depreciation, there are hazards which do in the long run bring the life of most forms of business enterprise to an end. Even states though they cannot go bankrupt do sometimes repudiate their debts and so confiscate the property of their bondholders; and apart from the wasting of the assets themselves there is likely at some point in a long succession of heirs to arise a wastrel who will dissipate his patrimony. But with the growth of trust companies and the corporate organization of business this becomes increasingly a less important factor. It is indeed often stated that the life of most inherited fortunes is not long except in the case of landed estates; and this is probably true if it is meant that large fortunes are seldom kept together for many lives in the hands of a succession of sole heirs. There is a trend toward division of fortunes as well as to wastage; and this tends to become more pronounced as property can be more and more easily divided through the operation of the joint stock system. But property rights are not any the less perpetuated because they are divided up; the division

does not make strongly for greater equality, because the property even if it is divided is usually left in the main to persons of the same social class.

It is possible to imagine a form of socialism or, at any rate, collectivism that would perpetuate inheritance much in its present form. If the state carried on industry, borrowing the money from its citizens as it borrows now in the case of nationalized or municipalized undertakings, inheritance could continue, the inherited property taking the form of perpetual state bonds or stocks. It is, however, difficult to imagine such a system being of long continuance, for it would clearly render the private owners of the capital completely functionless, mere receivers of interest or dividends with no claim to income based even on a show of service. Under such conditions they would certainly before long suffer expropriation, for no economic or social institution can survive permanently if it has lost the function which it came into being to perform. Socialism of this type would end, although it had not begun, in the abolition of inheritance or in its restriction to things other than claims arising out of loans to the state.

Belief or disbelief in the institution of inheritance is therefore very closely linked up with belief or disbelief in the private ownership and operation of the instruments of production. The abolition of inheritance or its limitation to personal possessions of use is in practise if not necessarily in theory a socialist doctrine. Peculiar interest therefore attaches to the handling of the problem in Soviet Russia, where almost the first step of the new government in 1918 was to decree the abolition of inheritance of all property above 10,000 rubles except for provision for meeting claims of relatives based on proved need. This attitude has since been modified and under a decree of 1922, the civil code (1923) and a decree of 1926 the limitation on the value of the property which can be inherited is removed; direct descendants, dependents and surviving spouses are entitled to share; and furniture and household effects go to the housemates of the deceased. Wills can be made so as to vary the disposal of property among the legal heirs but not so as to leave it to others; and in the absence of testamentary provision distribution among those entitled to benefit is equal.

The new provisions mean far less than appears on the surface since they are indeed rather the result of the Communists' success in destroying private property than any token of a reversal of

ideas or policy. The Soviet government can now afford to permit inheritance because it does not permit the accumulation of wealth in private hands and because, when accumulation does exceptionally still occur, it has plenty of other methods besides the prevention of inheritance of breaking it up. The private trader or the *kulak* (rich peasant) who succeeds in amassing property has no security at all of being able to retain it for his own lifetime; and the question of his right to pass it on to his descendants therefore loses most of its importance. The one form of private property which has hitherto remained in being is now on the road to destruction by the placing of agriculture on a collective basis; and when that has been completed, the citizens of the Soviet Union will have only personal possessions to leave, except for the continuance for the time being of a small quantity of state bonds. For the Soviet Union does still to a small extent supplement the collective supply of capital by borrowing from its citizens.

This shows that, when a transition from capitalism to socialism is made abruptly and is accompanied by a general confiscation of existing wealth, the question of inheritance ceases at once to possess much economic importance; for both the existing capital and the power of fresh private accumulation are taken away at a blow. Moreover while private accumulation may survive for a time it is more likely to be attacked by the direct confiscation of property from living owners than by the removal of the right of bequest or inheritance.

Inheritance as a contemporary problem is therefore essentially a problem of capitalist society; and it cannot be abolished or restricted within narrow limits so as still to leave capitalist society intact. If private persons are not to inherit, the state must; and state inheritance means state control of the use of capital. Propaganda for the abolition of inheritance is in most cases in effect propaganda for socialism; and the question of inheritance, as distinct from taxation of it within limits that will not destroy its essential character, thus merges in the wider question of a socialist versus a capitalist framework of society. This is why there has never been any important social or economic movement making the abolition of inheritance its main objective.

If it is impossible to abolish inheritance without altering profoundly the economic structure of society, it is no less out of the question to retain inheritance in anything like its present form if that structure is radically altered in a socialist

sense. For inheritance is bound up with the division of society into distinct social and economic classes and influences this division the more profoundly because in advanced communities the better off classes tend to have lower birth rates than the poorer sections of the people and therefore to keep their wealth within a narrow range. The institution of inheritance helps indeed to foster this control of numbers among the well to do, since they are conscious of the need for limitation as a means of preserving their class status. Even where primogeniture remains the custom this limiting influence holds good; for the disinherited younger children are likely to be provided for during the testator's life by expenditure on education and training, by enabling them to start in business or by marrying daughters off with at least some "portion" of their own. It is true that the growth of feminism has tended to cause further diffusion of property, for daughters are now more often than before treated on an equality with sons. But this may even accentuate the tendency toward family limitation among the middle class.

The future of inheritance then appears to depend, on the one hand, on the growth in modern communities of collective methods of capital accumulation and of the control of business resources and, on the other, on the pressure of the popular movement toward a less unequal distribution of incomes; for this movement, ethical as well as economic in its driving force, results in forms of taxation which limit saving and impinge on profits and thus leads to the necessity of alternative methods of saving and of insuring adequate production. The two influences thus meet and mingle; and it is not easy to see how the institution of inheritance, save in a greatly modified form, can indefinitely stand out against them, despite the fact that it is for the moment strong.

To the extent to which it is restricted there is a return from the individualistic notion of property to a communal notion, based now on a unit wider not only than the family but also than the clan or tribe, since property comes to be regarded as part of the social heritage of the modern community, legitimately charged with the maintenance of all its members. This notion may further undermine, as it has already undermined in Soviet Russia, what remains in industrial societies of the conception of family solidarity. It will inevitably affect the institution of marriage and the relations between parents and children. But even in capitalist society the family

has largely lost its economic significance and become, save in respect of inheritance, mainly a social unit whose bonds have grown far looser even within living memory. If inheritance goes, the last economic bond will be snapped, at any rate beyond the period of the children's upbringing; and that too is likely to become increasingly a social function.

G. D. H. COLE

*See:* PROPERTY; WEALTH; FORTUNES; PRIVATE; ACCUMULATION; PLUTOCRACY; CLASS; EQUALITY; INHERITANCE TAXATION; SOCIALISM; SUCCESSION, LAWS OF PRIMOGENTURE; MARITAL PROPERTY.

*Consult:* Beaglehole, E., *Property* (London 1931) p. 215-16, and table IV, p. 244-47; Lowie, Robert H., *Primitive Society* (New York 1920) p. 243-55; Wedgewood, Josiah, *The Economics of Inheritance* (London 1929); Dalton, Hugh, *Some Aspects of the Inequality of Incomes in Modern Communities* (London 1920) p. 281-343; Stamp, Josiah C., *Some Economic Factors in Modern Life* (London 1920) ch. ii; Clay, H., *Property and Inheritance* (London 1923); Gabain, K. E. von, *Das Erbrecht in Sowjetrussland* (Berne 1929); Tager, Paul, "Le régime successoral dans le droit soviétique envisagé dans son évolution historique" in *Société de Législation Comparée, Bulletin*, vol. IV (1926) 531-58.

**INHERITANCE TAXATION.** The inheritance tax is a levy made on the occasion of the transfer of property at or in connection with the death of the owner. It may take the form of a tax on the estate as a whole, on the respective shares of the beneficiaries or on both. The tax is variously held to be a direct tax upon property (of testator or recipient) or an indirect tax upon the act of the transfer or receipt of property at the death of the owner. In modern times the inheritance tax has been incorporated into the tax system of every important country.

Transfers of property at the death of the owner were subject to the property transfer taxes of ancient Egypt and Greece. The element of death, however, was purely incidental in these taxes. The first true inheritance tax was the Roman *vicesima hereditarium* instituted in 6 A.D., a 5 percent tax on collateral inheritance and bequest. With various modifications this tax persisted for several centuries.

During the Middle Ages there were certain feudal dues—the relief, the *Erbkauf* and the heriot—which resembled inheritance taxes; in several countries the royal relief evolved into a rudimentary national inheritance tax. By the end of the fourteenth century several forms of death tax had been established in the Italian and German commercial cities. The seventeenth century

saw the enactment of inheritance taxes in the Dutch provinces and in a number of German principalities. By the end of the seventeenth century there were inheritance taxes in the four national states, England, France, Spain and Portugal.

The substantial development of the European inheritance tax occurred during the nineteenth century. From a disorganized set of minor probate duties the English tax expanded into a full fledged estate duty; it was extended from personalty to real property; its rate schedule, at first regressive, became proportional and then progressive. The present English estate duty is supplemented by the legacy duty on movable property and the succession duty on immovable property; both taxes, levied on the shares received by the individual beneficiaries, are graduated according to the degree of the beneficiary's relationship to the deceased. The French inheritance tax, established in 1796, had rates graduated according to the relationship of the beneficiary or heir to the deceased and discriminated between realty and personalty; during the nineteenth century the discrimination according to the character of the property was eliminated and the relationship graduation was augmented; in 1901 the rates of the tax were made progressive. Italy in 1862 adopted an inheritance tax modeled on the French law; its rates were made progressive in 1902. The Prussian collateral inheritance tax of 1873 was followed by similar taxes in the other German states; growing agitation for an imperial inheritance tax resulted in 1906 in a national inheritance tax with relationship discrimination and progressive rates.

The general character of European inheritance taxes has undergone no radical change during the past twenty-five years. During the World War and the post-war years because of the pressure of increasing fiscal burdens and the growing political power of propertyless groups rates increased and progression was sharpened; since 1921 in France combined maximum rates of estate and inheritance taxes would call for a rate of 98 percent, were not the maximum limited by law to 80 percent. Various discriminations have been experimented with to bring these heavy taxes more in line with various concepts of fiscal justice. During recent years inheritance taxes have yielded over 10 percent of the national tax revenue in England, over 5 percent in France and less than 1 percent in Germany.

A dozen American states attempted the levy of

inheritance taxes during the first three quarters of the nineteenth century, but their statutes were badly drawn and poorly administered and most of these early state taxes were repealed within a few years of their levy. Effective use of the inheritance tax did not occur in the United States until the New York inheritance tax law of 1885, carefully drawn and well administered, proved a success. Other states were encouraged to experiment with this form of taxation, and by 1902 twenty-six states levied inheritance taxes of one sort or another. The taxes of this period were all proportional, usually embodied relationship graduation and were generally limited to collateral inheritance and bequest. In 1892 New York led the way to extending the tax to direct heirs. Wisconsin in 1903 enacted a progressive inheritance tax which soon became the model for other states.

In the years 1797 to 1802 the federal government collected a stamp tax on successions by inheritance to personal property. A federal inheritance tax was also levied during the Civil War decade. The inheritance tax embodied in the federal income tax act of 1894 was abandoned when that income tax was declared unconstitutional. Four years later a short lived progressive tax was levied as part of the Spanish War tax program. Not until 1916 did the federal government make an inheritance tax a permanent part of its tax system. The tax levied in this year was an estate duty applying to estates in excess of \$50,000 with a progressive rate schedule rising to a maximum of 10 percent on the excess of an estate over \$5,000,000. Subsequent revenue acts increased the rates of this tax until in 1924 the rate on the excess of an estate over \$10,000,000 was 40 percent. The maximum rate was reduced to 20 percent in 1926, but was raised to 45 in the revenue act of 1932.

A feature of the 1924 federal estate duty was the allowance of a credit to taxed estates to cover state inheritance taxes charged against them; the maximum credit allowance was 25 percent. When the rates of the federal tax were lowered in 1926, this credit was increased so that it ranged from 15 to 75 percent; this credit schedule was maintained in 1932 when the estate duty was raised. The effect of this credit was to eliminate the burden of state taxes on estates where the rates of the state taxes did not exceed the credit allowed under the federal tax. State inheritance taxes were thus deprived of their effect of driving rich individuals to adopt residences in states levying no or low inheritance

taxes. The consequence of this federal estate tax credit was an increase in the number of states levying death taxes; in 1932 only Nevada was without an inheritance tax. The rates of the state taxes were generally increased so as to take full advantage of the credit; in the process many states changed the form of their taxes from inheritance taxes levied on the shares received by the beneficiaries to estate taxes levied on the full estate left by the decedent, so as to obtain an exact adjustment of the rates of their inheritance taxes to the credit allowed under the federal estate duty.

Because of the large initial exemption of \$100,000 and the generous credit allowance to cover state inheritance taxes the federal government received little revenue from its estate duty in 1926-32. For fiscal year 1929-30 its receipts from this source were \$64,842,725, less than 2 percent of its total tax revenue. State governments during their 1929 fiscal years derived \$148,591,827, about 9 percent of their total tax revenue, from their inheritance taxes.

There has been much dispute both in Europe and in America as to the legal character of the inheritance tax. One school of nineteenth century thought, stemming from Bentham, held that the inheritance tax can be viewed as an exercise of the state's inherent right to regulate inheritance and bequest. Another, developed by Münzinger and championed by Bluntschli, Wagner and Ely, held that the state as feudal overlord of the individual was coheir in every estate and took its share in the form of an inheritance tax. These two theories never gained wide acceptance, and the inheritance tax is now universally viewed simply as a tax levied under the state's taxing power.

Distributive justification of the inheritance tax has been based on many theories of tax justice. Moderate transfer fees have been defended as a recompense to the state for its supervision of the ownership of the property of a deceased person. Heavier inheritance taxes have been justified as a recompense for the protection accorded to property during the lifetime of its owner. The *quid pro quo* doctrines of tax justice, however, afford little encouragement for inheritance taxation, and appeal to them is generally made by the opponents rather than the supporters of inheritance taxation. The ability and sacrifice doctrines have been heavily drawn upon in defense of inheritance taxation, particularly of progressive inheritance taxes. The deceased, it is argued, has no further use for his

property, while to the heirs and beneficiaries it is an unearned windfall whose reduction by a tax involves no sacrifice whatsoever. Several writers, like Graziani and Adams, have chosen to view inheritances or bequests as simple increments of income received by the beneficiary and so subject to all the ability and sacrifice doctrines applying to income. Seligman justifies the inheritance tax both as a tax on accidental income and as a payment for the privilege of inheritance conferred by the state.

Several unusual distributive justifications for inheritance taxes are to be noted. A scattered group of writers have defended this tax on the ground that it constitutes a lump sum payment of taxes evaded by the deceased and his estate during the lifetime of the deceased or a lump sum payment of periodic taxes, such as the income tax, not conveniently levied in their true form. Certain American writers have viewed the state as a silent partner in the accumulation of individual fortunes and have described the inheritance tax as a method employed by the state to realize on its partnership share. Individual radical writers have urged inheritance taxes as a method of breaking down large family fortunes and so reducing inequality in the distribution of wealth, although the socialist school of writers have generally ignored the inheritance tax, viewing it as merely an undesirable palliative of the evils they are attacking.

The levy of inheritance taxes has raised many practical issues which have not yet achieved final solution. There still exists open disagreement as to the respective advantages of the inheritance tax levied on the shares of an estate received by individual beneficiaries and heirs and of the estate tax levied on the entire estate left by the deceased. The latter is the form of the English estate duty and of the American federal estate tax, while the former is employed on the continent and was until recently the characteristic form of American state inheritance taxes. The great advantage of the estate tax is the simplicity of its determination: only one calculation is involved for each estate and there are no complications caused by life estates, remainders and contingencies. Furthermore a progressive estate duty with a given schedule of rates has a higher yield than an inheritance tax with the same schedule of rates; the fractions of an estate received by the individual beneficiaries and heirs rarely involve the application of the same high bracket rates to which the undivided estate would be subject. The disadvantage of the estate



tax is its maladaptation to the ability and sacrifice doctrines of tax justice. Only by strained reasoning can the ability and sacrifice theories be made to support the use of progressive rate schedules in an estate tax. Furthermore an estate tax is not adapted to relationship graduation; where such graduation is effected in an estate tax, as in the Canadian provincial death duties, it is at the cost of simplicity and facility of administration.

Relationship discrimination is itself an open issue in inheritance taxation. Its strongest theoretical foundation is the family sense, the feeling that the direct heirs of a deceased person have a greater claim on his property than collateral or unrelated beneficiaries, that the former are but realizing a latent property right in the estate while to the latter their shares are pure windfalls. Some writers, like Scheel and Puviani, have attempted to make out a case for relationship graduation on the basis of the sacrifice doctrine of taxation; they argue that the value of the property coming to direct heirs is lessened by their grief over the death of the decedent, that this diminution of the value of an inheritance decreases with the distance of the relationship between beneficiary and deceased and that the relationship graduation of an inheritance tax offsets this "grief sacrifice." In the Latin countries, where the sense of family remains strong, relationship graduation in death taxation is carried out to minute detail. In the English speaking countries, on the contrary, the trend seems strongly against such graduation, except for generous rate and exemption allowances to the widow and children of the deceased, who in gaining an inheritance have lost their breadwinner.

Progressive inheritance taxes, as previously indicated, do not derive much support from the ability doctrines of taxation. If the tax be viewed as one on the property owned by the decedent, it is difficult to see wherein the ability doctrines can apply to a dead man. If the tax is considered a levy on the recipients of the estate, their tax-paying ability is determined not only by the shares of the estate received by them but also by the property owned by them; surely a rich man receiving a small inheritance has a greater tax-paying ability than a poor man receiving a large inheritance. These considerations prompted several German writers to advocate the graduation of the tax rates on the basis of prior wealth of the heir plus his inheritance. The German and Italian inheritance taxes of 1919 made pro-

vision for supplementary graduation of the tax rates according to the prior wealth of the heir. Effective determination of such prior wealth proved administratively impracticable, however, and in both Germany and Italy this provision was abolished in 1923.

Beginning with Adam Smith fiscal economists have pointed out an important discrimination in the inheritance tax; namely, that it bears unequally upon the property of families according to whether deaths in the family follow each other at short intervals or are widely spaced. With the heavy rates now in effect in some countries a rapid succession of deaths in a family could easily wipe out a large family property. Various proposals that the tax on an estate be proportioned to the number of years it had been enjoyed by the deceased have never been embodied in legislation. Instead, beginning with the Chilean inheritance tax of 1878, many taxes have included a provision for a rebate of the tax on any part of an estate which has paid an inheritance tax within a period of preceding years, usually five. Such a provision is found in the American federal estate tax and in the inheritance taxes of fifteen states.

Several of the European inheritance taxes involve a rate discrimination intended to favor decedents or beneficiaries with large families. In France the inheritance tax of 1917 allowed a beneficiary a 10-percent reduction in his tax for each child above the number of three. At the same time a progressive estate duty called the *taxe successorale* was levied on the estates of decedents who died leaving fewer than four children; besides progression based on the size of the estate the rate schedule of this tax was graduated in accordance with the number of the children left by the deceased; the rates on the estate of a deceased leaving three children ranged from  $\frac{1}{4}$  percent to 3 percent, while those on the estate of a childless decedent ranged from 2 percent to 24 percent. The Belgian tax of 1919 provided for a 2-percent reduction of the tax on a beneficiary for each of his children. It is doubtful whether such fiscal discriminations can have any effect on the birth rate of a country. Rather they provide an excuse for the levy of tax rates higher than might otherwise be acceptable to the popular temper of the times. The favoring of a beneficiary or heir with a large family finds ample justification under the ability doctrines of taxation, since it can logically be argued that the expense of maintaining his large family definitely reduces his taxpaying ability; the levy of special rates on

the estates of decedents with few or no children, as under the *taxe successorale*, does not enjoy such support in ethical theory.

Soldiers and sailors who die while in the national service are sometimes favored under inheritance taxes. The English death duties have accorded full or partial exemption to such decedents since 1694. Exemption to the estates of officers and men who fell in the World War was introduced into the French and American death taxes.

Certain minor discriminations found in earlier inheritance taxes are no longer common. The seventeenth century inheritance taxes of the Dutch provinces and some of the inheritance taxes of the Canadian provinces and of the American states levied discriminatory rates on bequests to or inheritance by alien heirs. The only defense for such discriminations is a rather narrow nationalism, and in most cases they have been rendered inoperative by international treaties of fiscal reciprocity. Another outworn mode of discrimination is the levy of special high rates on the transfer of property by intestate succession. Such discrimination was found in the early death duties of England, Sweden, Uruguay and Brazil. It probably represented a belated aftermath of the mediaeval ecclesiastical prejudice against intestacy and it no longer has a place in inheritance tax legislation. A third special discrimination peculiar to the inheritance taxes of the American states was the levy of penal rates on such part of an estate as had evaded other state taxes during the lifetime of the deceased. Such a provision appeared in the Wisconsin tax of 1899, the Louisiana tax of 1904, the New York tax of 1917 and the Connecticut tax of 1918. In every case the penal tax proved administratively impracticable and was soon dropped.

A unique proposal by the Italian economist Rignano has recently received much favorable attention. His suggestion was to levy a supplementary estate tax on such part of an estate as had been received by the deceased as gift, inheritance or bequest during his lifetime, that is, on the property which had not been accumulated by him through his own efforts. Rignano's underlying idea was frankly socio-ethical rather than fiscal. His proposed tax would result in breaking down large fortunes by striking at their root—the transfer intact from generation to generation of large family properties; levied with the high rates advocated by Rignano, such a tax would provide a "painless transition to socialism." In the more moderate form suggested by

its American and English proponents it would be less of a weapon of social revolution and more of a fiscal expedient. To date no inheritance tax law has embodied the proposal.

The history of death tax legislation shows a steady broadening of the scope of the statutes to block possibilities of evading the tax. Fictitious debts created in favor of beneficiaries, joint estates passing by survivorship, testamentary trusts, provision for excessive remuneration to executor beneficiaries, deathbed donations and gifts made prior to and in anticipation of death have all been brought within the scope of death tax statutes. Only the last named class of transfers still presents a problem to the death tax administrator. The federal and state inheritance tax laws in the United States have sought to circumvent this form of evasion by providing that gifts made "in contemplation of death" shall be taxed as part of the estate transferred at death. At first the statutes set specific periods, ranging from six months to six years prior to death, within which time gifts made by a property owner would be deemed attempts to avoid the inheritance tax and should therefore be taxable as part of the estate. The American courts have shattered this arbitrary attack, and at present the most that tax administrators can claim with regard to such gifts is the presumption that they were made in anticipation of death. A more direct approach to this problem is the levy of a gift tax as a supplement to an inheritance tax. All gifts except deathbed donations are subject to such a gift tax irrespective of whether they are made to avoid the inheritance tax or are innocent of ulterior motive. Gift taxes of this nature are common in Europe. The American federal government levied such a tax in 1924, abolished it two years later and enacted another gift tax in 1932, with a rate schedule ranging from  $\frac{1}{2}$  percent to 33 $\frac{1}{3}$  percent.

Outright evasion of an inheritance tax is difficult if the tax is administered with reasonable effectiveness. Administration of the early American state inheritance taxes was usually left to the probate courts, charged with supervision of the administration of estates. The indifference of the officers of these courts to the fiscal duties arbitrarily imposed upon them led to the failure of these early state inheritance taxes. When administration of the tax was transferred to central state agencies, evasion of the tax was readily checked. Administration of inheritance taxes in the United States and England is facilitated by the circumstance that the executor or adminis-

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trator of an estate who is charged with payment of the tax is an officer of the probate court which appoints him and is accountable to the court for his actions. The opportunities for successful evasion of the tax are so slight and the penalties which would be incurred by such abuse of the executor's or administrator's official obligations are so heavy that there is little incentive to tax evasion. In the continental countries, where control over the administration of estates is not so effective, the fiscal authorities rely to a greater extent on minute and inquisitorial examination into the lifetime transactions of the deceased.

It is generally accepted that the inheritance tax is not shifted. It reduces the shares of estates received by beneficiaries and heirs, and it is beyond their power to pass their tax burden to other economic classes.

It is frequently argued that an inheritance tax is injurious to economic development because it destroys capital, diverts it from productive uses and discourages the incentive for saving, thus acting as a deterrent to accumulation of capital.

The first argument, sponsored by Ricardo, is based on the assumption that a tax "measured" by capital is necessarily paid out of capital property. This, however, is not the case. Fixed capital remains unimpaired regardless of the tax on it at the death of the owner. It is true that the payment of a high inheritance tax which is in the nature of a sudden liability may result in forced liquidation and consequent depreciation of assets. But the loss here is purely individual. What is lost by the seller is gained by the buyer. From the social aspect the economic significance of the property remains unimpaired. Furthermore the various provisions for the distribution of the tax over a number of years, in England as many as eight, and the growing practise of providing for the payment of the tax through insurance obviate the necessity for forced and hasty liquidation.

With regard to the effect of inheritance on the volume of liquid capital available for investment it must first be determined whether the high tax rates on inheritance are offset by reductions in other taxes and if so whether the reductions apply to that portion of wealth which is likely to be saved, that is, turned into capital, or to the part of wealth which is likely to be diverted to the purchase of consumers' goods. In the former case the loss in the volume of saving occasioned by the payment of the inheritance tax will be offset by the greater saving capacity of other taxpayers. In the latter case, which is more frequent in democratic countries, where the reductions

will apply to taxes of wide incidence, the amounts so remitted will be applied to current consumption and the payment of the inheritance tax will undoubtedly constitute a net reduction in the volume of capital available for private investment. The final judgment in this instance hinges on the broader problem of the relative merits of public expenditure and private investment; moreover in view of the increasing participation of governments in productive enterprises the distinction loses in importance.

The argument concerning the adverse effect of high inheritance taxes on saving and accumulation is theoretical and devoid of any factual verification. A priori it can be argued with equal plausibility that the existence of high tax rates will stimulate the affectionate parent to greater accumulation in order to offset the loss which his estate will sustain from the tax.

At present the inheritance tax may be considered to have completed the experimental formative stage of its evolution. By scholars and legislators alike it is accepted as a valid source of an appreciable quota of tax revenue. Attempts at intricate gradation and discrimination to effect non-fiscal designs have been for the most part abandoned, and the trend of recent years would seem to be toward ever greater simplicity and uniformity. The major inheritance tax problem facing legislators today is that of overlapping tax jurisdictions and double taxation as between states and between nations; interstate and international reciprocity agreements together with court decisions in federal countries like the United States have gone far toward eliminating the worst features of this abuse.

WILLIAM J. SHULTZ

See: TAXATION; PUBLIC FINANCE; INHERITANCE; SUCCESSION, LAWS OF; FORTUNES, PRIVATE; ACCUMULATION; DOUBLE TAXATION; AUBAINE, DROIT DE.

Consult: Shultz, W. J., *The Taxation of Inheritance* (Boston 1926), and *American Public Finance and Taxation* (New York 1931) ch. xxxi; Soward, Alfred W., and William, W. E., *The Taxation of Capital* (London 1919); Bächner, R., "Erbschafts- und Schenkungssteuern" in *Handbuch der Finanzwissenschaft*, ed. by W. Gerloff and F. Meisel, vols. i-iii (Tübingen 1926-29) vol. ii, p. 310-23; Schanz, G., "Erbschaftssteuer" in *Handwörterbuch der Staatswissenschaften*, 8 vols. (4th ed. Jena 1923-28) vol. iii, p. 794-836, containing a complete bibliography of all works on death taxation through 1925; Seligman, E. R. A., "The Inheritance Tax" in *Essays in Taxation* (10th ed. New York 1925) ch. v; Schanz, G., "Studien zur Geschichte und Theorie der Erbschaftssteuer" in *Finanz-Archiv, Zeitschrift für das gesamte Finanzwesen*, vol. xvii (1900) 1-62, and vol. xviii (1901) 553-695; Johnson, Alvin S., "Public Capitalization of the

Inheritance Tax" in *Journal of Political Economy*, vol. xxii (1914) 160-80; Rignano, E., *Per una riforma socialista del diritto successorio* (Bologna 1920), tr. by W. J. Shultz as *The Social Significance of the Inheritance Tax* (New York 1924); National Conference on Inheritance and Estate Taxation, *Proceedings*, nos. i-ii (New York 1925); Schnieher, Herbert, *Die Besteuerung der Erbschaften in den Einzelstaaten der nord-amerikanischen Union*, Finanzwissenschaftliche und volkswirtschaftliche Studien, vol. ix (Jena 1927); Guggenheim, Paul, *L'imposition des successions en droit international et le problème de la double imposition* (Geneva 1928). See also bibliography following INHERITANCE.

INITIATION. A systematic ceremonial induction of adolescent youths into the full participation in social life is a practically universal trait of the peoples of simpler culture. Such practises represent efforts to rivet the youth securely to the regnant social order and are devices for the development of social cohesion. The initiation rites are prosecuted with special vigor when the exclusive, personal interests of the group or class are threatened by exigencies, such as initial contact with alien peoples, migration, depopulation, threat of complete extinction or absorption into outside cultures, or the *Heimweh* provoked by a novel environment. The elders under these stresses try to maintain group consciousness and custom largely through the extensive emotional and mental schooling of the manhood ceremonies, because only in this way can the social heritage be perpetuated as a living thing. Thus in Nyasaland the rite is at present being performed at an earlier age than formerly so that the youths can receive tribal instruction before they come under mission influence.

At puberty physical and emotional changes in the child become evident, and with this sexual maturity comes a critical juncture in the social position of the individual in view of the potential disturbances which may be effected in the social order. The threat to the perpetuation of things as they are produces the need for endowing the youth with knowledge of his mores and with sympathy for them and with an understanding of the responsibilities and rights accompanying sexual maturity. The initiation signifies not simply physical but full social adulthood, and the two do not necessarily converge. Considerations of a purely cultural nature may determine the age of initiation, as, for example, in the New Hebrides and Australia, where the requirement of an entrance fee results in old men being initiated along with youths.

The prestige associated with passage through

the manhood ceremonies is such that the person uninitiated is invested with complete social obloquy. A child is also in an ignominious position until this event. Although socialization is fundamentally a gradual, cumulative affair, the accession to social maturity in primitive society is conceived as climactic and abrupt. The past of the individual is considered to be cut off and during the course of initiation an exceptional, marginal environment is staged in which he is outside the normal life. In this period, called *rite de passage* (to use van Gennep's term), the ordinary cement of society crumbles—license, theft, arson, violence are often allowed. Promiscuous sexual intercourse is allowed the novices among the Papuans; even the conversation of the Kaffir boys may be of a dubious nature to show that shame no longer exists; moreover they are allowed to rob gardens and kill cattle with impunity. Among the Nandi of East Africa the novices are given purges and have their heads shaved; among the Indians of Virginia it was the custom to give them emetics "whereby remembrance of the past is obliterated." Among the Xosa of South Africa clothes, which are a social asset, are discarded and ordinary speech inverted. These measures heighten the sense of a break from the past, which is often reinforced by taking the neophytes by simulated violence from the company of the women. A strict regime of secrecy surrounds the rites, and as the candidate emerges it is believed that a rebirth has occurred. In the sociological sense this designation is justified, since with new costume (including such tribal mutilations as circumcision) and a new name the objective evidences of the new personality indicate a complete severance with the futility of childhood.

Most abiding in the metamorphosis wrought on the initiate is the strenuous inculcation of the pattern of sentiments and behavior which, it is thought, best promotes tribal solidarity and prosperity. The initiation thus serves as the chief vehicle to link generations in the transmission of the culture complex. The individual is now an active contributor to the food supply, a family head and a cult participant; he is in intimate association with the ancestral glories of his tribe—a complete and full fledged tribesfellow. Of these various duties food getting is the prime concern. The series of abstentions, fasts and privations ceremonially undergone, as, for example, in the Adaman Islands, is intended to develop the realization that not only the power to obtain food but also the right to use it without danger is

something that one owes to society and that its bestowal involves acceptance of the corresponding obligation to share the catch or yield with one's fellows. Other customary outward marks of affiliation, such as dress, are assumed for the first time; and the right to other pleasurable activities, such as smoking and drinking, are conferred. Usually the primitive educational system is climaxed in the didactic tactics of the initiation: law, morality, tradition, hygiene and cult focus in a varying degree of agglomeration compose the curriculum offered in the initiation bush or hut.

Through all initiation exercises there is set up an atmosphere of continuous excitement, novelty and tumult that is intended to enlist the fervent interest of the youth. Put on edge through ingenious torments, sleeplessness and nerve racking frights, the candidate becomes keenly sensitive to the power of his preceptors and indelible, life long impressions are made. The technique is illustrated among the Bechuanas, where the boys in a state of nudity engage in a dance during which the men of the village pummel them with long, supple wands while asking them questions such as "Will you guard the chief well?" "Will you herd the cattle well?" In this way is enforced the sentiment that success rests in conformity—and power in the hands of the elders. Those who wince or demur or who cannot pay the necessary fee are killed or declassified for life.

Initiation rites in the more complex, historical cultures are generally assumed to be functions of specific institutions or subgroups rather than of the folk as a unit, largely since the employment of written language makes possible the use of more consecutive pedagogical devices of less spectacular nature. To custodians of the cult and to professionalized religious groups particularly pass the functions designed as means for the transmission of the general power of social bonds—a mystification or abstraction of the cohesion required to maintain the existing social order. Active participation in the organized religions requires passage through the ceremony of Communion or confirmation in Christian churches and that of the *bar-mitzvah* in traditional Judaism, ceremonies which have absorbed much of the solemnity and ritual of pagan rites. With the greater economic potency of private property, chattels, slavery and the like there arise the invidious interests of the aged, the men and the professional groups, which can be enforced or shared only through the medium of

surrounding entrance rites with an aura of secrecy. Thus investiture with the trade and professional secrets in the guilds of the Middle Ages took on the proportions of esoteric ceremony akin to the magical regeneration crisis occurring when the neophytes were admitted into the Greek mystery cults. Many religious and trade groups adopted the esoteric tradition of puberty as a protection against penetration or for survival, since the *sacralia* are revealed only on this occasion to the initiated. In recent and contemporary society initiation and entrance ceremonies often acquire the air of incongruity or buffoonery as anachronisms in their use by fraternal societies, clubs, universities, subversive political movements and the like. Yet the common thread essentially characteristic of all types of initiation lies in the integrative and subordinating tendency of a social group to draw its members into a workable unity—a unity continually threatened by youth or alien.

NATHAN MILLER

See: SOCIAL ORGANIZATION; ADOLESCENCE; EDUCATION, PRIMITIVE; CEREMONY; RITUAL; FASTING; DANCE; TABU; SECRET SOCIETIES.

Consult: Miller, Nathan, *The Child in Primitive Society* (London 1928) ch. x; Goblet d'Alviella, E. F. A., "L'initiation, institution sociale, magique et religieuse" in *Revue de l'histoire des religions*, vol. lxxxi (1920) 1-25; Webster, Hutton, *Primitive Secret Societies* (New York 1908); Loeb, E. M., *Tribal Initiations and Secret Societies*, University of California, Publications in American Archaeology and Ethnology, vol. xx, no. 3 (Berkeley 1929); Speiser, Felix, "Über Initiationen in Australien und Neu-Guinea" in *Naturforschende Gesellschaft, Basel, Verhandlungen*, vol. xl (1929) 53-258; Willoughby, H. R., *Pagan Regeneration* (Chicago 1929) chs. vii, x; Hall, G. S., "Initiations into Adolescence" in *American Antiquarian Society, Proceedings*, n.s., vol. xii (1897-98) 367-400; Reik, T., "Die Pubertätsriten der Wilden" in *Imago*, vol. iv (1915-16) 125-44, 189-222.

INITIATIVE AND REFERENDUM. The initiative is a device by which any person or group of persons may draft a proposed ordinance, law or constitutional amendment and by securing in its behalf a designated number of signatures may require that such proposal be submitted to the voters for their acceptance or rejection. The referendum, on the other hand, is an arrangement whereby any measure which has been passed by a city council or state legislature may under certain circumstances be withheld from going into force until the voters have had an opportunity to render their decision upon it. Thus the initiative and referendum logically go together and supplement each other. They were

grouped with the recall (*q.v.*) of public officials in the movement in the early part of the twentieth century for "more democracy to cure the ills of democracy."

The initiative and referendum are by no means new features in the mechanism of popular government. All ancient democracy was direct democracy. In the Greek city-states all legislation was initiated by the people and authorized by direct popular vote without the intervention of representatives. In the cantons of the Swiss republic the initiative and referendum have had a virtually continuous history from earliest times down to the present day. Even in the United States the initiative and referendum are among the oldest of native institutions. The initiative, for example, was given recognition in 1777 in the first constitution of the state of Georgia, which bestowed upon the people the exclusive right to propose constitutional changes. The referendum was brought into use before the adoption of the earliest American state constitutions and has been compulsory in the process of constitutional amendment in practically all states ever since.

But the use of the initiative and referendum in the process of ordinary lawmaking is a relatively modern development in the United States, although sporadic examples may be found in various states during the latter half of the nineteenth century. More particularly the referendum was used as a means of expressing the direct voice of the people in certain localities on such matters as bond issues and the sale of intoxicating liquors. Not infrequently moreover state legislatures and city councils referred to the people some other controversial matters upon which they could not themselves agree.

Not until the closing years of the nineteenth century, however, did any American state authorize the use of the initiative and referendum as regular instruments for the making of ordinary laws. This first step was taken in South Dakota in 1898; Utah followed in 1900, Oregon in 1902 and seventeen other states during the ensuing three decades. Two other states have adopted the referendum but not the initiative.

The chief reason for the spread of direct legislation in the United States is to be found in the impatience of the people with the work of their state legislatures. By reason of the lack of authoritative leadership, the persistent lobbying on the part of special interests and the intermittent control of legislative bodies by political bosses a great deal of dissatisfaction with the work of

these legislatures developed during the closing years of the nineteenth century. People came to the conclusion that by their own direct action they could hardly do worse and might do better. Consequently they took into their own hands the power to make and to reject laws — not as a procedure for everyday use, but merely as a method to be used when the desired results could not be had in any other way.

The first step in the exercise of the popular initiative is the framing of a proposed ordinance, law or constitutional amendment. This is usually undertaken by some organization. Then it becomes necessary to secure a designated number of signatures in support of the proposal. From 5 to 8 percent of the qualified voters is the usual requirement. The petition is then submitted to some designated public official, who checks the names and if he finds them sufficient makes out a certificate to that effect. After this the measure is placed on the ballot, usually in abbreviated form or by title, and the voters record their decision upon it at the next regular election or at a special election called for the purpose. When a measure has been adopted by the people in this way it cannot ordinarily be amended or repealed by any action of the legislature. Generally speaking, the referendum follows the same general lines, except that the petition merely demands that a particular measure passed by the legislative body be submitted to the whole electorate before being put into effect.

Both initiative and referendum have been widely used by municipalities and by states, especially in the western part of the country, during the past thirty years. Sometimes as many as thirty questions have been placed on the ballot for decision by the voters at a regular state election. These proposals have been of every type, ranging from matters of fundamental policy to altogether trivial issues, from the levying of a state income tax down to the length of the luncheon hour in a city's fire department.

This submission is usually accompanied by a flood of propaganda on the part of the interested groups. It was anticipated that individual voters would study the various questions, make up their minds and cast their votes accordingly. To some extent the voters do this, especially when only a few questions are submitted; but with twenty or thirty questions on the ballot the great mass of the voters either follow the advice of some organization or are influenced by the advertising campaign. It has been demonstrated that a sufficiently vigorous publicity campaign

can usually encompass the adoption or defeat of any measure in which the people do not feel that they have a definite interest.

In practise moreover direct legislation has proved to be lawmaking by a minority. On the average not more than 80 percent of those registered vote on election day, and the proportion is usually much smaller. Moreover many of those who vote give all their attention to candidates and do not concern themselves with the questions on the ballot. Hence measures are sometimes adopted or defeated at the polls by only 25 or 30 percent of the whole electorate.

The adoption of the initiative and referendum was urged a quarter of a century ago by the progressive elements, who took for granted that if the people were allowed to legislate directly they would give their assent to progressive measures. On this basis the conservatives fought the movement in its early stages, while liberals welcomed the initiative and referendum as weapons with which to curtail the political power of the vested interests. But direct legislation has not proved to be revolutionary; on the contrary, it has been at least of equal value as a bulwark of conservatism. Voters in American cities and states have not hesitated to reject proposals for adopting the single tax or undertaking municipal ownership of public utilities, for giving pensions to city employees or imposing progressive income taxes. The use of the initiative and referendum appears to be slowly but steadily lessening in the United States. This may be a symptom of declining faith in political democracy and of increasing interest in some form of pluralism.

A part of the same progressive movement and closely related to the referendum was the demand for the recall of judicial decisions advocated by Roosevelt in his campaign of 1912 and adopted by Colorado in the same year. Under this proposal judicial decisions declaring invalid laws passed by the state legislature would be subjected to popular vote under conditions similar to those set forth for the legislative referendum. If a majority of those voting upheld the law, it would become valid despite the decision of the court. The movement made no headway and the Colorado provision was never invoked.

Outside of the United States the initiative and referendum have been used most frequently and effectively in Switzerland. There too, however, the response of the voters has almost uniformly been less than in the choice of parliamentary representatives. The average vote at initiative and referendum elections has been slightly less

than three fourths of the average vote at elections for the National Council, although it has on one occasion gone above the latter average. As in the United States, the effect of direct legislation has been slightly conservative.

Direct legislation was accorded a great deal of favor in the democratic post-war constitutions of European countries. Germany adopted the initiative and the referendum for the country as a whole, the largest political unit to attempt their use; they were also adopted by the German *Länder*. The adoption of direct legislation in the post-war constitutions was characterized by a number of innovations. Most interesting of these were the powers given the president and one third of the lower house in connection with the referendum; the use of the referendum to decide deadlocks between the two houses; the automatic dissolution of the Estonian Seimas following a popular vote contrary to the vote of the Seimas on a particular measure; and the German provision that an absolute majority of the qualified voters is needed to carry a referendum proposal involving constitutional questions and that a majority of the qualified voters must vote in any referendum in order to make its results valid. The complications resulting from these variations have militated against the practical utility of the initiative and the referendum. In actual practise they have been employed to a very slight extent in these countries, even less than in the United States.

WILLIAM B. MUNRO

*See:* DEMOCRACY; LEGISLATION; REPRESENTATION; LEGISLATIVE ASSEMBLIES; MACHINE, POLITICAL; PUBLIC OPINION; PROPAGANDA; RECALL; PLEBISCITE.

*Consult:* For a full list of earlier books, Munro, W. B., *A Bibliography of Municipal Government in the United States*, Harvard University, Publications of the Bureau for Research in Municipal Government, vol. ii (Cambridge, Mass. 1915) p. 48-56, and New York, State Library, Legislative Reference Bureau, *Bibliography of Books and Articles on Initiative, Referendum and Recall 1912-1924* (Albany 1924); Lowell, A. L., *Public Opinion and Popular Government* (new ed. New York 1926) chs. xi-xv; Schmitt, Carl, *Volksentscheid und Volksbegehren*, Institut für ausländisches öffentliches Recht und Völkerrecht, Beiträge, vol. ii (Berlin 1927); Hall, Arnold B., *Popular Government* (New York 1921) chs. vi and viii; Bonjour, Félix, *La démocratie suisse* (Lausanne 1919), tr. by C. L. Lécasse as *Real Democracy in Operation: the Example of Switzerland* (London 1920) chs. iv-vii; Brooks, R. C., *Civic Training in Switzerland* (Chicago 1930) p. 107-18; Headlam-Morley, Agnes, *The New Democratic Constitutions of Europe* (London 1928) ch. viii; Thoma, Richard, "Referendum in Germany" in Society of Comparative Legislation and International Law, *Journal*, 3rd ser., vol. x (1928) 55-73.

**INJUNCTION.** This very effective judicial order usually commands a party to a suit and if necessary commands his associates to refrain from action which the court considers to be wrongful or a hindrance to the attainment of justice. Less frequently it commands the performance of acts conducive to justice. Disobedience to the injunction is contempt of court, punishable by imprisonment or other severe penalties. With rare exceptions all questions as to the issue of the injunction and disobedience thereof are decided by a court without a jury.

Injunctions originated in the English Court of Chancery. Requests for them by litigants indicate that they were granted as early as 1400. Several injunctions are recorded during the fifteenth century, but the first of which the text is extant dates from 1483 (1 Cal. Ch. cxiii).

The sources from which the chancellor derived the injunction are obscure. Although several writers have emphasized the resemblance of its language to the Roman law interdict, the methods of enforcing the latter were very different and much feebler. Any direct imitation of the interdict by the chancellors is unproved and improbable, but the interdict had a remote influence through its long development in the canon law. The ecclesiastical interdict forbidding religious services in a particular place offers a much closer analogy to the injunction. The canon law recognized other forms of orders forbidding specified acts, and since the chancellors were almost invariably churchmen until the sixteenth century they would very naturally apply in civil litigation a type of remedy which had been found effective in ecclesiastical controversies. A second probable source was the procedure of the common law courts. For nearly two centuries before the earliest indication of injunctions in Chancery the writ of prohibition had issued against waste—injuries to land by tenants. This writ sometimes differed from the injunction in that the order was directed not to the defendant but to the sheriff, who could take a *posse comitatus* and stop the waste. Many other types of wrongs were subject to prohibitions and subsequently, like waste, to injunctions. A third probable source lay in other proceedings in Chancery itself. For instance, subpoenas issued at the start of an equity suit commanded the defendant under a penalty to appear and answer the bill. It was only a step to impose a penalty for failure to obey some other command of the chancellor during the course of the suit. It is significant that injunctions apparently began

about thirty years after the earliest subpoenas.

The early chancellors were bound to no rigid and settled procedure. They were looking about for any remedy that might prove effective. This experimental attitude is illustrated by a Chancery suit about 1400 (Selden Society Publications, vol. x, Sel. Cas. in Ch., no. 70) asking for a writ directed to the sheriff and justices of the peace commanding them to order the defendants to allow the plaintiff to occupy his land without disturbance—a counterpart of the common law writ of prohibition. In another suit the chancellor might dispense with the officials as intermediaries and address the writ to the defendants themselves—a true injunction. This makes it even clearer that the injunction was a natural development of methods of enforcing obedience which were in use in England in the fourteenth century.

The subsequent history of the injunction is bound up with the general history of equity. As the equitable jurisdiction of Chancery spread over new fields, the scope of the injunction correspondingly widened, for it was one of the most powerful weapons for carrying out the chancellor's determination of rights. Resort to the injunction was also stimulated by the gradual disappearance of prohibitions and other preventive common law remedies which proved unsuited to the mechanism of trial by jury. Until 1700 injunctions were likely to be used for two main purposes. First, they protected interests in land, then the chief form of property, although some cases involved chattels like title deeds, jewelry and heirlooms. Secondly, legal proceedings or judgments founded on unjust grounds were frequently enjoined by the chancellor, who thus corrected the defects of the common law courts, a practise which aroused the resentment of the law judges and culminated in the famous controversy between Coke and Ellesmere. Thenceforth if the rules of equity conflicted with those of the common law, the injunction enabled the rules of equity to prevail. The growth of business in the eighteenth and nineteenth centuries led to new types of private wrongs for which the injunction was needed. It was also employed against public nuisances as urban congestion rendered these more numerous and more injurious. With the disappearance of separate courts of equity in England and most of the United States and the consolidation of legal and equitable powers in the same courts, all trial judges (except those in petty courts) acquired the power to grant injunctions. But the constitutional guaranty of a



jury trial does not apply to injunction proceedings, for it was not customary in equity courts when the constitutions were adopted.

Injunctions are classified chronologically into *ex parte* restraining orders, temporary injunctions and permanent injunctions. These may be conveniently discussed in reverse order. Permanent injunctions are granted at the end of a suit after both sides have fully presented their evidence and the case has been decided on the merits. Temporary (or interlocutory) injunctions are granted during the course of the suit and framed to prevent acts which might prejudice its final results. Sometimes such injunctions are said to preserve the status quo, but this does not necessarily mean the maintenance of the existing situation without change. The phrase merely describes the situation which the court thinks it just to maintain until the merits have been decided. Temporary injunctions are issued after notice to the defendant and a brief opportunity for both sides to present evidence and arguments, but without the fulness required for permanent injunctions. They may also be dissolved before the final decree if the defendant shows that they were improperly issued or have become undesirable. The plaintiff is frequently required as a condition of temporary relief to give bond. *Ex parte* restraining orders resemble temporary injunctions and are frequently called by the same name; but they are issued at the outset of a suit on the basis of proof presented by the plaintiff alone in the form of affidavits or oral testimony, without any chance for the defendant to be heard or to cross examine. This drastic remedy should be given only on a showing of great urgency, and the defendant should be afforded an early opportunity to attempt to vacate or modify the order.

Injunctions are also classified according to their form, as prohibitory (negative) and mandatory (affirmative). Since the very numerous simple affirmative orders to sign deeds, pay money and the like are not called injunctions, the term mandatory injunction is applied only to orders for the performance of more complex or unusual acts, and such orders are much less frequent than prohibitory injunctions. A century ago mandatory injunctions were theoretically regarded as improper, although they had been granted in several early cases. Defendants, however, were in effect required to perform affirmative acts through the ingenious but not ingenuous method of negative language forbidding them to allow the existing situation to continue.

Thus if a defendant had wrongfully cut a doorway in the plaintiff's brick wall, the court would enjoin him from permitting the opening to remain. The English judges have now repudiated these roundabout methods. During the nineteenth century courts were especially hostile to mandatory injunctions ordering the construction of a building, the operation of a railroad and other detailed or prolonged activities, but they are now increasingly ready to regard such objections as merely a factor to be weighed against the hardship upon the plaintiff if left to his action for damages. As Judge Hough has said, "The tendency of the times is to 'take on' harder and longer jobs" [Kearns-Gorsuch Bottle Co. v. Hartford-Fairmont Co., 1 Fed., 2nd, 318 (1921)]. Mandatory injunctions are usually permanent, because it would be harsh in most cases to make a defendant perform elaborate and expensive acts to which the plaintiff may prove in the end not to be entitled.

The definiteness of injunctions varies greatly with different judges. Some use general terms, such as forbidding any acts which operate "to the injury of the plaintiff" or "render his premises unfit for use and enjoyment as a residence by reasonable and normal persons." The defendant is thus left to ascertain for himself "how near he may with safety drive to the edge of the precipice, and whether it be not better for him to keep as far from it as possible" [Charles E. Hires Co. v. Consumers' Co., 100 Fed. 809 (1900)]. A preferable view is that an injunction is analogous to a criminal statute and ought to be equally definite and clear in its terms; when practicable it should discriminate carefully between the acts which are lawful for the defendant and those which are unlawful [Collins v. Wayne Iron Works, 227 Pa. 326 (1910)]. An unlearned man should be able to understand it without employing counsel. Flexible decrees may also be framed directing the use of remedial devices with the hope that they will end the injury and at the same time avoid the necessity of closing down the defendant's business until he has had an opportunity for installing and testing such devices. Meanwhile the case can be kept open for further action after the results of experimentation have been ascertained. Unlike a judgment for damages, which is necessarily simple and final, an injunction can contain many qualifications adapted to the facts and can be modified from time to time if changes are made desirable by new evidence or new conditions. This flexibility renders the injunction an ad-

mirable instrument for judicial handling of the complexities of modern life.

Injunctions are applied in a great variety of well settled situations. In connection with the specific performance (*q.v.*) of contracts both mandatory and prohibitory injunctions may be issued. The commonest use is against torts injuring real and personal property and various intangible business rights. A threatened or existing wrong will ordinarily be enjoined if the legal remedy (an action for damages) is inadequate. For instance, the defendant threatens to destroy a grove of oaks, which no money damages could replace. The prevention of "irreparable injury" is sometimes stated to be an indispensable requisite for injunctions, but this is true only if the phrase is understood in a loose sense to include situations where the legal remedy is inadequate for other reasons besides the impossibility of physical replacement. Thus an injunction may be granted when the defendant is insolvent, so that a judgment at law would be worthless; or when the extent of the prospective injury to the plaintiff's business could not be accurately measured by a jury; or when the defendant threatens a long series of wrongs which would lead to a vexatious multiplicity of suits. Likewise in many cases not involving torts the injunction may be used to obtain joinder of causes of action growing out of the same transaction.

Other acts enjoined include breaches of trust, improper foreclosures and judicial sales, the exercise of eminent domain powers before compensation to the owner is paid or secured and (in some states) the enforcement of illegal taxes. Partners can enjoin improper uses of the firm property; stockholders sometimes have a similar remedy against waste of the corporate assets and other wrongful acts by officers and directors; taxpayers can prevent the unlawful expenditure of public money.

The frequent assertion that injunctions will not issue to protect interests of personality, like reputation or freedom from bodily restraints and mental annoyances, rests on no principle of justice. Indeed the injunction is much better adapted than the jury action for damages to deal satisfactorily with some subtle injuries, such as a series of insulting letters persistently sent to a nervous person. Recent courts have been increasingly willing to enjoin wrongs to personality. Each type of such injuries, however, presents special considerations which ought to make a judge cautious in granting relief. For instance, it is doubtful whether an injunction can practically

succeed in terminating the illicit association of a plaintiff's wife or daughter with her paramour. Again, improper expulsions of members of clubs, churches and other associations injure the member's personal enjoyment and standing in the community; but indiscriminate judicial interference by injunction or mandamus (*q.v.*) with the internal affairs of these associations may cause objectionable results.

The desirability of the injunction for dealing with numerous civil wrongs is generally recognized, but serious doubts have been aroused by its rapidly extending use in the United States for two other purposes—checking activities which might be prosecuted criminally and upsetting administrative orders and decisions.

Since the 1890's the injunction has been increasingly employed in the United States as a substitute for criminal proceedings. The situation recalls the Wars of the Roses, when criminals were brought to justice in Chancery because the law courts were helpless to cope with the widespread disorders of the time and judges and juries were cowed or corrupted by powerful offenders. But since 1500 crimes as such have had to be established in the criminal courts, where the accused has a right to trial by jury. However, additional factors of an equitable nature might bring some criminal acts within the scope of injunctive relief. For example, a threatened criminal act might also be a private wrong which would cause irreparable injury to property; then the owner could enjoin the act regardless of its criminal aspects. This principle, occasionally used for centuries, has become very important within the last few decades, because upon it rests the frequent issue of labor injunctions (*q.v.*).

Another long established principle allowed the attorney general or other official to enjoin as well as prosecute public nuisances, like a highway obstruction, a chemical factory spreading poisonous fumes and other structures which constituted a source of continuing injury to the public health and convenience. This power has likewise been much enlarged of late through legislation or judicial decisions bringing many additional crimes under the head of public nuisances. Prosecutors have used the injunction to break up prize fights, gambling dens, red light districts and illegal saloons. The Volstead Act and other statutes against liquor selling authorize "padlock injunctions." Many vice and liquor laws allow these injunctions to be obtained by a group of neighboring taxpayers when the district at-

torney takes no action because he is too busy or lazy or he is too tolerant or friendly to the lawbreakers.

How far can criminal acts be removed from the constitutional guaranty of a jury trial by the simple process of labeling them public nuisances? Conservative judges and writers would limit the extension to crimes which roughly resemble the older types of such nuisances and they insist that the so-called nuisance must possess a local habitation of some permanence, from which disorders and public annoyances radiate and which can serve as the focus of the attack by the injunction. A more radical view dispenses with these requisites and allows the public prosecutor to enjoin unlocalized groups of persons from continuing alleged illegal activities, such as large strikes or criminal syndicalism. An occasional syndicalism statute, as in New Hampshire, expressly authorizes such injunctions; but Kansas and California judges have endeavored to break up the Industrial Workers of the World by blanket injunctions without any legislative sanction other than the statutory creation of this new crime.

This resort by public officials to the injunction to stop illegal establishments and revolutionary organizations is defended on several grounds. Public safety is then much more surely and rapidly maintained than by criminal proceedings. The police will not arrest for some of these offenses, and juries will not convict. In any case a jury trial means delay, and the grand jury where still required adds another burden. In a criminal trial the defendant's guilt must be proved beyond a reasonable doubt, while a padlock injunction or a jail sentence for contempt can be obtained on a bare preponderance of the evidence. Furthermore a prosecution cannot be brought until a crime has been committed, while an injunction can often forestall the offense and thus prevent any injury to the public. Finally, an injunction is sometimes more humane to defendants. If successfully prosecuted they will be punished for acts which perhaps they thought legal, whereas an injunction gets rid of the objectionable establishment without punishing individuals, so long as they obey the court order. An injunction tells the defendant exactly what he must not do and so serves as a much fairer warning than a general criminal statute, which men sometimes disobey without knowing it. This partial absence of the punitive element avoids the vindictive atmosphere surrounding a criminal trial and makes it easier to obtain a de-

cision in the state's favor. In short, injunctions are much more efficient than prosecutions.

These frequent public injunctions, however, against acts which were formerly prosecuted criminally raise grave objections. The accused is deprived of trial by jury and of all the normal safeguards of the criminal law. Even if the defendants are in fact lawbreakers, the community may gain less from the increased efficiency of the injunction than it loses from the resentment caused. The responsibility in criminal prosecutions is shared by the jury, but in these injunction suits it falls entirely upon the judge. The turning of equity judges into superpolicemen creates the risk of arousing a hostility which may eventually lead to drastic restrictions upon their powers, even over matters where equitable relief is badly needed for the accomplishment of justice. The breakdown of the criminal law in the United States is the real reason for the increasing use of the injunction against criminal activities. It would certainly be better to reorganize the administration of criminal justice than to continue to rely upon this substitute.

The injunction is also much used in the United States against the administrative acts of public officials, such as the collection of taxes, the regulation of business and the fixing of rates by public utility commissions. This injunctive relief is especially important when the constitutionality of the statutes under which the officials are acting is questioned. Although the plaintiff must allege the existence of some normal ground for equitable jurisdiction, such as multiplicity of suits or the probability of irreparable injury, the courts do not scrutinize these grounds closely. The real purpose of the injunction is to obtain a judicial review of the administrative order; and in some jurisdictions—for instance, the federal courts—it has become the regular method of accomplishing this result, which may be attained elsewhere by an entirely different procedure, like *certiorari* in New York. The injunction has the advantage of raising questions of the validity of administrative action at an early date, but it is absurd for one branch of the government to be trying to do something while another branch is exerting itself to prevent it. The process is like putting on the brake while the accelerator is pressed down. Additional objections arise when lower federal courts block state administrative bodies by this summary method, which although desired by plaintiffs may not be the wisest way of adjusting delicate conflicts between different parts of the federal system. Because of the readi-

ness with which single United States judges enjoined orders of the Interstate Commerce Commission or state commissions on constitutional grounds, a series of acts of Congress required three federal judges to participate in such action and imposed other restrictions (U. S. Code, tit. 28, sects. 47, 380). Perhaps a more straightforward method than the injunction for the judicial review of administrative decisions would be desirable in both state and federal courts.

The modern law of continental Europe has no precise counterpart to the injunction. Its work is performed by several different remedies. Unlawful acts are prevented by administrative orders and police action more than in the United States. The civil tribunals, which recognize no distinction between law and equity, enforce their judgments whenever possible by execution *in natura*, by which through the aid of officers comparable to sheriffs the plaintiff gets the very thing to which he is legally entitled instead of a money substitute, as in Anglo-American actions at law. A similar remedy in Anglo-American courts would often render injunctions needless. Interlocutory relief is less common than in Anglo-American law but can be obtained through attachment and other forms of summary procedure when speed is necessary. Since administrative decisions cannot be reviewed in the civil courts but only in administrative courts, anything resembling the injunction against official acts is naturally impossible.

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See: EQUITY; LABOR INJUNCTION; WRITS, LEGAL; CONTEMPT OF COURT; JURY SYSTEM; CRIMINAL LAW; PROCEDURE, LEGAL; DAMAGES; SPECIFIC PERFORMANCE; NUISANCES; MANIPIAMUS.

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INLAND WATERWAYS. See WATERWAYS, INLAND.

INNOCENT III (Lothar dei Conti) (1161-1216), pope from 1198. Innocent's activities as pope were largely concerned with the two problems of reviving and propagating the orthodox faith and firmly establishing the political power of the papacy. In connection with the first, his pontificate is famous for the Albigensian crusade, which he finally launched in 1207 as a last resort to extinguish that heresy; and for the fourth crusade to the East, which, after he had failed to divert it from Zara and Constantinople, brought him the glory as well as the responsibility of establishing the Latin rite in the western portion of the Eastern Empire. His management of the second problem marks one of the high points of papal influence over secular powers. The death of the Holy Roman emperor Henry VI in 1197 and the reaction against Henry's lieutenants in Italy allowed Innocent to assume shortly after his elevation a commanding position both in Germany, where the recognition of the future emperor depended upon his support, and in southern Italy and Sicily, where Henry's wife, Constance, became his vassal in order to secure protection for her son, the future Frederick II. In the matter of the vacant empire Innocent decided for reasons ultimately dictated by fear of the Hohenstaufens to support the Guelf candidate, Otto IV, against the two Hohenstaufens Philip of Swabia and Frederick. The reasons for his

decision he gave in his famous *Deliberatio* upon the courses open to him. In so intervening he provided the first legal basis for the papal right to confirm imperial elections, founding this right on the original transference of the empire by the papacy from the Greeks to the Germans. At the same time the eviction of the German governors from central Italy and Otto's oath never to unite central Italy with Sicily enabled Innocent to extend the Papal States to their widest boundaries. After 1204 he was complete master of Rome. He exercised feudal sovereignty over Portugal, over Aragon and, after he had broken down John's opposition, over England. He attached the Bulgaro-Wallachian kingdom to the Holy See. He intervened drastically in the affairs of the Scandinavian kingdom to support the local church reformers against King Sverre. With Philip Augustus of France he was never fully successful. In the face of the pope's exhortations and fulminations Philip refused for years to enter into conjugal relations with his lawful wife, Ingeborg. His great triumph came when the perfidy of the Guelph Otto IV forced Innocent to admit the correctness of Philip's view that Guelph domination in Germany was dangerous. Innocent had to excommunicate Otto and to secure his deposition by the princes and the election of the young Frederick as emperor. To end the trouble he had to organize Europe against the party which he had originally supported and to form a coalition with the Hohenstaufens and the French, which defeated Otto and his ally, King John, at Bouvines in 1214.

In the realm of political ideas Innocent III with his high yet cautious claims stands midway between Gregory VII and Boniface VIII. Christendom, he maintained, was not only a moral unity but a visible, concrete world state under clerical guidance; although it was governed by territorial rulers, yet each part and the whole must recognize the supremacy of the Roman See and the plenitude of power held by Peter's successor, the representative of Christ. But when he came to intervene in temporal matters Innocent cautiously limited himself to moral issues. He declared that he had no intention to pass judgment in matters of feudal custom (*judicare de feudo*) but only to decide cases of moral guilt (*decernere de peccato*), since it was his duty to snatch every Christian soul from mortal sin. His views on the relations between the civil and religious powers he further expressed in his decretal letter *Per venerabilem*, addressed to the count of Montpellier. No mediaeval pope has

had so strong a sense of responsibility for the moral welfare of Christendom. As a canonist he is of vital importance for his definition and classification of existing rules. His court formed a school of instruction for Christendom. In matters of detail his chief concern was for the purity of elections; for the integrity, discipline and educational standards of the clergy; for the conservation of church property; and for the unity of the faith on the basis of a dogma at once flexible and cautious. These matters were definitely provided for by the Lateran Council of 1215. As an administrator Innocent made important contributions to the organization of the papal chancery and to the development of the cursus. He also laid down rules for the detection of forgery. His pontificate saw a prodigious increase of the judicial and administrative business that came to the Holy See. He maintained touch with the various parts of Christendom through the system of legates so largely employed by Gregory VII. In contrast with the latter pontiff Innocent ranks as a diplomat and a business man rather than as a saint. But like the greatest administrators he never set the means before the goal. The assertion of the plenitude of power was for him an avenue to the salvation of souls—an end with which, as his letters and sermons show, he was constantly preoccupied.

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INNOVATION. The changes or novelties of rites, techniques, customs, manners and mores which constitute innovation are usually thought

as purposive. The actualities of the social process, however, do not validate this connotation. The attribution of intent is always retrospective. But the causes of innovation are too complex to be covered by merely personal intent. In so far as human existence is a process and not sheer repetition, the rise, the forms, the life cycles and the influence of innovations are the vital theme of history and the social sciences. Innovation includes in its range the transformations in food, clothing, shelter, defense against enemies and disease, tools and technologies of production and consumption, forms of play and sport, rituals and liturgies of religion, precedents of law, inventions in science and thought, styles and attitudes in literature and the arts. Every social institution is a field of innovation, no matter how conservative its intent and how standardized its techniques and procedures. The limit to innovation comes only at the point where the identity of an establishment itself is menaced.

Within this limit innovations may be numerous and rapid: the very individuality of the institution may consist in them. This is the case among the various divisions of science. The essential of each of these is the process of deliberate innovation which goes by the name of scientific method. Scientific method is simply another name for the gathering, testing and applying of innovations. How these innovations are reached is indifferent. Every innovation involves a certain contingency, a dimension of chance and luck; every innovation also begins as focal to some particular individual or very small group. Once a "scientific" mind has become aware of it, it is developed formally and tested experimentally, given its chance to succeed or fail. The work of breeders of animals, legumes, fruits; the invention and elaboration of machines; the transformations of the art of medicine in the last fifty years, in so far as these have anything deliberate in them, all rest on the presumption and use of scientific method. This is postulated wherever innovation is both deliberate and follows the gradients of social change. Where innovation is incongruous with those it must either struggle for its survival, establishing itself by means of a process of give and take with its environment, or be imposed by *force majeure*, as when after a revolution or a war the victor imposes upon the defeated a new way of doing or thinking.

Innovation may be slow or rapid, manifold or simple, but it is irreluctable. In a sense the mere lapse of time is innovating. Aging takes place in institutions and societies no less than in woods

and wines. This autogenous transformation through invariant repetition seems, however, never to occur in isolation. It is crossed and modified by other processes which add novelties a priori. Such are inventions, wars, crises and catastrophes, migrations, exhaustion of materials, exhaustion of interest (i.e. boredom). Boredom is a psychic force of innovation which deserves more attention than it has received. The revulsion which it generates and the subsequent searching and seeking are no small part of the dynamics of fashion, gaming, sport, crusades, exploration, scientific investigations and the like. All these involve contacts with changing environments, natural and human, osmosis or more violent impacts of cultures and consequent innovations.

The optimal conditions for innovation are a certain flexibility and readiness in the organic pattern of a society itself. These develop as a rule more easily in new societies, where a fresh start is being made; they develop also during a crisis such as a war, a profound business depression, a natural catastrophe or a revolution. At such times playing upon a ground of fear and uncertainty there is a feeling of the significance of the social adventure. Novelties are invited, projected and perhaps installed and domesticated; experiments are made and change may become a standard of public policy. Such was the case in Athens from the Persian wars through the Peloponnesian War and in the United States while the frontier lasted; it is now the case in Soviet Russia. Where custom coheres too firmly and authority is unshaken, the situation is reversed. In primitive societies the new way must be assimilated to the ways of the fathers before it can be accepted. Theocracies require that it shall confirm before it can be confirmed by the divine authority which they wield. Military or bureaucratic establishments reject it if it does not conform to the customary patterns and rituals of conduct. So does the institution of the law. In all these cases the variant is seen as a disorderly interruption of set routine and therefore a priori a heresy, a sedition and a danger. If its import is acknowledged and it is adopted it is usually denatured of all qualities inharmonious with the established procedure. Apparently only a crisis, the feeling of danger at hand, can transform this habitual inertia into a readiness to try new tools and ways. Thus the range and degree of international co-operation between the Allies during the World War, especially during 1917-18, have never been reached since and are being denounced in

peace by the very innovators who developed this cooperation during the war. Now in 1932 the whole world suffers because of the absence of this cooperation, which inherently would be far more competent in peace than in war. But now that the war crisis is over, the "elder statesmen" have relapsed into the elder ways. The peace crisis is insufficient to raise them out; and international cooperation, which goes inevitably with the diffusion of the industrial economy, is being held back by traditionalists in power anxious about the status quo of their rights and privileges. Should the crisis become profound enough, the innovation will be sped and facilitated.

Innovators are not necessarily rebels and the temper of innovation is not by any means the temper of revolt. Novelties, spontaneous deviations of the same energy, continually pour from the main stream of custom and convention. Thus the industrial revolution in England, the growth and diffusion of the factory system in the United States, in Germany and in Japan, took place mainly in the context of the old mores and on the initiative and by the effort of persons who were on the whole champions of those mores. Now the mores are being transformed and displaced by what they allowed. Again, the impact of photography and the theory of color vision on the painter's art constituted a fecundation of method and a diversion of ideals. The impressionists began by affirming the novelty and were forced into a defensive denying of the tradition. So-called modern movements are innovations only because of reaction against the innovation which photography itself represented. The intent of the post-impressionist schools was conservative; their achievements were innovations.

Nevertheless, innovators are forced into a combative position. For their novelties enter a social organization most of whose establishments are going concerns, and enter as competitors and deprecators of one or another. If they succeed in establishing themselves they become embodied in the organic flow of the mores. They cause that flow to deviate to a slightly different gradient definable by what they represent. This is what the city life of the Renaissance did to Christian society in Europe, what the fusion of the scientific with the technological attitude did to the eighteenth century mind and what the industrial system is doing to contemporary civilization. Of course there are programs of innovation whose dynamic is a reaction against the established order. Such programs sometimes function as

precipitates of deep lying emotions which are not disturbing enough to change the social order but do nourish a formulated opposition to it. The opposition becomes organized into cults and movements whose rituals and programs then identify it as a sort of antibody in the social organism. So Methodism grew to maturity in the Episcopal milieu of England. The single tax movement in the United States is such a development, and such also are cults of diet (like vegetarianism), of dress (like nudism), of health and of other goods of life. They arise as variants and survive as orderly antagonists within the nexus of the social process.

Since all innovations animate readjustments in the distribution and organization of social forces they automatically evoke the antagonism of those who are disturbed. If the antagonism is pervasive and deep, the innovation perforce lapses. If, however, it satisfies a want or nullifies an annoyance, however illusorily, it gathers a following. If the following comes from any top stratum of the community, from the prestige carriers, the innovation may win a great deal of superficial favor without modifying the basic social processes. It may become fashionable, like Christmas trees among Jews; like the consumption of yeast, liver, tomato juice and other dietary nostrums; like the recession of the corset and the spread of nudism; like the cult of patriotism and militarism among women claiming descent from revolutionary fathers. The scope and duration of the fashion vary with the amount of effort that the adoption of the novelty is likely to cost; the effort must not be very great in any event. If the innovation is relevant to deep lying discontents or to feelings of insecurity, then it may change the direction of an institutional process and break the fashionable cycle altogether. Thus emulative realization of western attitudes and standards has the effect of displacing *hara-kiri* as a social procedure in Japan and face saving suicide in China; it has unveiled the women of Turkey and unbound Chinese ladies' feet; it has created the nationalisms of the Asiatic peoples and is profoundly transforming the pattern and goal of their civilizations.

Innovations are mostly resisted out of motives of self-interest and fear. The new is quite usually synonymous with the unreasonable, the dangerous, the impossible. As William James pointed out long ago, rationality is a sentiment in which the feeling of familiarity is fused with that of congruity with our fundamental hopes and desires. Sometimes mere familiarity may become

identical with this congruity. Thus people resist changing their dietary habits in spite of the fact that this change is required by health, the social setting or religion; there are freethinking Jews who get indigestion at the very thought of pork and "liberated" Hindus who are upset by the idea of meat. Between love of food and love of God or country the difference is in degree, not in kind. All involve clinging to the habitual, familiar and secure. When that is felt to be menaced, the opposition to innovation becomes fanatical, as may be observed in the attitude of so-called patriotic societies in the United States toward "socialism" and "Bolshevism." One of the most curious of phenomena is met when the proponents of an innovation that has reached the point of toleration turn upon those who propose a more extreme innovation in the same direction, as is often the case with the socialists and the communists. All these attitudes rest fundamentally on a sentiment combining fear and insecurity. But they become rationalized as "loyalty to the principles of the fathers," "rugged individualism," "you can't change human nature," and the rationalizations are elaborated into philosophic systems demonstrating the foregone conclusion. Such are the various philosophies of racial supremacy, cultural superiority and the like. Where innovations have finally established themselves and compel recognition they are assimilated to the old order or the old order is assimilated to them by means of some formula. Thus in the United States "trusts" were feared at their origin and laws were passed to constrain them. But they developed into the dominant controls of the economic process; the established order has to count with them and acquiesce in them. The Supreme Court of the United States celebrated this necessity by the well known decision concerning "the rule of reason" [*Standard Oil Co. v. United States*, 221 U. S. 1 (1911)], which has resulted in the virtual nullification of the original intent to control the trusts rigorously.

In the light of the foregoing the social position of an innovator is determined, other things being equal, by the success of his innovation. Persons like Edison, Einstein and Marconi have by no means entirely overcome the resistance to their respective innovations. But they are honored at home and abroad. If Jesus of Nazareth can be called an innovator, the same thing holds of Him. For His status in Europe changed with the coming to economic and political power of the priests of His cult. The same thing is true of Lenin both

in Russia and abroad and would be of Henry George if his program could be imposed at least as those of Christ and Lenin have been. If, however, an innovation fails to establish itself, its projector may be thrown into jail, like Roger Bacon, or live a despised outcast all his days. Social position for the innovator, as for everybody else, is a function of proved and acknowledged power.

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See: INVENTION; CHANGE, SOCIAL; SOCIAL PROCESS; PROGRESS; CONSERVATISM; TRADITION; CONVENTIONS, SOCIAL; CUSTOM; FASHION; FICTIONS.

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INQUISITION. The Inquisition was the office of the mediaeval church for inquiry into heresy, which was commonly interpreted as obstinate adherence to opinions arbitrarily chosen: in defiance of accepted ecclesiastical teaching and interpretation. It was an office not primarily of punishment but of examination and of instruction, and it attempted to secure the abjuration of their errors by the heretics whom it discovered. To a logical churchman of the time it represented the natural and merciful method of preventing the spread of doctrines which endangered the souls of all who heard as well as of all who communicated them.

In the eleventh and twelfth centuries popular frenzy against those who professed unorthodox opinions resulted in indiscriminate burnings of the suspected; their protection as well as their proper examination became necessary. In the absence of clear understandings as to the respective parts which the secular and ecclesiastical



authorities might play in the punishment of heretics the arrangements prevalent throughout Christendom were often the result of local agreements between the bishops and the king. In 1184 Lucius III and Frederick Barbarossa had arranged that the bishops should make the inquiry for heresies and excommunicate the heretics and that the secular arm should enforce the imperial ban of exile and undertake the destruction of suspected houses.

Decrees such as these were only spasmodically carried out, for as Catharism grew the problem became too general to be solved along local lines. The initial failure of Innocent III to convince the Albigensians by means of special missionaries, together with the crusade which in consequence he felt bound to undertake, made it clear that some more permanent prophylaxis was needed. This the normal canonical method of diocesan inquiry through the bishop was not strong enough to provide, since the bishop was a man of many duties and the task of discovering and examining heresy demanded both expert theological knowledge and an organized system of delation through trustworthy informers. The latter was to a certain extent constructed by the decrees of the Council of Verona, 1184, which directed that bishops in making periodical circuits of the dioceses for inquiries into heresy should compel trustworthy persons to denounce those who were *diffamati* for not living as good Catholics. The problem was how to secure the regular and effective body of witness of error, and for this task the ordinary church courts were just as inadequate as the special delegates sent by the papacy into disaffected areas.

Gregory IX organized these spasmodic efforts into a regular system. Permanent judges delegate were instituted to cooperate with the bishops in their inquiries. They were given power in 1233 to take action without appeal against all suspected persons and to call upon the secular arm to aid in their capture. The personnel of these judges came to be selected from the two mendicant orders. The preaching friars, or Dominicans, through the location of their early settlements and the personal character of their founder took the leading place in the new organization, but they divided their duties on a geographical basis with the Franciscans. Scandinavia was exempt from their activities and England, as will be shown, had no inquisitors other than the archbishops and their suffragans. Portugal did not receive the system till 1531.

The most threatening fourteenth century her-

esies prior to the spread of the doctrines of Wycliffe and Huss were the remains of Catharism in the south of France and the theories of the Waldensians, Beguines and pseudo-Apostles in northern Italy. In addition, the church was called upon to stamp out sorcery and witchcraft of various kinds and belief, such as that of Joan of Arc, in interior revelation from or communication or understanding with supernatural powers. The later Middle Ages witnessed the growth of heresy in two main directions: doctrines of internal illumination and extreme religious subjectivism, which are frequently the product of mystical enthusiasm; and the kindred notions, that of the absolute poverty of Christ—associated with the "spiritual" Franciscans—and that of clerical possessions as depending for their justification on the personal goodness of the possessor. The latter notion was the application to the clergy, particularly the religious orders, of Wycliffe's doctrine that lordship is founded upon grace. To this the English Lollards and a large section of the unorthodox Bohemians added erroneous opinions on the sacrament of the Eucharist. But although sacramental heresy was serious it was not so dangerous as a false ecclesiology, the main error which the later mediæval church had to combat.

The method of procedure for inquisitors has been described by the Dominican Bernard Gui in the fifth part of his *Practica inquisitionis hereticæ pravitatis*, written in the early fourteenth century. The citation of the suspected person was made in his own house through the parish priest in the presence of witnesses and again on a Sunday or in certain cases on three consecutive Sundays or festivals. If the suspected person did not come within a year, the citation having been repeated, he was pronounced excommunicate. The alternative method of citation was the more stringent one of summary capture upon clerical request by the secular power. The inquisitor then interrogated the prisoner in the presence of two religious and a notary who took minutes of the questions and replies. There was no *libellus* presented as in ordinary canonical procedure. The inquisitor was instructed to make his inquiry simply and directly (*de plano*) and his powers were not subject to the territorial limits laid down in the thirty-seventh canon of the Fourth Lateran Council of 1215. No exemptions or appeals were permitted. Culpability was determined either by the confession of the victim under examination or by the evidence of witnesses, who for this purpose need not necessarily

be persons of unblemished character. Their depositions were communicated to the accused, but their names were kept secret and he was never confronted with them. Generally the inquisitor aimed at securing a personal confession, which might be effected by persuasion, accompanied where necessary by judiciously prolonged detention in prison.

In certain more obstinate cases the confession might be elicited by torture, as sanctioned by the bull *Ad extirpanda* of Innocent IV. The period when torture seems to have been most employed is the fifteenth century in the great campaigns against witchcraft undertaken in southern Germany and in the district of Arras. The bull of Innocent VIII *Summis desiderantes* (1484) shows that a reaction had been taking place in the upper Rhineland against the rigorous method of the inquisitors. In 1522 the humanist J. L. Vives in his edition of the *De civitate Dei*, when commenting upon the ninth book, speaks of the evils of torture, which men preferred to death.

The sentence required the cooperation of the ecclesiastical ordinary and was generally given in an assembly of secular and religious clergy reinforced by lawyers. It could always be revoked or modified except where the accused was left to the secular arm for death by burning; and even here repentance *in extremis*, provided that the accused was prepared to abjure sincerely and denounce his errors and former accomplices, would justify the lay court in returning him to the inquisitor, in which case his punishment would be perpetual imprisonment. The penalty of the stake could not, however, be mitigated in the case of a relapsed heretic, although he was allowed to receive the sacraments of penance and the Eucharist if he was converted at the end.

In the case of others the penalty might be imprisonment either in more or less open confines (*murus largus*) or else in rigorous and solitary imprisonment (*murus strictus*); the wearing of a distinct mark upon the dress to indicate the brand of heresy; or pilgrimages to the greater or smaller shrines of Christendom. In the last case annual visits were often prescribed and the penitent was enjoined to hear mass and sermon in the church which he was compelled to visit and to offer a candle to the celebrating priest, by whom he was solemnly fustigated before proclaiming his offenses aloud to the assembled congregation. In other instances pecuniary penalties were inflicted. In Languedoc severe cases frequently involved confiscation of goods and the destruction of the heretic's dwelling. Of the

property so confiscated part went to the ruler, part to the church. These confiscations constituted one reason why the pursuit of heresy was to the advantage of the state; but in any case the secular authority never scrupled to put the heretic to death. The use of the stake was made general throughout the Germanic empire by Frederick II in 1238; it became customary in France under St. Louis.

Although there was no inquisitor appointed by papal authority in England, the procedure, resting in the first instance in the hands of the bishops, followed not dissimilar lines. The practice as it developed after the papal condemnation of Wycliffe's heresy was that the bishop made inquiries and with the help of the secular arm, if necessary, seized and examined the suspected persons. Abjuration was made in the first instance before the bishop, who prescribed the penalty, frequently that of imprisonment. Particularly bad cases, where the accused persons continued their errors after abjuration or where they were condemned for disseminating Lollard opinions by means of books and writings, might be referred to convocation. About 1400 and thereafter, probably as a result of the determined influence of Archbishop Arundel, all the leading heretics were brought by their diocesans to the provincial synod. According to the procedure governing such cases articles were first "objected" to the defendant and his replies noted; after this there followed an examination conducted by a tribunal consisting of the archbishop and members of each of the mendicant orders representing theological interests and of trained lawyers representing legal interests; at the end there was rehearsal of the points established and an exhortation by the archbishop to the accused person to abjure. In the event of abjuration the penalty was fixed by the archbishop in convocation and generally took the form of a public recantation of error and of imprisonment until the heretic could find sufficient security for his good behavior. In cases of obstinate persistence convocation relinquished the accused to the secular arm. The state bound itself to assist the church in its pursuit of Lollardy both by putting the heretic to death (statute *De heretico comburendo* of 1401) and by cooperating through its local officials in the inquiry for heretics (statute of Leicester, 1414). In a serious case involving a man of high standing, like Sir John Oldcastle, the king himself tried to exercise his influence.

The sinister reputation acquired by the Holy

Office was probably due to the great powers given to the inquisitor, by the subtle distinctions employed in grading the suspected person and by the actual horror of the burnings. But it must be remembered that the inquisitor was frequently assisted by *viri periti*, lawyers who could keep a watch upon proceedings and who would certainly prevent serious injustice being done. Furthermore there is reason to believe that the number of relaxations to the secular arm was not great. The destruction of the suspect was by no means the purpose of the tribunal. The church did not desire the death of the sinner, and the inquisitor's object was to instruct and convince those in error of the truth of its doctrines. Less favorable interpretations derive largely from the rigorous conduct of individual inquisitors, like Conrad of Marburg and Conrad Tors in Germany or Torquemada and Lucero in Spain. In sixteenth century Italy the Inquisition became notorious for the examinations to which it subjected a number of illustrious men of science and letters. By this time, however, its main work in the suppression of heresy was done.

The adaptability of inquisition procedure to political ends was first revealed in the program of Philippe le Bel and his shrewd legist, Guillaume de Nogaret, in fourteenth century France, and later by the popes in their attempts to consolidate their temporal power in Italy. This adaptation was effected most thoroughly in Renaissance Spain, where the Inquisition was organized in close cooperation with the Spanish monarchy as a piece of state machinery, designed to exterminate antimonarchical groups, primarily Jews and Moors, and to establish both in Spain and throughout the Spanish empire in the New World a homogeneous population with a unified nationalistic outlook. The fact that these methods tended to contribute instead to the subsequent decline of Spanish enterprise may be attributed in part to the extreme severity with which they were applied at home and in the colonies.

E. F. JACOB

See: CHRISTIANITY; APOSTASY AND HERESY; INTOLERANCE; PERSECUTION; EXCOMMUNICATION; PILGRIM-

*Consult:* Gui, Bernard, *Practica inquisitionis hereticae pravitatis*, ed. by C. Douais (Paris 1886), pt. v ed. with a French translation by G. Mollat and G. Drioux as *Manuel de l'inquisiteur*, 2 vols. (Paris 1926-27); Lea, H. C., *A History of the Inquisition of the Middle Ages*, 3 vols. (New York 1887-88), *A History of the Inquisition of Spain*, 4 vols. (New York 1906-07), and *A History of the Inquisition in the Spanish Depend-*

*encies* (New York 1908); *Corpus documentorum inquisitionis hereticae pravitatis neerlandicae*, ed. by P. Frédéricq, 5 vols. (Ghent 1889-1906); Tanon, L., *Histoire des tribunaux de l'inquisition en France* (Paris 1893); Hansen, J., *Zauberverbren, Inquisition und Hexenprozess im Mittelalter* (Munich 1900); Langlois, C. V., "L'inquisition" in *Grand revue*, vol. iii (1901) 573-91, and vol. iv (1901) 68-89 and 428-54; Douais, C., *L'inquisition: ses origines, sa procédure* (Paris 1901); Schmidt, Richard, *Königsrecht, Kirchenrecht und Stadtrecht beim Aufbau des Inquisitionsprozesses* (Munich 1915); Guiraud, Jean, *L'inquisition médiévale* (Paris 1928), tr. by E. C. Messenger (London 1929); Coulton, G. G., *The Inquisition* (New York 1929); Verrill, A. H., *The Inquisition* (London 1931).

## INSANITY

CRIMINAL LAW. In criminal cases the problem of insanity must be considered in three respects: first, as to the capacity of an accused person to be tried; second, as to the sanity of an accused person at the time of his offense; third, as to the procedure following acquittal on the ground of insanity.

The legal problem of insanity before or during trial does not involve the issue of responsibility or irresponsibility, which is based on the condition of the accused at the time of the offense, but so-called present insanity, i.e. mental incapacity for trial. Under early English law as in modern Anglo-American a man who becomes insane before arraignment or during trial is not obliged to plead to the offense or to stand trial provided he meets certain criteria, such as that he has not such "mind and discretion" as would enable him to appreciate the charge against him and the proceedings thereon or that he is not sane enough to recall the events of his life and to present to counsel the facts which ought to be stated to the jury. At common law the question of capacity to be tried was customarily settled by a separate jury, occasionally by personal inspection by the judge. Today the method for determining the condition of the accused before or after indictment or during trial varies. In some American states the court has discretion as to the means of inquiry, in others lunacy proceedings in chancery must be instituted; in some a jury trial is necessary, in others there is inquiry by two or more qualified physicians or by a commission of doctors and lawyers.

The chief weaknesses of these provisions are that since the initiation of the proceedings is left to persons untrained in psychiatry it becomes largely a matter of chance whether the defendant will be examined mentally before or during trial, unless his symptoms are striking, and that when an examination does take place it is not

always made by skilled experts. In Massachusetts under a unique provision of a law of 1921 (as variously amended in minor details) this situation has been remedied. A psychiatric examination by experts of the Department of Mental Diseases is a routine provision for all persons indicted for a felony who have been previously convicted of a felony or indicted for any other offense more than once. The objects of the examination are to determine the mental condition of the accused at the time of the examination and "the existence of any mental disease or defect which would affect . . . criminal responsibility." The report of such examination is not admissible as evidence in a case that goes to trial, and each side may still call its own experts; but in practise the neutral nature of the examination is relied upon to a considerable extent by courts, prosecutors and defense counsel, and "battles of experts," which so often mar the procedure in other jurisdictions, have in Massachusetts become practically unknown.

The most important aspect of the law of criminal insanity relates to the conditions under which the mentally ill are exempt from criminal responsibility. Some attempts to define these conditions were made as far back as the time of the Roman law as a result of the influence of the Greek physicians. A rescript cited in the Digest of Justinian (*Dig.* 1, 18, 14) dealt with the problem. The rescript states that the insane are irresponsible because they have been punished enough through their infirmity, that persons who are mentally ill may have "lucid intervals," that lack of knowledge of what one is doing may be a criterion of irresponsible insanity. Even the Germanic law sources of the Middle Ages, as is apparent from the various mirrors, town laws and customs, recognized the criminal irresponsibility of the insane. The Romanistic writers re-introduced the idea of the lucid interval, but Farinacius states that the majority of them indulged a presumption that the offense was committed during the ordinary state of insanity.

Among English legal commentators Bracton, Fitzherbert, Staunderforde, Coke, Hale and Hawkins attempted in various ways to evolve precise tests of irresponsibility. These, however, hardly amount to more than scraps of opinion. The Roman influence is particularly marked in Bracton. In *Rex v. Arnold* (16 How. St. Tr., 695), decided in 1724, a remark of Bracton's that an insane person is *non multum distat a brutis* turned up as the "wild beast test"; in Hadfield's Case (27 How. St. Tr., 1281), decided in 1800,

the brilliant advocate Erskine disposed of the views of Coke and Hale in insisting that "delusion, where there is no frenzy or raving madness, is the true character of insanity."

The modern English law rests upon the famous M'Naghten Case (10 Clark & Fin., 200), decided in 1843, in which the rules of responsibility were crystallized in the well known answers of the judges of England to certain questions propounded by the House of Lords as the result of an unpopular acquittal of M'Naghten, a paranoiac who killed Sir Robert Peel's secretary. The judges said that "to establish a defence on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong." This simple sounding "test" has in practise led to great confusion and difficulty of application; almost every phrase in the classic judicial utterance has been subjected to criticism from both a legal and a psychiatric point of view. The same is true of the further opinion of the judges in this case that a person who suffered from delusion might be liable to punishment if he knew that he was acting contrary to law.

Most American courts refuse to consider any criterion of the irresponsibility of the insane other than some local variation of the "nature-and-quality" or "right-and-wrong" test. In a number of jurisdictions, however, under the influence of both legal theory and medical attacks it has been held that irresponsibility may under certain conditions result from the presence of an "insane, irresistible impulse" even though knowledge of the nature and quality and wrongfulness of an act exists. The tests have been further complicated by the introduction in some American decisions of the element of delusion and its effect upon responsibility. The New Hampshire law expresses the doctrine that the question of irresponsibility by reason of insanity is altogether one of fact for the jury, since there is in truth no particular legal test which they must observe. Reviewing all the "symptoms, phases, or manifestations, of mental disease as legal tests of capacity to entertain a criminal intent," Judge Ladd in a well known case [*State v. Jones*, 50 N. H., 369, 398, 399 (1871)] concluded that "they are all clearly matters of evidence, to be weighed by the jury . . ."

In criticizing the tests of insanity it must be remembered that it has never been held that the mere existence of mental disease or defect in itself constitutes an exemption from criminal responsibility. One reason for this view is, as Kenny has said, that "lunatics are usually capable of being influenced by ordinary motives, such as the prospect of punishment; hence they usually plan their crimes with care, and take means to avoid detection" (*Outlines of Criminal Law*, p. 52). Nevertheless, a historical review of the subject indicates that the tests themselves, while remaining unchanged theoretically, have in practise gradually undergone modification not only to meet changing attitudes toward the objectives of punishment but to take account of refinements in medical knowledge.

The standard tests today proceed more or less upon the following assumptions, which are from the viewpoint of psychiatry questionable; first, that lack of knowledge of the "nature or quality" of an act (assuming the meaning of such terms to be clearly defined in the minds of jurists and in judicial opinions), or incapacity to know right from wrong, is the sole or even the most important symptom of mental disorder; second, that such knowledge is the sole instigator and guide of conduct or at least the most important element therein and consequently should be the only criterion of responsibility when insanity is involved; and, third, that the capacity of knowing right from wrong can be completely intact and functioning perfectly even though a defendant is otherwise demonstrably of disordered mind.

The irresistible impulse test supplies in a measure the deficiencies of the knowledge tests; for it takes into account disturbances in the volitional inhibitory mode of mental life. It recognizes that although the disorder in the cognitive sphere may not be such as to prevent a defendant from having had some conception of the difference between right and wrong, he may nevertheless have been suffering from a deep seated mental disturbance which markedly affected his conduct. Emphasis of delusion as a test may be criticized in that it represents a singling out of but one symptom from a general disease pattern in the delusional mental disorders, a symptom which is not necessarily more important than the others.

All three concepts—knowledge, irresistible impulse and delusion—are subject to criticism as tests of irresponsibility because their employment neglects the fundamental theory of the

interdependence and interrelationship of mental processes; a disturbance in the cognitive, volitional or emotional sphere can hardly occur without affecting the personality as a whole and the conduct that flows from the personality. It could readily be shown that these outworn presuppositions may work injustice to offenders of various types of mental disorder, particularly those suffering from pronounced psychoneuroses, in whom unconscious motivation of conduct is believed to play a predominant role.

Several attempts have been made to remedy the situation. A distinguished legal and medical committee of the American Institute of Criminal Law and Criminology recommended in 1913 a test that was not really a test at all, for it was to the effect that no one should be held liable for a criminal act if his state of mind was such that he could not have had the necessary criminal intent—a proposition that is not of much practical value to a judge in charging a jury. A better attempt to overcome the dilemmas inherent in existing tests of irresponsibility was the earlier proposal of a committee of the New York State Bar Association, which in 1910 moved to abolish insanity as a defense to a charge of crime. This endeavor to eliminate the technicalities of the tests of irresponsibility at one stroke was accompanied by a provision that the court, if it believed the prisoner was insane or mentally defective at the time of the offense, might have an inquiry made and as the result thereof either impose the regular penalty or sentence him to confinement in an asylum for a term of years or life. Thus the effort was made to have the question of mental disorder considered, as certain criminologists feel it should be, not as a matter for the jury in its deliberations as to guilt or innocence but as a matter for the court aided by impartial experts in its deliberations as to sentence; this was essentially the principle behind a Washington statute which, not without room for doubt, was declared unconstitutional in *Strasburg v. State* [60 Washington, 106 (1910)] and a somewhat similar provision more recently invalidated in *Mississippi* [*Sinclair v. State*, 132 So., 581 (1931)].

While not much progress has been made with tests of insanity, it must be remembered that the consequences of conviction or acquittal on the ground of irresponsibility have in recent years been considerably modified in many jurisdictions. On the one hand, conviction today is not always or even often followed by the death penalty; on the other hand, acquittal frequently re-

sults in the defendant's commitment to a hospital for mental diseases instead of his release.

In the earliest English law insanity seems not to have operated as an acquittal, at least in murder, but to have resulted in a special verdict entitling the accused to a pardon. Subsequently in England and in a number of American jurisdictions if the accused was found irresponsible because of insanity he was not only acquitted but apparently no special order looking to his safety or to that of society was made. Under the English Criminal Lunatics Act of 1800 such a defendant was detained "during his Majesty's pleasure." In 1883 the Trial of Lunatics Act provided that upon an acquittal on the ground of insanity the jury should return a special verdict of "guilty, but insane," under which the acquitted person could be legally controlled by the home secretary. Under the Criminal Appeal Act of 1907 the Court of Criminal Appeal was empowered to quash the sentence of an appellant found guilty who was, however, in its opinion insane and to order the appellant to be confined as a "lunatic," as if a special verdict had been found under the 1883 act. The defendant is not released until the home secretary so decides.

In America practise varies. In one group of states the jury that acquits the defendant because of insane irresponsibility must state in one way or another whether it regards him as still insane; in other jurisdictions the jury must state whether it finds the defendant to be still dangerous; in several states the mental condition of the defendant at time of acquittal is determined by separate machinery.

The consequences of such findings vary. In a few states if the jury finds the defendant no longer insane or dangerous he is allowed to go free; in others when a jury acquits a person on the ground of insanity the statutes allow the trial court no discretion but to provide for his commitment with or without separate lunacy proceedings; in many states the court may, if it deems such a defendant dangerous, commit him to a hospital; in Massachusetts the court must order a defendant acquitted of murder or manslaughter because of insanity to be committed to a mental hospital "during his natural life."

A frequent remedy for release of persons incarcerated on the ground of irresponsibility is *habeas corpus*. The writ is used for this purpose in about a fourth of the states, while in the remainder special machinery for release is also provided. Whether the hearing on the return of the writ shall be with or without a jury also

varies from state to state; in some this matter is within the judge's discretion, in others within the petitioner's. In various states discharge from the hospital is within the discretion of the superintendent, commissioners of insanity, department of correction, trustees, special commission or a justice of the supreme court. In addition there exist of course the general provisions for commutation and pardon.

In recent years there has been an increasing demand for radical reorganization of the machinery of criminal justice. A plan has been frequently urged sharply to differentiate and specialize the two major processes of criminal justice—ascertainment of guilt and imposition of sentence. The decision as to the sentence, that is, the treatment of the offender found guilty, would in such a scheme be made by a tribunal specially qualified in the interpretation and evaluation of psychiatric, psychologic and sociologic data. The treatment originally imposed would be modifiable from time to time in the light of scientific reports of progress or retrogression of the offender. Certain procedural safeguards would protect him from possible arbitrary action on the part of the tribunal. A completely indeterminate sentence law, or at least one giving the tribunal wide administrative discretion as to the duration of the sentence, is an indispensable adjunct to such a system, as is also a scientifically manned clearing house and laboratory where offenders awaiting sentence would be given thorough observation and study. Finally, for the system to operate efficiently a thorough overhauling of existing treatment practises—probation, various forms of imprisonment, parole—would be necessary and there would have to be continuous experiments with new correctional and educative instruments. The result of this outlined system would be practically to eliminate the need of the cumbersome and unscientific defense of insanity, since the offender would as a matter of routine procedure be assured appropriate treatment regardless of whether or not the defense was resorted to. The clumsy device built up by the law for taking mental pathology into account in the determination of criminal responsibility would gradually become atrophied.

The continental law and practise with regard to criminal insanity are not significantly different from the Anglo-American. According to the German criminal code of 1871, "there is no punishable act, if at the time of its commission the actor was in a state of unconsciousness or of

marked disturbance of the mental faculties which excluded the free determination of his will." The French penal code of 1810 stipulates that "there is neither crime nor offense if the accused was in a state of mental alienation at the time of doing the act, or if he was constrained by a force which he could not resist." Generally the European codes take account of both the cognitive and the volitional elements in behavior and are broad enough to allow the trier of fact considerable scope for introducing "the human element in justice" in cases in which popular sympathy is with the accused. While the continental tests are subject to some of the same criticisms as Anglo-American tests, it should be noticed that the business of securing expert testimony is generally managed more rationally in European courts. Some European codes provide for "partial responsibility" and corresponding mitigation of punishment, but this is not true of the German or the French code. It is doubtless, however, possible for partial responsibility to be taken into account as an "extenuating circumstance." Most European codes also provide for measures of security against a person acquitted on the ground of insanity, but the provisions vary considerably.

SHELDON GLUECK

**CIVIL LAW.** In the civil law as in the criminal law mental incompetency of an individual leads to the extinction or diminution of his legal capacity to act and of his legal responsibility for his acts. The protection given the mentally incompetent in modern systems of law is limited by the protection accorded innocent persons who deal with him, hence the emphasis is placed upon preventive measures such as guardianship. The primitive superstition that the insane person was accursed by the gods or seized by evil spirits left no trace upon Roman private law, which as early as the Twelve Tables designated a familial curator for the *furius*, a lunatic who might or might not have lucid intervals, and an officially appointed guardian for other mental incompetents (*mente capti, insani*). The Roman law system has been adapted in modern European codes to a wider range of mental incompetency. Thus Germany and Switzerland have extended guardianship not only to prodigality, which was recognized in Roman law, but also to dipsomania and mental weakness, and the French civil code authorizes in case of prodigality or mental weakness the appointment of a judicial counselor whose consent is necessary to the

validity of certain types of transactions. A similar expansion of the concept of civil insanity as a ground for the appointment of a guardian has occurred in many Anglo-American jurisdictions, which by statute or judicial construction authorize the appointment of a guardian for a spendthrift, a habitual drunkard or even for a person likely to be imposed upon. Drug addicts are also frequently included. California and England are among the jurisdictions which have apparently gone furthest in this respect, while New York adheres more nearly to the narrower conception of early English law. In the latter system the king's prerogative of acting as guardian of the person and property of the mentally incompetent, however mercenary in its origin, came to be based upon the humanitarian conception that the king was *pater patriae*. To the lord chancellor was delegated at an early date the royal power to appoint guardians, and this function thus became a part of the jurisdiction of the Court of Chancery. In the United States courts of equity jurisdiction, adapting the powers of the English court, have ordinarily taken over this function, although by statute it has sometimes been conferred upon probate courts which have jurisdiction of decedents' estates.

While English and American judicial reports deal with many varieties of mental abnormality, legal tests of sanity do not conform to standards recognized by abnormal psychologists with educational or clinical objectives in view. The law has striven to establish flexible standards of incompetency. To deprive a man of his civil capacity or to relieve him of his civil responsibility to others calls for a more pronounced degree of mental abnormality (to say nothing of differences in type) than is requisite where the decision involves only specialized educational or clinical treatment. Other factors which have tended to maintain a relatively low legal standard of sanity are the emphasis upon freedom of alienation, judicial acceptance of the theory that mental faculties operate independently of one another and trial by jury. The frequency with which decisions of lower courts are reversed on appeal indicates the uncertainty of the legal standard.

Legal proceedings involving a determination of mental incompetency may be grouped into two main classes: preventive and restitutive. In the first group the issue is the competency of the individual for future conduct; in the second it is competency for a particular act already consummated, such as a conveyance, contract, will or

tort. In the former belongs the statutory proceeding to commit an insane person to a public or private institution for treatment and for confinement in the interests of the individual as well as of his relatives and the public. Although it resembles a criminal prosecution it is usually denominated a civil proceeding.

No person may be permanently restrained against his will except by due process of law. The safeguards of ordinary contentious litigation, designed for mentally competent litigants, are here inadequate; hence other safeguards are provided. The class of persons who may petition for commitment is restricted to near relatives or a public official, and in many jurisdictions the petition must be accompanied by the certificates of two qualified physicians. Notice must be given to the person alleged to be insane or to his near relatives, and a hearing is required. While trial by jury is not constitutionally requisite, in some states it may be demanded as of right and in others it is discretionary. Since propensity to do injury is the test in such proceedings, commitment does not preclude a finding that the individual remains competent for business transactions.

The other type of preventive proceeding is the appointment of a guardian (also called a committee, conservator or the like) of the property and person of an insane person. The test of sanity as usually formulated is a person's competency to manage himself or his affairs. The law thus emphasizes the intellectual process rather than the emotional basis of conduct. Yet in some jurisdictions the concept of incompetency is broad enough to include the emotional instability of old age and extreme susceptibility to imposition in business dealings. Lack of ordinary business judgment is not incompetency. The courts have felt that the denial of contractual freedom to a large portion of the adult population would seriously hamper economic intercourse. While guardianship of the person alone is still permissible, the proceeding is seldom resorted to where no property is at stake. The procedural safeguards in proceedings for the appointment of a guardian are much the same as in commitment proceedings, save that a jury trial is more commonly required. Unlike the Roman law, which effaced the juristic personality of an incompetent under guardianship (save during a lucid interval), American law limits the incapacity created by a judicial determination of insanity. The older doctrine that the contracts, conveyances and transactions of an incompetent

under guardianship were absolutely void has been shaken by more recent decisions holding that the appointment of a guardian merely raises a presumption of insanity, which may be rebutted by proving restoration of sanity and practical cessation of the guardianship. Notice of the guardianship is imputed to all persons dealing with the lunatic on the theory that the proceeding is one in rem.

The validity of a contract, conveyance, gift or other transaction may be questioned in a suit or by way of defense by the incompetent or his guardian or after his death by his heirs or representatives to set aside the transaction and obtain restitution of the status quo. Such a suit or defense may be maintained even though no prior adjudication of insanity has taken place. The test of competency is ability to understand the nature and consequences of the particular transaction at the time when it took place. The restitutive adjudication may seriously impair the interests of third parties, and the reported decisions show a tendency to apply a lower standard than would be applied in a guardianship inquisition. The policy of maintaining freedom of alienation excludes in most jurisdictions the mental weakness of old age and delusions on subjects not connected with the particular transaction. Transactions during a lucid interval are upheld, even though the individual has been confined to an asylum or has been suffering from delusions on unrelated subjects. Some courts, however, have set aside transfers of property because motivated by insane delusions, such as delusions of persecution [Riggs v. American Tract Society, 95 N. Y. 503 (1884)], thus shifting the emphasis from the intellectual to the emotional basis.

In most American jurisdictions transactions of insane persons are treated as "voidable" rather than "void." The legal consequences of this doctrine are that restitution of benefits received by the lunatic (or at least of those retained by him) is a prerequisite of his regaining that which he parted with, that innocent purchasers from the donee or the vendee are fully protected, that ratification after restoration to sanity validates the transaction and that the suit to regain land is tried in a juryless equity court. While very few American courts have gone as far as the more recent English decisions in enforcing the transactions of an incompetent in favor of a person who deals directly with him in actual ignorance of the insanity, the requirement of restitution often attains the same result by indirection. The



low standard of competency, excluding mental weakness or old age, is eked out by the Anglo-American doctrine of "undue influence," which permits cancellation of a conveyance or gift by a weak minded person to a domineering relative or confidant who by deception, threat or insistent suggestion knowingly took advantage of the other's weakness. Many of the undue influence cases involve controversies over the effects of senile dementia [McGregor v. Keun, 330 Ill. 106, 161 N. E. 99 (1928)].

Competency to execute a will may be determined in a contest over the probate of the will, in which trial by jury is the rule. The standard of competency is even lower than in transactions *inter vivos* because of the policy of upholding testamentary dispositions, especially where those persons are favored whom the court or jury regards as the natural objects of the testator's bounty. Some courts avowedly test the rationality of the testator partly by reference to the rationality of his testament. The mores of a testator's duties to his relatives thus exert influence under this guise.

An insane person, even one previously adjudicated to be incompetent, is civilly liable for his tortious injuries to the person or property of others. Although English law balks at imposing liability on one who did not understand the nature of his act, American courts award compensation to the injured person, partly in order to induce the lunatic's relatives to confine him and partly in order to discourage simulation. The ancient contention that the lunatic has no will ("Furiosi . . . nulla voluntas est," *Dig.* l. 17, 40) has not sufficed to protect him from liability for some wilful torts, such as assault and battery or defamation (on which authorities are divided), but has precluded liability for malicious prosecution and for punitive damages in any event. An insane person although not bound by his contracts is liable in quasi-contract to pay the reasonable value of necessities furnished him, for without the ability to obtain credit he would be left destitute.

Two standards of mental incompetency have struggled for recognition in the Anglo-American law of marriage. A marriage has been treated as the making of a civil bargain which can be annulled only upon proof that one of the parties was then incapable of understanding the immediate incidents of the relation; hence such ailments as feeble-mindedness, epilepsy, kleptomania and delusions are generally not grounds for annulment. Yet the eugenic standard of com-

petency has steadily gained recognition through legislation prohibiting the marriage of epileptics and others who though capable of understanding the legal consequences of a marriage are unfitted for its biological and social functions. The new standard is also recognized in judicial decisions [Gould v. Gould, 78 Conn. 242 (1905)] decreeing annulment or divorce on the authority of these statutes, although many of them are so loosely drafted as to be ineffective. Supervening insanity prolonged and incurable is a ground for divorce in a growing minority of American states; Alabama, Colorado, Connecticut, Idaho, Kansas, Minnesota, Nevada, North Dakota, Oregon, South Dakota, Utah, Vermont and Washington. Mental incompetency is also a disqualification for the acquisition of citizenship, for voting, for jury service and for holding public office.

EDWIN W. PATTERSON

See: CRIMINAL LAW; CRIMINOLOGY; PRISON REFORM; HOMICIDE; INTENT; CRIMINAL; PUNISHMENT; GUARDIANSHIP; ALIENIST; EXPERT TESTIMONY; PSYCHIATRY; MENTAL DISEASES.

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**INSPECTION.** Inspection of commodities, buildings, industrial processes, trade practises and other phases of modern civilization by special employees of the government is merely one phase of law enforcement, conspicuous because governmental activity has penetrated into fields where common knowledge and chance report no longer furnish adequate information. In the collection of revenues, in which governments are always vitally interested, inspectors of a sort have been employed for as many centuries as customs, tolls, tributes and taxes have been exacted. Inspection and other aspects of enforcement are not in fact separable, for although in some instances inspectors merely publish their findings and the publicity itself acts as a corrective to illegal or undesirable practises, in others they are charged with the double duty of reporting infractions of the law and of bringing offenders to justice.

Supervision of commodities and of market practises by civil authorities is as ancient as the records. It was undertaken in Egypt, China, Greece and Rome. Mediaeval town authorities and later the wardens of craft guilds made particularly notable efforts to establish and uphold standards of quality, price and weight. The character of the supervision—inquiry into the accuracy of weights and measures or insistence that the producer place his mark upon the wares—as well as the severe punishments meted out to bakers whose bread was short in weight, to farmers who filled sacks with poor grain and sprinkled a little good grain at the top, to metal workers who used debased material in their wares, indicates the gravity of the offense of cheating. These regulations, like those of modern chambers of commerce and better business bureaus, protected not only the consumer but the business of more reputable interests against encroachment from less reputable. And although this supervision may often have been thought of as a desirable restriction of trade, it is clear that it must sometimes have been considered constructive promotion. Towns became important as trading centers; town officials would therefore wish to encourage legitimate trade. And as the records suggest that in proportion to the number

of sales cheating was extremely common, the mediaeval authorities met the situation by building up a body of specific regulations. Only when makers and sellers discovered that greater satisfaction of consumers' wants meant increased business did the early supervision and inspection by local authorities tend to become unnecessary and even troublesome. The growth in the volume of trade made the national governments which emerged in the following centuries increasingly aware of their dependence upon a sound economic life. In both England and France there were movements to nationalize the regulations protecting the quality of commodities, although the machinery for inspection remained local, exercised by wardens of crafts, clerks of the markets or special inspectors appointed by local justices. In France, where failure to develop large shipping interests made for greater dependence upon small but stable markets, high standards of production were insisted upon much longer than in England, where constant access to new markets opened up by explorers and traders soon shifted the emphasis from quality to quantity. The *laissez faire* movement matured there as a protest against the mass of restrictions and regulations which penalized producers and traders and impeded the expansion of competition based on rapidly changing methods of production. In country after country government supervision, which was by tradition specific and hence in a changing society restrictive, became less noticeably part of the economic life. But inspection was of course never completely abandoned. Even in America, where production took its own course more freely than elsewhere, certain standards were always insisted upon. The *Journal* of the New York state assembly for 1828, for instance, contains annual reports (submitted in accordance with statute) from inspectors in the cities of New York and Albany of fish, flour, sole leather, staves and heading, liver oil, potash and pearlash and lumber. Four standard grades of pine boards are listed in the report.

Now that quantity production has given rise to world wide competition for markets, uniform quality to insure liquidity has again become vital for the producing interests. Goods must be equally salable in Europe or South America, in six months' time or on twenty-four hours' notice. To a very great extent private interests in industry and commerce have brought about such uniformity as now exists—the machine technology is indeed responsible for much of

it—but here as elsewhere government has been pressed into service to control situations which private interest could not or would not supervise itself. Thus today there exist official inspection and grading of a wide variety of commodities for the domestic market or for export—grains, fruits, vegetables, dairy products, meat, ice, silk and so on through a long list. In recent years governments have somewhat increased their supervision over the conditions of fair competition through such organizations as the Federal Trade Commission in the United States. The use of unfair (substandard) marketing methods is discouraged not by systematic inspection but by special investigation of particular abuses in behalf of honest competitors, and legal proceedings are dropped against offenders who agree to desist.

The increasing complications of industrial society have led to governmental regulation of less tangible commodities. National banks are subject to inspection as part of the currency system; state banks and trust companies on the ground that they are of basic importance to the whole economic life. The extension of state activity to protect the savings of low income groups through supervision of savings bank investments, through regulation of building and loan associations and insurance companies and through the administration of blue sky laws is more definitely a limitation of private enterprise in the interest of certain classes of consumers. In the case of public utilities regulation of rates and services and of financial structure is justified on the legal ground that these industries are affected with a public interest. Supervision is accomplished by the requirement of standard accounting practices and similar devices for minimizing the work of inspectors rather than by positive control of operations. Logically, however, the suppression of fraud, the elimination of undue risk, the prohibition of undesirable trade practices and even such things as the age-old supervision of weights and measures are simply necessary stages in the promotion of good business through the promotion of confidence.

Police power in its broadest sense—that is to say, the power of a state to act in the interests of the whole public and including, for example, the commerce power of the federal government of the United States—provides in theory the necessary authority for many types of regulation. But the most conspicuous exercise of police power in the modern state has come about through activities in behalf of public health, morals and safety.

The suppression of crime and the use of special officers of inspection for that purpose need no specific mention. Supervision of public health and safety is more characteristic of the modern age. A series of government functions were initiated by the humanitarian protestants against the abuses of the industrial revolution. Limitations on child labor in factories began in England early in the century; the act of 1833 (3 and 4 Will. IV, c. 103) stands out as the first factory legislation in any country to provide for national inspectors. On the continent governments interested themselves first in conditions of work, in special industrial hazards presented by the use of machinery and steam boilers and in safety appliances and only later in hours and wages of labor. Compulsory education and official interest in tenement house problems followed. Some pressure for housing reform in England came from overseers of the poor, but in regard to working conditions public opinion was only aroused to legislative action when strikes and drafts had called attention to the potential threat of poverty to the health and decency of the whole public.

Health services and regulations have grown most rapidly since the turn of the present century. The ancient standards of sanitation and building construction had disappeared in the dark ages. And even before scientists knew how diseases could be transmitted through polluted water supplies, communities again became aware of the need for pure water and were active in supplying it. When fires swept away towns, building and safety regulations were instituted. Other reforms followed. Meat, milk, food and drug, seed and fertilizer inspection; plant quarantines; periodic water analysis; smoke and light tests; sanitary inspection of bakeries, food factories, beauty parlors, dwelling houses and industrial plants; supervision of the manufacture of biological preparations; health examinations of school children and immigrants; enforcement of minimum standards of light and air in schools, homes and places of work; regulation of the use of fire apparatus and safety devices; inspection of elevators, ships, motor vehicles, airplanes and other dangerous inventions, these are only a few of the services instituted by governments, central or local, in the interest of public health or public safety. No adequate explanation can be offered of why the complete list of government inspection services includes the particular items which it does. Long as it is, it could obviously be much longer. The need for assistance in behalf of pub-

lic safety is felt more acutely than other needs, perhaps because dangerous technological inventions are more visible than changes in the distribution of industrial and financial power. Yet even here it would be difficult to say whether supervision had kept pace with the increase of danger. Regulation in behalf of consumers may have been retarded because of opposition by special business interests, or because public opinion has been so steeped in the doctrine that the promotion of good business is the promotion of the general good that it has not thought to notice how the people were faring. A great variety of influences have been at work and no single formula can describe them.

Growing up piecemeal, the administration of inspection services shows even more diversity than do the codes which they enforce. In every modern country there is some conflict of jurisdiction between local and central authorities. Inspection services traditionally in the hands of local authorities sometimes remain there after state or national laws are passed. In Germany the standards created by factory acts are national but factory inspection is left to the states. In the United States the health and safety standards themselves differ from state to state. Convenience of administration is sometimes sacrificed to tradition in these matters. In certain fields, however, as in building, the problem of control is essentially local, and city building and sanitary codes and inspection services frequently supersede the less rigid state requirements. As inspection grows more technical, division along functional lines is often made. Factory boiler inspectors cannot be charged with enforcement of the sanitary code, nor inspectors of electrical equipment with concern over the ages of child workers. Where inspection requires sampling and laboratory analysis, the field work may be in the hands of one group, technical work in those of another, while a third set of people concern themselves with the legal processes involved in enforcement. Different departments of a government may supervise precisely similar processes. The inspection in the United States of manufacturing establishments preparing biological medical materials for human consumption is the concern of the Public Health Service in the Treasury Department, and the inspection of such establishments preparing equivalent materials for use in animal diseases is the concern of the Department of Agriculture. Factory inspection in England is separate from mine inspection and from department store inspection, although

hours of labor and working conditions are the concern of each.

In effectiveness inspection services differ considerably. Even where statutes are relatively simple and specific and their enforcement somewhat removed from political and commercial pressure, there may still be difficulty in securing adequate personnel. Civil servants in Europe enjoy a prestige which is largely lacking in the United States and in consequence European factory inspection has been of higher grade than American. On the other hand, European trade unions maintain that their interests would be better served if workers received some of the higher appointments now reserved for experts. Inspection can rarely be either continuous or complete. Accordingly it will be most effective when enforcing such codes as building regulations, where one visit can certify lasting compliance with the laws, or when applied to such commodities as grain, where the smallest sampling will be representative of the whole. It will be least effective where conditions are so fluid that they can be altered or concealed while inspection takes place, a factor which for a long time made industrial inspection powerless and which still impedes banking and utility supervision. But even the most effective inspection may prove impotent when penalties for violation are incommensurate with the pecuniary gain.

The problem of administrative standards is fundamental. A striking difference between contemporary state regulations and those of post-mediaeval days is the large measure of administrative discretion now needed. Swift advances in knowledge of what constitutes purity in food or water or safety in transportation or construction make a large degree of elasticity in enforcement imperative. Furthermore modern legislators can seldom sift expert evidence sufficiently to be able to draft effective laws of the more specific type. Where standards are largely lacking, as, for example, in the case of biologicals, the government has been obliged to experiment in order to standardize materials. Safety standards in the United States are developed and assisted in operation by the Bureau of Mines, the Interstate Commerce Commission, the Bureau of Standards and the Public Health Service, by the various departments in all the separate states and by an almost indefinite number of trade associations, engineering societies and other private organizations exercising some degree of authority or control. The policing of standards already established may in such cases become less impor-

tant than activities leading to the formulation of new standards, and this has been the aim of European factory inspection. Even in the United States, where there is a strict theoretical separation of legislative, executive and judicial functions, it may conceivably happen that inspection activities, undertaken originally for purposes of enforcement, will furnish the necessary data for important and unheralded reforms. The widespread banking failures occurring in spite of supervision illustrate the weakness of a purely negative policy.

Inspection by the government in so far as it merely supplements the work of private interests is thus undertaken in a somewhat accidental number of unrelated fields as an aid to business and as a protection to the public. Essentially the same function is performed almost universally by industry itself. Every producer has his products "inspected" at some stage of the process, although the standards for acceptance or rejection may be extremely variable. Even public health and public safety are protected to a degree by inspections conducted by insurance companies, whose standards may be higher than the government minima. Whether or not government inspection services continue to increase in importance and elaborateness depends primarily upon how far the movement toward commercial standardization can go. Industries may succeed in imposing standards upon themselves without government intervention, as the cooperative marketing associations have already done. And, conversely, if all industry should be conducted by government, inspection as a separate and conspicuous phenomenon might disappear. Or the general enforcement of standards might even become a function of supreme control, as it has in Soviet Russia, where the Workers' and Peasants' Inspection checks the activities of other branches of the government.

EDITH AYRES

See: GOVERNMENT REGULATION OF INDUSTRY; BUSINESS, GOVERNMENT SERVICES FOR; CONSUMER PROTECTION; FOOD AND DRUG REGULATION; ADULTERATION; LABOR LEGISLATION AND LAW; BUILDING REGULATIONS; PUBLIC HEALTH; SANITATION; LICENSING; GRADING; STANDARDIZATION; LAW ENFORCEMENT.

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**INSTALMENT SELLING.** An instalment sale, aside from a cash or down payment, is simply a credit or deferred payment transaction in contrast with a cash payment and does not differ in its nature from any other credit transaction. Instalment credit provides for the payment of goods in fixed instalments at stated intervals and in this respect it is a sort of funded debt in contrast with a demand obligation, which is payable at the request of the creditor, or the old fashioned book credit, which was payable in whole or in parts at the convenience of the debtor. It also stands in contrast with the kind of debt which runs for a stated period and which is to be paid in a lump sum at the end of the period. Instalment credit is protected by the commodity sold and is on the whole limited to goods with a resale value. The sales are usually conditional; the goods are delivered to the buyer, but the seller retains control over them; either the title remains in the seller and does not pass to the buyer until all the instalments are paid or the title passes immediately to the buyer and a chattel mortgage is given on the goods as security for the balance due. Default in payment usually gives the seller the right to repossess the goods; it also quite frequently forfeits all previously paid instalments.

Instalment buying is an old practise; it existed in ancient Rome, where houses were sold on time payments. But the practise did not assume importance until the period of capitalist production for widespread markets; it developed real significance only in industrialized countries during the nineteenth century and came increasingly into use in spite of a measure of disrepute attaching to it. As early as 125 years ago a furniture house in New York City was selling goods on time payments. Building and loan associations, which provide for the buying of houses on this plan, have been in existence for more than seventy-five years. The Singer Sewing Machine

Company has been doing a very profitable instalment business since 1856. There are also numerous piano and other musical instrument houses that have been selling in this way for the same length of time. McCormick reapers and binders have been sold on instalments almost from the beginning of their use. Books have probably been sold on time for a longer period than any of the commodities mentioned; all encyclopaedias, beginning with *Chambers's Encyclopaedia*, which appeared about 1750, have been sold on instalments. An extensive indirect form of instalment selling was the "credit check" system. The customer bought from organizations carrying on this kind of business a credit check for which he made a down payment and agreed to pay the balance at stated periods; the check was then used to buy goods (except food) at specified stores. The credit check system still prevails in England and Germany; in Australia the system, known as cash orders, flourishes alongside instalment selling.

Even though instalment selling similar to that which exists at the present time has been a common practise for the past fifty years or more, the growth of the system was not great until the last fifteen years, when it experienced an enormous expansion in both volume of sales and number of industries affected. About 1915 instalment selling was introduced into the automobile business in the United States, where it had a somewhat gradual growth for several years; after 1919 it suddenly expanded, reaching great volumes within a few years' time. In the industrial depression of 1920-21 the system spread to other lines of business and grew rapidly to large proportions.

Exclusive of houses, which are widely sold on instalments, it is variously estimated that from five to seven billion dollars' worth of goods were being thus sold at retail annually prior to the beginning of the depression in 1929. According to the Department of Commerce retail sales in the United States in 1929 amounted to \$50,000,000,000. On the basis of an estimate of \$6,000,000,000, instalment sales composed 12 percent of retail sales. It is commonly estimated that the amount of instalment debt outstanding at a given time was from \$2,225,000,000 to \$2,500,000,000, which is a more significant figure than the total of instalment sales over a period of one year's time. More than half the instalment debt outstanding is for automobiles; the next most important items are furniture, radios, clothing and sewing machines. It is estimated that 70 percent

of automobiles with respect to value is sold on instalments; 70 percent of household furniture; 80 percent of pianos; 80 percent of phonographs; 75 percent of radio sets; 90 percent of washing machines; 85 percent of vacuum cleaners; 90 percent of sewing machines; 70 percent of gas stoves; 90 percent of mechanical refrigerators; and 25 percent of jewelry. In 1927 approximately 27 percent of tractors and other farm machinery was sold on instalments (approximately \$100,000,000). In recent years there has been a considerable increase in instalment sales of clothing and jewelry. Instalment selling has been used in the sale of stocks and bonds, but apparently not with any great success.

Instalment selling in the United States is overwhelmingly in the form of conditional sales. Legal regulation of these sales varies from state to state; in a number of states the seller cannot retain title to goods sold on time and such conditional sales are not recognized as valid legally against third parties. There is agitation for the enactment of similar laws in other states. In the event the buyer defaults his payments the seller generally has three recourses: he may sue to recover the purchase price, he may foreclose the mortgage or he may repossess the commodity. Definite regulations are provided for in the Uniform Conditional Sale Act adopted in many states; the seller, for instance, may repossess but he must give the buyer at least twenty days' notice; if the buyer does not meet his obligations, the commodity is repossessed and sold at public auction. Efforts are being made to secure uniform laws governing instalment sales; meanwhile the National Association of Finance Companies is trying to standardize selling practises.

Instalment buying in England is known as "hire purchase" and has been in use for many years in various branches of the furniture trade. In this form of sale the owner agrees to rent the article to the hirer or lessee (in reality the purchaser) for a stated period and stipulates a certain number of instalments for rent; after the last one the lessee has the option of purchasing the article for a nominal sum, possibly no additional sum at all. The hire purchase system has made great strides since 1922, stimulated by overproduction in certain lines of trade and by the business slump. According to the Hire Traders' Protective Association instalment sales in 1927 accounted for 50 to 80 percent of the sales of automobiles; 70 percent of sewing machines, phonographs and pianos; 50 percent of furniture; and 10 percent of jewelry. Considerable

concentration prevails; a few large London firms with stores in various provincial towns do most of the business in instalment furniture.

French law recognizes a form of conditional sale, known as *vente à tempérament*, in which the title passes to the buyer. The seller cannot retain title to the article sold nor can he repossess it if the buyer defaults payment; the seller must sue in the courts. This legal restriction compels the instalment seller to be unusually careful in granting credit and eliminates much high pressure selling. Yet instalment selling is widespread in France; from 50 to 75 percent of motor cars are sold on time.

In Germany instalment selling under which title to the property remains vested with the vender has become increasingly popular in recent years. It almost disappeared during the inflation period but has since acquired a volume approaching in relative magnitude that of the United States. Approximately 75 percent of automobiles and furniture is sold on instalments. A considerable quantity of agricultural machinery is sold on time, one finance company devoting itself exclusively to that field. Banks participate directly in the capital and management of many instalment finance companies.

Instalment selling is found in almost all other countries; it has recently made considerable progress in the Balkans, Latin America and Japan. In all of these countries the articles sold on instalments consist mainly of furniture, automobiles, sewing machines, bicycles and musical instruments; they do not include, owing to different standards of living, some of the articles most commonly bought on instalments in the United States, such as electric washers, vacuum cleaners and electric refrigerators; nor are clothing and jewelry included to any large extent. Instalment selling in Europe and Latin America has been greatly stimulated by the sale of American automobiles abroad, a large proportion of which are sold on terms similar to those used in the United States. In Europe the proportion of automobiles sold on time payments averaged 61 percent in 1927-28, ranging from 15 percent in Spain to 80 percent in Denmark.

The recent expansion of instalment selling in the United States originated in developments in the automobile business. In the beginning of the industry manufacturers sold all cars at wholesale strictly for cash and urged retailers also to sell for cash. In time, however, through a desire to increase sales (emphasized by a great increase in plant capacity) the manufacturers changed their

attitude in regard to the granting of credit by the retailer to the consumer. The easy terms which were finally granted to the consumer increased sales and output; this coincided with an immense increase in productive efficiency, and the combination of these factors produced lower prices. These in turn increased sales and output, bringing about a still further expansion of plant and equipment. This expansion of plant capacity exceeded the capacity of available markets to absorb new cars, leading to an increase of both competition and instalment selling. Thus the automobile business developed the instalment system to a degree that made its former efforts seem comparatively insignificant. By 1923, however, the increase in automobile instalment sales slowed down considerably; and the finance companies sought new business in other fields, thereby becoming an important factor in the spread of instalment selling.

Other fields of business were prepared for instalment selling by poor sales and excess productive capacity during the depression of 1920-21. In the years just prior to 1920 plant and equipment had been expanded in the hope of great profits which were possible in the period of rapidly rising prices; and when the depression came some of these industries burdened with large overhead costs profited by the experience of the automobile industry and resorted to easy terms to the consumer as a means of increasing sales. The upsurge of prosperity in 1923 again increased plant capacity and competition; instalment selling spread. Following this period new products such as radios and electric refrigerators were seldom sold for cash; while instalment sales slackened in the case of automobiles and were stationary in the case of pianos they increased over 200 percent in the case of radios.

Competition among those selling the same kind of goods is a causal factor in the growth of instalment sales. If partial payment selling in a certain line of business stimulates sales and is otherwise successful, the manufacturer or retailer who refuses to use this device suffers. Under a regime of competitive business whatever is generally advantageous becomes a necessity for all competitors. Competition first forced the granting of instalment credit and then the offering of easier credit conditions in smaller down payments and a longer time in which to pay the balance. The tendency in some instances to depart from standard conservative terms may also be attributed to competition among retailers engaged in the same kind of business, among

manufacturers producing the same commodity and among finance companies and banks for business in lending funds to finance instalment sales.

Another factor in the spread of instalment selling is the competition between different kinds of goods, the type of competition which was intensified in the period from 1922 to 1929. It is believed generally that the public would purchase fewer radios, automobiles, mechanical refrigerators and the like if it were obliged to pay for them in a lump sum; and that consequently the purchasing power now expended on these commodities would, unless it were saved, be diverted to the purchase and consumption of other commodities. If the individual pledges his future income for automobiles, pianos and vacuum cleaners he will buy less clothing, food or the like than he would otherwise unless he is able to increase his income under the stimulus of instalment debts. In the opinion of many observers this latter condition is possible only in isolated cases and within narrow limits; consequently one of the effects of the increase in instalment selling has been a diversion of purchasing power from one group of goods to another. Instalment selling tends to slow down the sales of goods which cannot be sold on time payments; at the same time, however, it tends to induce consumers to purchase durable rather than ephemeral goods.

Modern methods of advertising and high pressure salesmanship produced by the intensification of competition have been partly responsible for the extension of instalment selling. Instalment goods are among the most heavily advertised, and this advertising is an important factor in the diversion of purchasing power facilitated by instalment selling. Advertising and instalment selling combine to determine wants by increasing the prestige and popularity of certain wants as against others.

When considered from the side of the demand for goods on instalment terms a very real factor in the instalment movement is to be found in the increase of the income of the wage earning and salaried groups. In recent years the middle class has increased in both numbers and income to a greater extent than any other section of the population; real wages have increased over 25 percent in comparison with pre-war wages and there has been a similar increase in the salaries of clerical employees. The larger part of these gains in income were secured during the period from 1920 to 1925, the very time in which instal-

ment buying assumed large proportions. The increased income meant that people could buy, pay for and consume more than formerly on any terms of sale and undoubtedly helped to stimulate the growth of instalment selling. Other forms of merchandising, however, such as mail order and cash and carry purchases, also greatly increased during the years of rapid growth of instalment selling. Credit facilities hitherto unavailable were offered to consumers through the development of finance companies, and the increased real income of the consumers gave them more than sufficient purchasing power to meet all their instalment obligations as they came due.

Before the recent expansion of the system buying on the instalment plan, except in the case of houses, was practised almost entirely by the poor and by the unstable groups in the community. Losses to the dealers were great, and consequently the price charged for the credit was so high that only those who could not possibly make other arrangements bought on instalments. Up until about fifteen years ago there was strong social disapproval of the practise and there is still a certain stigma attached to some types of instalment buying. It is only within the last ten years that the practise has become generally respectable.

At the present time instalment buying is not confined to the poorer classes. All economic groups except the very rich practise it extensively. Stores with a high class clientele sell furniture on instalments. Seven or eight years ago higher priced automobiles were sold on time payments only very quietly, but for the last few years they have been sold in the same manner and under the same conditions as cheaper cars. Electric refrigerators, too expensive to be bought by the poor, are sold largely on an instalment basis. While the largest number of instalment buyers is still to be found among the lower income groups, the total value of their purchases is probably less than that of the other groups; in fact, the great sources of instalment buying are probably among the middle class and upper layers of skilled workers. Nor is instalment selling confined to any particular section or sections of the country; it is well established everywhere, in both urban and rural districts.

One of the effects of instalment buying has been the creation of a new middleman, the finance company, the business of which has grown to great size within a few years' time. The selling of automobiles on the partial payment plan created a demand for some special agency to



finance the sales; the finance companies which were organized to supply this need made possible the growth of instalment buying by providing the necessary credit facilities for the extension of the system. Each new increase in instalment buying resulted in a still greater demand for the services of the finance companies, which rapidly increased in size and number. In function these companies are in certain respects like commercial banks, although very few of them are incorporated under the banking laws and subject to regular examination by the state banking departments. It is one of their functions to supply funds with which dealers can buy and carry a stock of goods. This activity is sometimes referred to as wholesale financing. They also extend credit on a large scale to individual purchasers of goods bought on the instalment plan. This is sometimes called retail financing. The one service helps the dealer to buy goods, the other helps him to sell them on the instalment plan. In the final analysis instalment financing is accomplished by borrowing from commercial banks; the major finance companies borrow to the extent of five times their capital resources, with a smaller ratio among the smaller companies.

The practises of finance companies in extending credit to individual purchasers of goods bought on the instalment plan are so varied that it is impossible to generalize as to their methods. In the case of the automobile business, however, considerable uniformity exists. When an individual buys an automobile on the instalment plan he is usually required to pay in cash one third of the purchase price and to give a note which provides for a schedule of equal monthly payments to be made over periods of time ranging from three to twelve or more months. The dealer if he is able to do so sells these notes outright to a finance company and thus receives cash for the goods sold on the instalment plan. When the dealer is able to sell the notes in this manner his legal responsibility ends. In most cases, however, he is required to endorse his customer's paper and assume the responsibility for its payment. Some of the finance companies discount the instalment notes in the regular way with banks located in the territory in which the notes originate. Others place their receivables in trust with some trust company and issue short term debentures against the trusted notes, which are sold to banks. Sometimes collateral trust bonds running for a period of about ten years are sold. In any case the finance company

secures additional funds with which to finance more instalment sales.

Finance companies were at first organized by men not connected with the producing enterprises, but later automobile companies formed their own finance companies (for example, the General Motors Acceptance Corporation organized in 1919). Some important finance companies are subsidiaries of commercial banks; generally, even when affiliated with a particular industry, the companies do a diversified business. There has recently been a tendency for finance companies to combine; this has been influenced not only by problems peculiar to the financing field but by the general tendency of American business. Concentration and centralization of control are accompanied by localized management; some of the finance companies have subsidiaries in foreign countries. In June, 1930, four finance companies had instalment paper outstanding amounting to \$525,040,000, or approximately one quarter of the total. The business is profitable, losses are small and failures are few. One of the larger finance companies, the Commercial Credit Corporation of Baltimore, with assets of \$171,000,000 in 1930 paid over a period of nine years 85 percent in stock dividends in addition to substantial cash dividends. The General Motors Acceptance Corporation with a capital of \$50,000,000 and assets of \$381,000,000 has an excellent dividend record; it paid 8 percent in 1923, 1924 and 1925 and 12 percent from 1926 to 1931 in addition to extras of 3 percent in 1926, 5, 7, and 8 percent in 1927, 1928 and 1929 respectively and 16 percent in 1930.

The development of the finance company has had the economic effect of making possible more steady production in an industry where demand for the product is seasonal. The volume of sales of automobiles in the beginning of the industry was subject to extreme seasonal fluctuations; they became more moderate with the improvement of roads and the increased use of closed cars, but demand still varies considerably through the year. The industry has therefore been confronted with the difficult problem of how to secure steady production to meet a seasonal demand. The manufacturer's own capital as well as what he could borrow was needed for manufacturing purposes; this and other factors made it impossible for him to carry his entire output over the winter months. He did not have adequate storage space; even if he could have provided it, the problem would not have been solved, for cars must be distributed geographi-

cally before the spring demand arises. The dealer could not take the cars off the manufacturer's hands because he did not have funds of his own and could not secure them from the regular banks for this purpose. The development of the finance company solved the problem. It extended credit to the dealer permitting him to lay in his stock as it was finished at the factory. The manufacturer was paid in cash. Production was continuous. Transportation was more easily effected as it was spread over a longer time and the spring rush was lessened. The dealer was able to show his stock on his sales floor and have it ready for immediate delivery in order to meet the seasonal demand.

Finance companies and retailers are able to extend credit to individual instalment buyers because they in turn are able to borrow from banks. Some large retailers who have well organized credit departments carry on their instalment business without the service of finance companies and borrow directly from the banks to finance their instalment sales. Thus one of the costs to the finance company or the retailer is the interest that must be paid on borrowed funds. A second element of cost is that of a sum sufficient to cover losses in the case of individual buyers who default in payment. While complete statistical information is lacking, it is reported that the losses sustained by finance companies as a whole average 0.5 percent; in automobile paper the loss is small, as low as 0.2 percent on aggregate new and used car paper. It should be observed that the finance company's rate of loss does not show the loss sustained by the dealer. Some of the paper was "recourse" paper, that is, paper carrying the dealer's endorsement and for which the dealer stood the losses; in such cases the finance company lost nothing except in the event of the dealer's default. In reference to the losses sustained by dealers the statistics compiled by the United States Department of Commerce, based on a study of 10,992 representative retail establishments located in all sections of the country and representing all the principal lines of retail trade, show that the average bad debt loss on instalment sales in 1929 was 1.2 percent. These losses ranged from an average of 0.2 percent for those selling coal, wood, lumber and building material to an average of 7.9 percent for general clothing stores. A third cost is that of making the preliminary credit investigations which are necessary if the credit is extended wisely. A fourth expense is incurred in the provision of the necessary facilities for making col-

lections on many small notes from numerous customers. There are other costs, particularly those in the nature of overhead expenses, such as the maintenance of places of business and the salaries of officers and general managers.

The cost of instalment credit to the consumer as evidenced by the difference between the cash and credit prices of goods varies greatly, ranging from nothing (where the cash and credit prices are the same) to as much as 80 percent, depending upon the individual transaction. Extensive inquiry among retailers of all kinds as to the cash and credit prices of various commodities and examination of the rate schedules of a number of finance companies indicate that the usual cost of instalment credit ranges from 10 to 40 percent. Nominal interest rates are of course lower, but the real cost to the borrower becomes larger because of the fact that the debt is repaid in instalments. In many cases the dealer increases the cash price of articles so that the spread between the cash and instalment price shall not appear excessive.

Reasoning *a priori* individuals in both the United States and Europe have come to widely different conclusions in regard to the effect of instalment buying on saving. Business men have frequently advised their employees to go into debt for homes on the ground that it will give them a stake in the community and their job and will make them work harder and save more in order to meet their financial obligations. It is also set forth as a reasonable supposition that if the individual is not paying for furniture, vacuum cleaners and washing machines he is apt to spend his odd dollars in the theater or for other ephemeral luxuries. It is also a fact that if the life of the commodity purchased is longer than the period of payment a saving has taken place. If, for example, the automobile has been paid for before it is worn out, the purchaser has made a saving—provided he has not taken the money out of his savings account or mortgaged his house to complete the payments on the automobile. On the other hand, it is stated that instalment selling causes people to buy and consume luxuries which they would not buy if they were required to pay cash. It is argued that the instalment buyer soon acquires the luxury habit by being able to possess these articles, and that the luxury habit thus acquired leads to spending and consuming rather than to saving. Those who think that instalment buying is not conducive to saving mention frequently the demoralizing effect of too much debt on the individual. Against this view it

may be argued that instalment buying substitutes a plan or orderly method of payment for arrangements which sometimes have had little system in them, and consequently has a distinct disciplinary value.

Instalment buying in its present volume has existed for a comparatively few years, and experience with it has been too brief to prove anything conclusive in regard to its effect upon savings. The goods bought and paid for on the instalment plan between 1920 and 1929 were apparently not paid for out of savings; while large quantities of goods were being bought and paid for and perhaps only partly consumed, the savings of all income groups were apparently increasing at an unusual rate. The statistics on savings are not conclusive, but they do seem to indicate that savings are at least not declining because of instalment selling. It is true that the \$2,500,000,000 of outstanding instalment debt is a liability of the instalment buying group. But it is also true that this liability is perhaps more than covered by assets in the form of more or less durable goods. Finally, there is a growing belief that savings have been overstressed in the past and that spending is as important a factor as saving in promoting economic progress and stability. The danger is that the individual unprotected by a comprehensive system of social insurance may ignore the needs of illness and old age in his urge to spend.

When first introduced instalment sales create new consumer purchasing power. The instalment debt outstanding at any given moment represents goods which would not otherwise have been sold or produced. Since instalment selling is necessarily limited to particular kinds of goods, there are limits to its expansion. When that limit is reached and stabilization sets in, instalment selling becomes an ordinary institutional factor in the business mechanism and ceases to be an additional stimulus to increasing production. This may have a disturbing effect on an industry keyed up to unusually rapid expansion, an effect which becomes still more disturbing if instalment sales decline.

Instalment selling also exerts a decided influence on the character and structure of industry. Most of the goods sold on time are of the more durable variety; in 1928 the instalment sales of automobiles, radios, washing machines, mechanical refrigerators and similar goods accounted for approximately 70 percent of all instalment sales. Instalment selling therefore stimulates the expansion of mass production industries with high

fixed charges—industries which are characteristic of modern large scale production.

During the period of greatest growth in instalment selling, between 1920 and 1925, it was frequently predicted that the next period of business depression would destroy the instalment system if not the entire retail credit structure. It was pointed out that because of the widespread unemployment which would result consumers would not be able to meet their obligations; there would therefore be a flood of repossessions, enormous credit losses and frozen accounts receivable, all of which would subject the credit structure to unbearable strain. Instalment risks, however, are highly diversified, spread over many classes of people. In a depression only a part of the population becomes unemployed, and the portion of the population subject to the unemployment hazard includes only a fraction of those who have instalment payments to make. Moreover the instalment buyer usually strains all resources to make his payments and thus prevent repossession. It is not to be overlooked that a certain period of time elapses between the outset of the crisis and the point at which unemployment becomes really acute, an interval sufficiently long for a considerable proportion of the outstanding debts to be repaid. Finally, instalment buying is not confined to wage earners and salaried employees. The income of other groups of instalment buyers is not so seriously affected by the depression as to endanger repayment; while the purchasing power of the fixed income groups is in fact increased by the fall in prices.

This view is apparently confirmed by the experience of the depression year 1930. Statistics gathered by the retail credit survey of the United States Department of Commerce show that changes in 1930 in comparison with 1929 were not of a serious nature. True, repossessions, past due payments, losses and management expenses increased and the earnings of finance companies declined, although lower interest rates in borrowed money constituted a favorable factor for the companies. Numerous individual dealers and purchasers had trouble with their accounts; the strain on many instalment buyers, forced to restrict expenditures or borrow money to meet their payments, was severe. But considering the fact that 1929 was on the whole a year of unusual business activity the changes were small. There were no disturbing increases or decreases in credit sales in relation to cash sales. Current obligations in the form of instalment accounts

for the first fourteen months after the crisis were paid in an orderly manner and new goods bought on these terms in the same proportion to cash sales as formerly, both showing approximately the same relative decline. Taking the system as a whole, instalment credit stood the test of business recession in a manner that may be considered satisfactory.

While instalment payments are met and the system satisfactorily withstands depression, an undoubted decrease in immediate consumer purchasing power takes place. Persons whose incomes decline make their instalment payments, but they are paying for goods previously bought and to that extent are unable to buy new goods. This is offset by the creation of new purchasing power when instalment sales are increasing, but that is not true in periods of depression when instalment sales decline. They declined sharply in 1930-31, years of depression; in the first nine months of 1931, for example, instalment sales of automobiles declined \$472,000,000, a drop of 20.4 percent over 1930. Precisely as instalment selling tends to increase prosperity it tends also to deepen and prolong depression; when, however, instalment selling begins once more to increase and create new purchasing power it becomes a contributing factor in business recovery.

Instalment selling according to all indications is here to stay; it has assumed a definite place in the institutional arrangements of business enterprise. The system, however, will probably show no unusual expansion in the future as it did in the recent past; instalment selling will depend more closely on the general rate of economic progress or regression.

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See: MARKETING; LOANS, PERSONAL; MERCANTILE CREDIT; SMALL LOANS; MORTGAGE.

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INSTINCT. The concept of instinct goes back, in a vague way at least, to Plato and Aristotle; it lacked specific definition among the Greeks because they did not distinguish clearly between inherited and acquired traits. With the revival of Greek philosophy in the Middle Ages the concept of instinct again appeared, especially in St. Thomas Aquinas, where it was identified more or less clearly with the idea of natural law working through the individual to produce responses that are inherent in his spiritual endowment. These spiritual endowments derived from natural law were fairly similar to the Aristotelian theological categories of the virtues and the vices. By the eighteenth century they had evolved into the definiteness of conscience, benevolence, sympathy and other moral sentiments and were basic to the philosophy of the English and Scotch ethicists of the seventeenth and eighteenth centuries, whose intellectual tradition harked back through Calvinistic predestination to natural law. The term instinct came into use with especial frequency in the writings of the eighteenth century and was made to refer not only to the

moral sentiments but also to the natural mental endowment. Specific instincts were rarely mentioned by name, and the concept remained for the most part general until well into the nineteenth century.

The growth of biological analysis in the middle of the nineteenth century and the rise of physiological psychology immediately thereafter as well as the great prestige of the biological approach to the study of man in that century stimulated the detailed analysis of mental heredity and the resultant classification of the instincts. This work was practically all speculative and *a priori* rather than experimental because of the difficulty of developing objective methods of analyzing the genetic aspects of behavior. The Germans, particularly Preyer, a disciple of Darwin, following the more general emphasis of the Scotch and English ethicists as well as the new biology, developed lists of specific instincts and attempted to apply these to the analysis of child and adult behavior. In the United States William James followed the newer German lead and developed some fifty separate instincts, but he in turn was surpassed in the matter of quantity by later psychologists, notably by Thorndike and Woodworth. In Great Britain the same tendency to particularize instincts developed a little later under the leadership of McDougall. The groups working in education and social psychology, which increased rapidly after 1900, took over the trend and developed a large variety of classifications.

As late as 1918 or even 1920 the active or passive support of the instinct hypothesis in the United States by psychologists, sociologists and educationists appeared to be almost unanimous; and the economists, political scientists and historians were beginning to develop an interest in the concept of instinct along with their expansion in the direction of a psychological orientation of their disciplines. As late as 1917 Dewey, for example, emphasized the importance of the instinct interpretation for social psychology. By 1922 he had shifted to a basic emphasis upon the importance of habit in character integration. Between 1921 and 1925 an acrimonious controversy arose over the question of instinct, and after the smoke and confusion were dissipated it seemed quite evident that the anti-instinctivists held the best positions on the field. The pro-instinctivists began to rearrange their broken legions in the form of redefinition and of substitute categories, such as drives, desires, wishes, hormic urges and prepotent reflexes;

others retreated and took up position with the endocrinologists, psychoanalysts, gestaltists and other diverse schools. In Great Britain the criticism of the instinct usage and hypothesis is only now beginning in earnest, while on the continent, where the instinctivist interpretation never became much of a scientific fad, the mild and relatively passive emphasis upon a general instinct interpretation continues.

Many conceptions of instinct have obtained since the term came into use. It can scarcely be said that there was any definite basis for a careful discrimination between inherited and acquired elements in so-called instinctive behavior until the critical work of Weismann and Mendel became generally available. The old metaphysical concept of natural law as the source of human behavior and character did not contain a theory of biological inheritance, although it leaned toward one in its later phases and thus favored the biological interpretation of instinct without eliminating entirely the environmentalist interpretation. The Lamarckian theory, which in the nineteenth century made the transition from the natural law to the scientific or analytic explanation of the origin and integration of human traits, combined in true eclectic fashion the concepts of environmental and hereditary factors without analyzing either concept in detail. The forced abandonment of the Lamarckian eclecticism brought about by the experimental work of Mendel, Weismann and others ultimately forced the analysis of the concept of instinct in purely biological terms. This analysis was finally performed by the present writer, thus forcing the issue of the controversy in terms of inherited biological structure and acquired or conditioned behavior patterns. It became evident that most of the so-called instincts were not inherited mechanisms but either acquired patterns of behavior or even conceptual language categories embracing large fields of functionally (not structurally) similar behavior. The new criticism on the basis of structural (including endocrine) biological analysis also forced the abandonment of the widespread practise of defining and classifying so-called instincts in terms of their adjustment functions instead of in terms of their genesis. More popular uses of the term instinct, making it equivalent to unconscious, unpremeditated, habitual or automatic activity, are being eliminated from writings in the field of the mental and social sciences, although they still freely persist among litterateurs and publicists, who usually come in contact with scientific criticism:

only indirectly and frequently a generation or more after it has been made.

The definition of instinct most widely accepted has been essentially biological and has varied but little, if at all, in its general conception since the middle of the last century, although it has been subjected to greater precision of detail as biological knowledge has itself become more precise. In its simplest precise form this definition of an instinct may be stated as a specific and definite inherited or unlearned response which follows or accompanies a specific and definite sensory stimulus or organic condition that serves as a release to the inherited mechanism. This definition of instinct bars both the conception of acquired instincts and the related conception, not infrequent in German and continental philosophic literature, that instincts are inherited behavior patterns which were at one period of the history of the race the result of rational adaptation.

Among the most significant results for the social sciences of this stabilization of the instinct concept has been the revised outlook upon human society and social control made possible to the social scientist, the educator, the legislator and the administrator. The social scientists are confronted with the problem of distinguishing inherited forms of behavior from those which are acquired. The narrowing of the scope of inherited behavior patterns as thus analyzed must frequently turn the educator, legislator and administrator, in the face of some difficult personality or social situation, from the barren statement that "You can't argue with an instinct" or "You can't change human nature" to an intelligently constructive social program which will remove the obstructing or perverting conditioning factors and stimuli and lead them to substitute new environing pressures more favorable to the production of the desired adjustment. The effect of the more critical study of instinct upon the subject matter and orientation of the social sciences themselves has been even more marked. The most immediate and thoroughgoing response to this analysis was from sociology and the branch of social psychology which works from the standpoint of sociology; these disciplines were somewhat distantly and haltingly followed by social work, which is considerably under the influence of the psychoanalytic theories regarding instinct. The uncritical use of the term instinct by a branch of the institutional school of economics under the leadership of Veblen, who misapplied the erroneous

concept in an otherwise brilliant analysis of society, has been turned into a more fruitful environmental and cultural analysis of traditional and conventional factors conditioning economic behavior. Political psychology, which at first responded to an instinct interpretation under the leadership of Graham Wallas, is now recovering its balance through environmental and personality analysis. Psychology, which has closely trailed biology during recent decades, was slowest to respond generally to the new critical findings regarding instinct; but very recently the biologists themselves have begun not only tacitly but also openly to accept the environmental analysis and interpretation of the factors which are responsible for the cultural elements in human behavior.

L. L. BERNARD

See: PSYCHOLOGY; SOCIAL PSYCHOLOGY; EDUCATIONAL PSYCHOLOGY; PSYCHOANALYSIS; HABIT; HUMAN NATURE; HEREDITY; BEHAVIORISM; ENVIRONMENTALISM; BIOLOGY.

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## Encyclopaedia of the Social Sciences

INSTITUTION is a verbal symbol which for want of a better describes a cluster of social usages. It connotes a way of thought or action of some prevalence and permanence, which is embedded in the habits of a group or the customs of a people. In ordinary speech it is another word for procedure, convention or arrangement; in the language of books it is the singular of which the mores or the folkways are the plural. Institutions fix the confines of and impose form upon the activities of human beings. The world of use and wont, to which imperfectly we accommodate our lives, is a tangled and unbroken web of institutions.

The range of institutions is as wide as the interests of mankind. Any simple thing we observe—a coin, a time table, a canceled check, a baseball score, a phonograph record—has little significance in itself; the meaning it imparts comes from the ideas, values and habits established about it. Any informal body of usage—the common law, athletics, the higher learning, literary criticism, the moral code—is an institution in that it lends sanctions, imposes tabus and lords it over some human concern. Any formal organization—the government, the church, the university, the corporation, the trade union—imposes commands, assesses penalties and exercises authority over its members. Arrangements as diverse as the money economy, classical education, the chain store, fundamentalism and democracy are institutions. They may be rigid or flexible in their structures, exacting or lenient in their demands; but alike they constitute standards of conformity from which an individual may depart only at his peril. About every urge of mankind an institution grows up; the expression of every taste and capacity is crowded into an institutional mold.

Our culture is a synthesis—or at least an aggregation—of institutions, each of which has its own domain and its distinctive office. The function of each is to set a pattern of behavior and to fix a zone of tolerance for an activity or a complement of activities. Etiquette decrees the rituals which must be observed in all polite intercourse. Education provides the civilizing exposures through which the potential capacities of individuals are developed into the abilities for performance, appreciation and enjoyment which are personality. Marriage gives propriety to the sex union, bestows regularity upon procreation, establishes the structure of the family and effects such a mediation as may be between personal ambition and social stability. A number of

institutions may combine and compete to impress character upon and give direction to the mass of human endeavor. The state claims primary obedience and imposes a crude order upon the doings of mankind; the law by punishing offenses and settling disputes determines the outmost limits of acceptable actions; morality with neater distinctions and more meticulous standards distinguishes respectable from unconventional conduct. The community is made up of such overlapping provinces of social government. It is the institution in its role of organizer which makes of this a social and not a monadic world.

It is impossible to discover for such an organic complex of usages as an institution a legitimate origin. Its nucleus may lie in an accidental, an arbitrary or a conscious action. A man—savage or civilized—strikes a spark from flint, upturns the sod, makes an image of mud, brews a concoction, mumbles a rignarole, decides a quarrel or helps himself to what he may require. The act is repeated, then multiplied; ideas, formulae, sanctions and habits from the impinging culture get attached; and gradually there develops a ritual of fire, a hoe and spade agronomy, a ceremonial for appeasing the gods, a cult of healing, a spell for casting out devils, a due process of law or a sound business policy. Even if it is deliberately established an institution has neither a definite beginning nor an uncompromised identity. A religious creed or a legislative statute is compounded of beliefs and ideas which bear the mark of age and of wear; a paper charter and a document engrossed upon parchment are not insulated against the novelties in usage which attend the going corporation and the living constitution. It is impossible even in the most rudimentary culture to find folkways which are simple and direct answers to social necessities. In all societies, however forward or backward, the roots of the most elementary of arrangements—barter, burial, worship, the dietary, the work life, the sex union—run far back into the unknown past and embody the knowledge and ignorance, the hopes and fears, of a people.

In fact as an aspect of a continuous social process an institution has no origin apart from its development. It emerges from the impact of novel circumstances upon ancient custom; it is transformed into a different group of usages by cultural change. In institutional growth the usual may give way to the unusual so gradually as to be almost unnoticed. At any moment the familiar seems the obvious; the unfamiliar appears but a little revealed—an implication in a

convention which is itself taken for granted, a potentiality slowly quickening into life. So it is that the corporation is still a person, the work of the machine is manufacture, the labor contract concerns masters and servants and industrial accidents are personal wrongs. It often happens that new arrangements spring up under the cloak of an established organization. Thus the empire of the Caesars emerged behind the forms of the republic, the holy Catholic church is nominally the episcopal see of Rome and the British Commonwealth does its business in the name of His Majesty. In like manner in the domain of ideas the novelty in doctrine usually appears as a gloss upon the ancient text; systems of theology are commentaries upon the words of Scripture; Coke and Cooley set down their own understanding of the law upon the authority of Littleton and Blackstone. 'Tis too so intangible a thing as a social theory or a public policy may emerge from the practical commitments of the moment. A mere expediency, such as the abolition of the corn laws, is abstracted from cause and occasion and becomes a generalized policy of free trade; or a comprehensive scheme of railway regulation, such as obtains in the United States, appears as a by-product of the empirical elimination of specific abuses. In the course of events the fact arrives before the word and new wine must be put up in old bottles. Novelties win a tacit acceptance before their strangeness is noticed and compel before their actuality is appreciated. In institutional life current realities are usually to be found behind ancient forms.

As an institution develops within a culture it responds to changes in prevailing sense and reason. A history of the interpretation of Aristotle or St. Paul or Kant at various periods indicates how easily a document lends itself to successive systems of ideas. The public regulation of business has consistently even if belatedly reflected the prevailing winds of doctrine upon the relation of the state to industry. The pages of the law reports reveal the ingenuity with which, in spite of professions that the law remains the same, old rules and standards are remade to serve changing notions of social necessity. An institution which has enjoyed long life has managed to make itself at home in many systems of thought. The classic example is the Christian Gospel. The simple story of the man Jesus presently became a body of Pauline philosophy; the Middle Ages converted it into an intricate theological system and the rationalization of a powerful ecclesiastical empire; at the individualistic

touch of the Reformation it became a doctrine of the personal relationship between man and his maker; it is today patching up a truce with Darwinism, the scientific attitude, relativity and even religious skepticism. In this continuous process of the adaptation of usage and arrangement to intellectual environment an active role is assumed by that body of ideas taken for granted which is called common sense. Because it determines the climate of opinion within which all others must live it is the dominant institution in a society.

In an even broader way an institution is accommodated to the folkways of a culture. As circumstances impel and changing ideas permit, a usage in high esteem, like piracy, may fall from grace; while another under tabu, such as birth control, may first win tolerance and in time general acceptance. As one social system passes into another and the manner of living and the values of life are transformed, one institution gives way to another better adapted to the times. It required a number of changes in use and wont to convert the ordeal by combat into the trial by law; the prestige of the family tie, of blood vengeance, of the magical ritual and of might made right had to decline and a consciousness of the waste and injustice which attended legalized conflict had to become prevalent. An institution that survives, such as matrimony, responds surely even if stubbornly to cultural change. While the basis of Christian marriage is no more than the primitive custom of monogamy, the rigid lines of the institution bear the marks of the mediæval order. It gave support to a caste system resting upon landed property, elevated the social values of family above the individual values of love, was blessed with the ascetic ideal of otherworldliness and became a sacrament. Companionate marriage is emerging from a different world of fact, appreciation, habit and belief. It reduces to usage an attempt to escape the rigors of matrimony without resort to casual relationships; it reflects the condition of an urban society where blood is no longer blue, life is impersonal, children are a luxury and women must earn their own livings. In a culture which develops slowly enough to allow a graceful accommodation folkways may be drawn together into rich and intricate institutional patterns. In the Middle Ages the usages of the church—the trinity, the creed, the litany, the ecclesiastical empire—were all fused into a single conventional whole, to which unity was given by the idea of the death of the god as a vicarious atonement. In



the late eighteenth century politics, law, economics, ethics and theology in separate domains alike attempted to superimpose a symmetrical system of mechanical principles upon the mass of human behavior; the common element was an analogue borrowed from physical science. In the social process the life of an institution depends upon its capacity for adaptation. But always amid the whirl of change elements of disorder are present; and long before a harmony is achieved between unlike conventions disintegration has set in.

Nor is an institution introduced from an alien society immune to this process of development. The act of borrowing merely gives the opportunity for its transformation. The nucleus is liberated from its cultural matrix and takes on the character of the usages among which it is set down. In their native habitat the books of the Old Testament were the literature of a people; in the strange world of the mediæval schoolmen they became a collection of verses inviting dialectical exposition. In England "the higher law" was invoked to justify a popular revolution against an irresponsible monarchy; in America it has become the sanction for a judicial review of legislative acts. In appropriating the machine process Russia stripped away the enveloping business arrangements and made of it an instrument to serve a national social economy. The act of transplantation may at first retard but eventually is likely to promote growth. It introduces into a culture an unknown usage but allows it to emerge as an indigenous institution.

Its very flexibility makes an institution a creature of social stress and strain. In a stable or slowly changing society it fits rather neatly into the cultural pattern; amid the disorder which change brings its office may be compromised by the inflexibility of its structure. As necessity changes, tradition and inertia may stand in the way of the performance of new duties. A group of usages, for all the new demands upon it, may never quite escape slavery to its past. The shadow of ordeal by combat still hangs heavy over trial by law; the jury decides the contest, the judge is the umpire, the procedures are the rules of the game, the witnesses are clansmen armed with oaths and the attorneys are the champions; an appeal court orders a new trial not primarily for want of justice but because of error in the conduct of the ordeal. The United States Supreme Court has come to be the official interpreter of the constitution; yet by tradition its function is judicial, and it is only as an issue is germane to

the disposition of a case that it can declare the meaning of the higher law. Almost every institution—from the superfluous buttons on the sleeve of a coat to the ceremonial electors in a presidential contest—bears the vestigial mark of a usage which is gone.

But its elements of stability may be powerless to prevent the conversion of an institution to a service for which it was never intended. Its existence and repute give it value; it may adventitiously or by design assume a new character and play a new role in the social order. Equity, once an informal method of doing justice, now possesses all the appurtenances of a system of law. The principle of "no liability without fault" was once the basis of an individualistic law of torts; in our times the rules of recovery are being socialized, as, for example, in workmen's compensation, by a mere extension of "fault" to acts involving no personal blame. An institution may even fall into the hands of the enemy and be used to defeat its reputed purpose. Thus a community of ascetics develops into a wealthy monastic establishment; a theory of social contract invented as a justification of monarchy is converted into a sanction for its overthrow; a party dedicated to personal freedom becomes the champion of vested wealth; and a philosophy contrived to liberate thought remains to enslave it. As time and chance present their problems, men meet them with expediencies as best they can; but those who contrive rules and formulae cannot control the uses to which they are put. The proneness of an institution, like a lost sheep, to go astray, has been caught in the sentence: "Saint Francis of Assisi set out to bring people to sweetness and light, and left in his wake a plague of gray friars." The folkways are marked by a disposition of event to belie intent.

In the course of time the function of an institution may be compromised by or perhaps even be lost in its establishment. The spirit may become the letter, and the vision may be lost in a ritual of conformity. In time a way of intellectual inquiry may become a mere keeping of the faith; a nice propriety in social relations may decay into a code of etiquette; or a morality intended to point the way toward the good life may come to impose the duty of doing right. Thus ceremonial replaces purposive action and claims a vicarious obedience. The existence of an informal institution gets buttressed about by prevailing opinion and by personal interest. In legislative "deliberation" statesmen cherish their stock in trade of time honored argument and resent the

appearance of unfamiliar issues; scholars of repute defend the established ways of inquiry and the accepted verities; and social lights conserving the older proprieties against feminism "entrench themselves behind their tea-cups and defend their frontiers to the last calling-card." The persons immediately concerned have their stakes in arrangements as they are and do not wish to have personal position, comfort of mind or social prestige disturbed. As it crystallizes into reputable usages an institution creates in its defense vested interest, vested habit and vested ideas and claims allegiance in its own right.

If an institution becomes formal, an even greater hazard to its integrity is to be found in its organization and its personnel. A need for order finds expression in a government or the demand for justice in a legal system or the desire for worship in a church; and various groups become interested in its structure and offices, its procedures and emoluments, its ceremonials and consolations. A host of officials great and small comes into being, who are as solicitous about the maintenance of the establishment to which they are committed. They possess preferences and prejudices, are not immune to considerations of prestige and place and are able to rationalize their own interests. As the scheme of arrangements grows rigid, "the good of the nation"—or the church or the party or the lodge or whatever it is—tends to become dominant. The lines of activity may be frozen into rigidity and ecclesiasticism, legalism, constitutionalism and ritualism remain as fetishes to be served. An institution when once accepted represents the answer to a social problem. In the maze of advantage, accommodation, sense and reason which grows up about it lies a barrier to the consideration of alternatives. Its successor for better or for worse is likely to prevail only through revolution or by stealth.

In its ideal likeness an institution usually creates its apology. As long as it remains vital, men accommodate their actions to its detailed arrangements with little bother about its inherent nature or cosmic purpose. As it begins to give way or is seriously challenged, compelling arguments for its existence are set forth. The picture-as-it-is-painted is likely to be rather a work of art than a representation of fact, a product rather of rationalization than of reason; and, however adventitious its growth, disorderly its structure or confused its function, the lines of its defense lack nothing of trimness and purpose. The feudal regime was an empirical sort of an

affair; men of iron lorded it over underlings as they could, yielded to their betters as they were compelled and maintained such law and order as the times allowed; but with its passing its sprawling arrangements and befuddled functions were turned into office and estate ordained of God. In the days of the Tudors kings were kings without any dialectical to-do about it; the overmeat statement of the theory of divine right had to await the decadent monarchy of the Stuarts. The tangled thing called capitalism was never created by design or cut to a blue print; but now that it is here, contemporary schoolmen have intellectualized it into a purposive and self-regulating instrument of general welfare. If it is to be replaced by a "functional society," the new order will emerge blunderingly enough; but acquisition of a clean cut structure and clearly defined purpose will have to wait upon its rationalizers. An assumption of uniformity underlies all apologies; invariably they impose simple, abstract names, such as monarchy, democracy, competition and socialism, upon a mass of divergent arrangements.

In this endowment with neatness and purpose an institution is fitted out with the sanctions and trappings of ancient usage. Republican government harks back to Greece and Rome; the "liberties" for which seventeenth century Englishmen fought were the ancient rights of man. Magna Carta, a feudal document, was remade to serve the cause of Parliament against king; a primitive folk government was discovered in the dim twilight of the German forests to give to English democracy a fountainhead which was neither French nor American; and "the spirit of '76" grew up long after the event to serve the patriotism of another century. In the courts it is a poor rule which cannot find a good reason in former decisions and fit itself out with an ancient lineage. But law does not invoke the sanction of precedent more often than other institutions; the openness of its written records merely makes more evident the essential process. A succession of usages stretching from Aristotle to Calhoun has been justified as expressions of the natural order. Even—or above all—in the church the prevailing dogma is set down as interpretations of the creed of the apostles; and Christian marriage "was instituted by God in the time of man's innocence." As tradition leaves its impress upon fact, fact helps to remake tradition. The thing that is is the thing that always was.

It is only as stability gives way to change that the lines of an institution stand out in sharp re-

lief. So long as a people is able to do as its fathers did it manifests little curiosity about the arrangements under which it lives and works; the folk of the South Sea Islands can administer justice after their ways, but they can neither give answers to hypothetical cases nor tell in abstract terms what they do. So long as the procedure of a group or a school is unquestioned it is little aware of the conventions and values which give character even to outstanding achievement: Scott had little conscious appreciation of the distinctive qualities of the English novel; Jowett could never have put in terms the peculiar features of Oxford education; and Kant might not have been able to place his own philosophy in time and opinion. But the break of usage from usage within a culture and the resulting maladjustment lead to a discovery of the detail which makes up an institution. A number of crises were required to reveal the customs which are the British constitution; it took a Civil War to make clear the nature of the union between the American states. The appearance of social unrest was essential to an appreciation of the difference between competition and *laissez faire* and between industry and business. An aesthetic revolt marked by a riding into almost all the winds that blow was requisite to a realization of the distinctive modes and values in classical music and in Gothic architecture and to an appreciation of the molds imposed by acceptable form upon creative effort. For such casual glimpses of the intricacies of social institutions as men are permitted to see they are indebted to the stress and strain of transition.

It follows almost of course that institutional development drives a fault line between current fact and prevailing opinion. Men see with their ideas as well as with their eyes and crowd the novel life about them into outmoded concepts. They meet events with the wisdom they already possess, and that wisdom belongs to the past and is a product of a by-gone experience. As new institutions gradually emerge from the old, men persist in dealing with the unfamiliar as if it were the familiar. A national legislature by the enactment of antitrust laws tries to superimpose the competitive pattern upon the turbulent forces of a rising industrialism; a trade union uses the traditional device of a strike to advance wages in an industry in which the unorganized plants can easily supply the total output; a group of elder statesmen approaches the problems of war debts and reparations with the old formula of protection versus free trade. At a time when a

depression bears witness to economic disorder the institution of business is discussed in the outgrown vocabulary of private property, liberty of contract, equality of opportunity and free enterprise; and rugged American individualism is invoked as a way of order for a system which has somehow become an uncontrolled and unacknowledged collectivism. Even the Protestants as often as not turn belief into denial; and heresy shackled to an inherited ideology is merely a reverse orthodoxy. In the flux of modern life the various usages which with their conflicting values converge upon the individual create difficult problems that demand judgment; and in the course of very human events it is the fate alike of individual, group and society to have to meet emerging fact with obsolescing idea.

Thus an institution like the living thing it is has a tangled identity. It cannot be shown in perspective or revealed in detail by the logical method of inclusion and exclusion. It holds within its actuality the vestiges of design and accident, the stuff of idea and custom, from many ages, societies, civilizations and climates of opinion. In any important group of institutions, such as marriage, property, the market or the law, there are to be discovered as inseparable aspects of an organic whole notions, procedures, sanctions and values hailing from cultural points far apart. Each holds within its being elements in idea and in form drawn from the contemporary era of relativity, the rational universe of the eighteenth century, the mediaeval world of absolutes and verities and the folkways of some dim far off era. An institution is an aspect of all that it has met, a potential part of all that it will encounter. It holds many unknown possibilities which a suitable occasion may kindle into life. It may continue to hold sanctions which we think have departed; it may already have come to possess compulsions of which we are still unmindful. The discovery of its meaning demands an inquiry into its life history; but even the genetic method will tell much less than we should like to know of how a thing which cannot for long abide came to be.

Moreover the way of knowledge is itself an institution. The physical world, natural resources and human nature may be elementary things; but we can learn about them only in terms of and to the extent allowed by our prevailing methods of inquiry. The little we understand of the universe is a function of the size of the telescope, the sensitiveness of the photographic plate and the bundle of intellectual

usages called astronomy. Our national resources are a product of technology, and their catalogues at different times reflect the contemporary states of the industrial arts. It was the steam engine and the machine which made of coal and iron potential wealth; it was not until Faraday and Edison had done their work that electricity became potential energy. The little we understand or think we understand about human nature is an institutional product. The inquiries called physiology, anatomy and neurology—each of them a bundle of intellectual usages—reveal no more than the raw material of personal character; the stuff has ripened into individuality within the matrix of the prevailing folkways. Man and woman are so much creatures of custom and belief that the word innate is most treacherously applied to masculine and feminine traits. In various societies the stages upon which peoples must play their parts are set so differently by social heritage that we can as yet speak with little certainty about racial characteristics. The physical world and the human nature we know are aspects of the prevailing state of culture. In matter and in the chromosome may lie limitless possibilities; the actualities which appear are creatures of social institutions.

Among the ways of knowing is "the institutional approach." Institutes as the ordained principles of a realm of learning or of life have long existed; they are known to theology, law, education and all subjects ruled over by dialectic. About the turn of the last century a genetic study of the folkways began to win academic respectability. It could make little headway so long as the Newtonian concept was dominant; inquirers went in search of laws and uniformities, explanations were set down in mechanical formulae and the end of the quest was an articulate and symmetrical body of truths. The institutional method had to wait until the idea of development was incorporated into academic thought and the mind of the inquirer became resigned to the inconsistency which attends growth. The analogy with a biological organism had to be renounced and a basis in ideology had to be discovered before it could become a fruitful method of study in economics, history, philosophy, law and politics. The practical impulse toward its use came with a change in public opinion; so long as laissez-faire dominated our minds, dialectic served well enough to turn out explanatory apologies for the existing social arrangements; when we began to demand that order and direction be imposed upon an unruly

society, a genetic study of how its constituent usages had grown up into an empirical organization seemed proper. An inquiry into institutions may supply the analytical knowledge essential to a program of social control or it may do no more than set adventures for idleness. In either event the study of institutions rests itself upon an institution.

Accordingly an institution is an imperfect agent of order and of purpose in a developing culture. Intent and chance alike share in its creation; it imposes its pattern of conduct upon the activities of men and its compulsion upon the course of unanticipated events. Its identity through the impact of idea upon circumstance and the rebound of circumstance upon idea is forever being remade. It performs in the social economy a none too clearly defined office—a performance compromised by the maintenance of its own existence, by the interests of its personnel, by the diversion to alien purpose which the adventitious march of time brings. It may like any creation of man be taken into bondage by the power it was designed to control. It is a folkway, always new yet ever old, directive and responsive, a spur to and a check upon change, a creature of means and a master of ends. It is in social organization an instrument, a challenge and a hazard; in its wake come order and disorder, fulfilment, aimlessness and frustration. The arrangements of community life alike set the stage for and take up the shock of what man does and what he leaves undone. Institutions and human actions, complements and antitheses, are forever remaking each other in the endless drama of the social process.

WALTON H. HAMILTON

See: CULTURE; SOCIAL PROCESS; CHANGE, SOCIAL; HUMAN NATURE; CUSTOM; FOLKWAYS; FASHION; ASSOCIATION; COLLECTIVE BEHAVIOR; FUNCTIONALISM; ECONOMICS, section on INSTITUTIONAL ECONOMICS.

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**INSTITUTIONS, PUBLIC.** Public institutions care for individuals who are in need of aid or treatment and whose disadvantages of condition or personality have been accepted as a public responsibility. For the destitute, the mentally disturbed or incapable, the physically handicapped, the aged, delinquent and dependent children, persons accused or found guilty of crime, institutional care may seem desirable or necessary.

Institutional care for all these groups, except prisoners, owes its rise almost wholly to the Christian church. Although it is true that the literature of early peoples, notably the Hebrews, contains frequent admonitions relative to the care of the poor and needy, such provision was purely an individual responsibility devolving upon the family and friends of the afflicted. In the case of the Greeks and Romans provision by the state for its destitute took the form of the distribution of public largess. Particularly in time of famine corn, oil and other commodities were given out to the poor, a practise which was the precursor of modern "outdoor" relief.

Nowhere in antiquity, however, is there evidence of the establishment of large scale institutions for the sick and the destitute, a development which characterized the Christian church from its inception. Xenodochia, or houses of refuge for the accommodation of pilgrims, grew up under religious auspices in the East and in Italy, and they were followed soon afterward by hospitals. The latter, ministering to the aged, the widowed and orphaned as well as to the sick and disabled, gave rise to the almshouse, the most familiar mediæval institution of charity. To the church likewise belongs the credit for the first orphan and foundling homes, hospitals for lepers and incurables and asylums for the insane. In addition to the various ecclesiastical organizations there were institutions developed by the merchant and craft guilds for the relief of distress among their own members.

Out of this religious and secular beneficence grew municipal and state care of the poor and destitute. Partly because of abuses by the monasteries and ecclesiastical organizations in the exercise of their charitable prerogatives and partly because of a desire to share in the revenues devoted to philanthropic activities the various states in Europe manifested an increasing desire during the late Middle Ages to gain control of hospitals and almshouses. By the time of the Reformation the groundwork of public welfare in Europe had been recast, the towns and cities

having assumed what had always been the function of church and guild.

The notion of government responsibility for the problems of poverty, dependence and delinquency has gained especially wide acceptance in the Scandinavian nations, where public welfare has been the business of the state from the very first and where private institutional charity is almost non-existent. In Germany after the Reformation the parish became a civil unit for the purpose of administering relief. At the present time institutional care is extensive and diverse and remains under the administration of the government, except for certain ecclesiastical institutions, which are, however, subject to state supervision. In France the trend from private or ecclesiastical to public control of welfare institutions gained momentum with the advent of the revolution when the National Assembly declared all hospitals and almshouses public property and took over their administration. The central commission of *bienfaisance* created by these administrators, although it was but meagerly effective during most of the nineteenth century, was a work destined to last and it furnishes the impetus for the present system of institutional as well as outdoor relief in Paris. In all these countries as a rule public institutions for charity or correction—institutions for the criminal, insane and pauper—are under the direction of a central bureau or governing board.

In Soviet Russia relief is based on the principle of state responsibility and of the right of all workers to receive assistance from the state during illness, infirmity, unemployment, old age or any other form of distress. Under the auspices of the People's Commissariat of Social Relief and the Institute for the Protection of Women and Children, sanatoria for the mentally and physically handicapped, homes for deserted children and orphans, crèches, maternity homes and hostels for unmarried or destitute mothers and numerous other public institutions have been established. Public health occupies a central place in the government welfare program and all hospitals, clinics and sanatoria have been nationalized. These institutions, together with the health resorts, spas, rest and vacation homes maintained for the benefit of workers, are administered by the People's Commissariat of Public Health. The state, however, places primary emphasis on pensions and insurance and on the various rehabilitation schemes whereby those in need of care are not only provided with temporary institutional relief

but are given treatment and education through which they are enabled to resume their normal status in society. This prophylactic effort is especially apparent in the case of criminals and delinquents who, even though they are confined in prisons or houses of correction, are given every encouragement to mitigate their stay and to reestablish themselves as citizens.

In England as on the continent in the early days relief of the poor and dependent was in charge of ecclesiastical authorities. With the dissolution of the monasteries by Henry VIII, however, it became necessary for the state to assume the responsibility. Efforts to cope with the alarming increase of mendicancy during this period culminated in the Poor Law of 1601, which with its later modifications and revisions forms the basis for most public welfare work today in the United States as well as in England.

Provision of institutional care for public charges in the United States was at first an entirely local function. It was performed through the almshouse, which was established on the same principles as the English workhouse. Like its English prototype, the almshouse was used for all varieties of public charges, except criminals, without regard to sex, age, health or habit. It harbored paupers and vagabonds, dependent children and epileptics, the insane, blind, deaf, crippled, diseased and aged. It was a town or county institution, almost everywhere mismanaged or neglected. Provision for the detention and custody of persons accused or found guilty of crime was also local and characterized by the weaknesses of local administration. Early in the nineteenth century, however, as the evils of the almshouse system came to be recognized, special groups began to be segregated and cared for in special state institutions. The sick poor, the insane, orphan or deserted children, persons charged with crime or already found guilty, came increasingly to be considered as state charges and as groups with special and varied needs.

The first state hospital for the insane was that authorized by the Virginia legislature in 1769 and opened in 1773. The principle of state care for insane persons whatever their pecuniary status has now been adopted in all the states. In 1798 Kentucky included in a statute containing many of the reforms in the criminal law urged for thirty years by the great English law reformers the provision for a state prison, to which persons convicted of felonious offenses anywhere in the state should be sentenced. Today every state has its prison. Early in the nineteenth cen-

tury private benevolence provided institutions for the education of the deaf in Hartford, Connecticut (1817), and in Danville, Kentucky (1824); and their national significance was held to be so great that Congress voted them grants of public land to be sold for funds. In the late 1820's and early 1830's Samuel Gridley Howe, the philanthropist and educator, led the way toward provision for the education of the blind in Massachusetts and later of the mentally subnormal. His undertakings, like those at Hartford and at Danville, were cooperative and public funds were paid to private organizations for definite services. State institutions for the education of deaf and blind children were soon opened elsewhere and today they are found in nearly every state. In the west, however, most of them have been public from the first.

It is still a question whether for certain types of needy the treatment should be given by the local unit or by the state. In Massachusetts state as distinguished from local responsibility was early recognized in the care of the "unsettled poor," and three state almshouses were opened in 1854. Also for the group of juvenile offenders, or delinquent children as they would be characterized today, Massachusetts, departing from the program of the prison reform group in England, established state institutions, one for boys in 1847 and one for girls in 1854. In nearly all states, however, the care of the destitute and the detention of petty offenders have continued in the hands of local authorities; and the almshouse and jail remain today as unsolved problems and sources of humiliation to local public welfare administrations.

The administrative organization of state institutions has shown a certain degree of uniformity but also within limits a great diversity. For the institutions caring for the mentally and physically handicapped, insane, feeble-minded, deaf, blind or delinquent the pattern in the beginning was generally a separate unsalaried board of trustees or directors, appointed by the governor or by the governor and senate for overlapping terms; the board was thus supposed never to be entirely renewed at once and was supposed to be assured continuity of policy and freedom from partisan interference. The members were expected to represent the interests of the entire state. Often the board was given the power to appoint the superintendent and the staff of the institution, but sometimes, as in the case of the Massachusetts state almshouses, this power together with that of appointing the board itself was vested in

the governor. Although in recent years the value of these boards has been widely questioned, no adequate basis of judgment as to their serviceability has been supplied. The problem is so complicated, the records kept are so diverse and so lacking in comparability that contradictory conclusions are urged by equally able and well meaning students of the public service.

The existence of a number of state institutions, which operated independently of each other, and of various local authorities, which often overlapped in function, caused inevitably a good deal of confusion. In Massachusetts, for example, in addition to the local institutions for the relief of the destitute and the local law enforcing agencies there were by 1860 nine state institutions, each, as reported by a special joint committee of the house and senate in 1859, "created without especial reference to others, and in no degree as a part of a uniform system," and four others that received grants from the legislature. Because of the varieties and anomalies in organization and the rapid increase in public expenditures for state charities, which in Massachusetts had almost quadrupled in twenty years and more than doubled in ten years, the establishment of a central state board of charities was recommended, to which should be given power of visitation, inspection, transfer of patients and general supervision; by the exercise of this power it was hoped that some unity, uniformity and economy might result. As a result of this recommendation Massachusetts created the Board of State Charities in 1863, thus marking the first state attempt at central supervision. Similar authorities were established in 1867 by Ohio and New York; in 1869 by Illinois, North Carolina, Pennsylvania and Rhode Island; in 1871 by Wisconsin and Michigan; and in 1873 by Kansas and Connecticut.

From that time the administration of public institutions has been inextricably bound up with the problem of the organization of centralized state welfare authorities. These authorities in the early years were with few exceptions supervisory boards, which were generally composed of unsalaried members appointed for overlapping terms, as in the case of the local boards of trustees. They were given wide powers of visitation and inspection and were called upon to make researches into the causes of pauperism and crime and to take action leading to greater uniformity of practise as well as to the possible adoption of preventive measures and programs; but they usually had no direct control in administration, the separate boards of trustees re-

taining the actual management. In some states, however, the boards of trustees were soon rejected. Wisconsin, for example, after a period of "supervision" of state institutions by a state Board of Charities and Reform, abolished the separate boards of trustees in 1881 and transferred the administration of those institutions to a state administrative board, a plan that was later widely followed in other states. In general the administrative boards are composed of salaried members with direct control over the management of state institutions. In 1909-11 a careful study was made of the administration of state institutions in New York, where there was "partial centralization" under three different commissions of supervision and control. For purposes of comparison the investigator studied also the systems in Indiana, where the state central authority merely supervised the boards of trustees, and in Iowa, where there had been from the time the central authority was set up the greatest possible measure of central administration. The results seemed to indicate that an institution of four hundred or over could be served under the Indiana system at least as well as and possibly better than under the Iowa system. The report recommended state supervision and partial control and an organization which included institutional management by the separate boards of trustees (Wright, H. C., *Report of an Investigation of the Methods of Fiscal Control of State Institutions in New York*, New York 1911).

In 1917 there was undertaken in Illinois a system of one-man supervision and control which has had great influence. The entire administration of the state was reorganized and its functions were divided among nine (later eleven) departments at the head of each of which there was a director appointed by the governor. Most of the duties and responsibilities connected with the administration of the whole system of charitable, penal and reformatory institutions were assigned to the Department of Public Welfare. The purchase of supplies and equipment and the power to erect or repair buildings were vested in the Department of Public Works and Buildings, and to the Department of Finance were given broad powers of financial and budgetary control in all departments.

Since that time the authorities have been reorganized in many states. The administrative arrangements for state charitable and correctional institutions, as they were in 1927, could be roughly grouped into five principal types of programs: public welfare departments resem-

oling that of Illinois in the attempt to departmentalize (California, Colorado, Idaho, Massachusetts, Michigan, Nebraska, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Washington); single authorities in the form of supervisory boards (Delaware, Georgia, Indiana, Louisiana, Maine, Maryland, Montana, New Hampshire, North Carolina); administrative boards, either unpaid or ex officio (Connecticut, Florida, Kentucky, Oregon, Rhode Island, South Carolina, Vermont, Virginia, Wyoming); salaried boards of control (Alabama, Arizona, Iowa, Kansas, North Dakota, Oklahoma, South Dakota, Texas, West Virginia, Wisconsin); two or more separate authorities (Arkansas, Minnesota, Missouri, Tennessee). Three states (Mississippi, Nevada and Utah) have never created any central authority.

Although the movement toward centralization has been widespread it has been limited to the governmental arrangements of the states, and there has been no effective approach toward greater uniformity and cooperation between or among states or between the central and local jurisdictions in the states. There is as yet no national system. Such organizations as the National Conference of Social Work, the American Prison Association, the National Committee for Mental Hygiene, the American Association of Public Welfare Officials, have done valuable educational work and helped to achieve a unanimity of view, promoted national conferences and stimulated interest on the part of officials and of members of the legislatures, but the results are still far short of what could be desired.

As a consequence of this lack of unified direction there remain a number of important questions awaiting further agreement. Whether all the administrative institutions, penal and charitable, should be centralized in one department, as was done in Illinois and later in New Jersey; or whether there should be, as in Massachusetts and New York, separate departments of mental diseases, of corrections and of charities or public welfare caring for the destitute separately from the other groups, are subjects on which discussion is by no means closed. All these services have certain problems in common, such as the provision of shelter, food, clothing and hygienic and decent living conditions, and they all need similar provision for the investigation and diagnosis of individual requirements. It may well be desirable to have a degree of flexibility in the use of the different types of institutions. It is, nevertheless, equally clear that their spe-

cialized tasks vary greatly and call for the services of persons professionally equipped in different fields: the mental expert, the physician, the nurse, the teacher, the prison administrator, the dietitian and nutrition worker, the occupational therapist and so forth. Another problem on which agreement does not exist is the degree to which the separate institutions should serve the agencies in the local units or should be the instrumentalities through which the central authority secures such treatment as its diagnosis would suggest. This is perhaps a wider question than that of institutional organization. Shall the county authorities commit an insane person to an institution or to the department? Shall the juvenile court commit a delinquent child to an institution or to the department? Shall the criminal court sentence a guilty defendant to an institution or commit him to an authority? The relationship of institutions for the education of blind and deaf youth to the central authority involves another problem of jurisdiction. The origin of these in the provision for young persons from lower income levels and the fact that relief in the form of transportation and clothing is provided by public money have led to their being included in the general welfare structure. The teachers in these institutions, however, have frequently urged that they be universally regarded as part of the educational organization. Concerning these questions much greater unanimity may be expected in the future.

At a time when neither domestic nor institutional management had been placed on a professional basis, when cost accounting had not yet been developed, when the budget had yet to be accepted as a necessary device and central purchasing was an untried experiment, the rapid increase in the number of public positions and in the amounts of public money to be expended resulted in great waste in the use of public resources and great temptations to the corrupt and selfish. The situation was brilliantly and comprehensively summed up by Samuel Gridley Howe in 1866 in his first report as chairman of the Massachusetts Board of State Charities. Since that time the adoption of a budget and provision for some form or degree of cooperation, if not centralized purchasing, have characterized the development of institutional care in all the states. With regard to personnel the use of competitive examinations after the pattern set by the United States Civil Service Act of 1883 has been followed in ten states (California, Colorado, Illinois, Kansas, Maryland, Massa-



chusetts, New Jersey, New York, Ohio and Wisconsin). Other states resort to classification and to statutory descriptions of required qualifications for selected positions.

The Bureau of the Census has prepared several special reports which provide some illuminating figures concerning the number of inmates and the cost of their care in state institutions. Between 1910 and 1923 the number of hospitals for mental patients in the United States increased from 366 to 526. In the former year there were 143 state hospitals caring for 159,096 patients; in the latter, 165 caring for 229,837. Of the patients in these hospitals 34.2 percent, or more than one third, had passed ten years or more in such an institution, and 13 percent twenty years or more. In 1922 with an average daily patient population of 225,685 the per capita cost for maintenance in 153 mental hospitals was \$282.13 a year. The corresponding figures for 1928 for 159 hospitals were an average daily patient population of 264,484 and a per capita cost for maintenance of about \$309. If the costs for the services of the 23,788 nurses and attendants, 1223 physicians, 670 occupational therapists and 153 social workers be included, the total per capita cost for operation and maintenance becomes about \$360.

In 1928 there were 73 state institutions for the feeble-minded and epileptic. Reports received from 71 of these institutions showed 68,269 inmates in 1928 as compared with 66,444 in 1927 and 47,337 in 1922; during 1928 there were admitted 11,169 as compared with 10,224 in 1927 and 8565 in 1922. There was a marked decrease in the per capita cost of operation and maintenance during this period. In 1922 with an average daily resident patient population of 43,674 in 58 institutions the per capita cost was \$414.76; in 1927 the figures for 65 institutions were 57,104 and \$392.71; in 1928 for 67 institutions they were 61,295 and \$388.49.

The census reports 100 state and federal penal institutions in 1928, under whose control there were at the beginning of the year 109,346 prisoners, of whom 4363 were women; during the year 67,769 were admitted (3784 women) at a total cost of \$29,298,641, of which \$11,043,060 was paid in salaries and wages, \$6,594,671 for provisions. With an average daily population of 91,305 the per capita cost of state and federal penal institutions during 1928 was \$320.89. Figures for other groups, such as children under institutional care, paupers in almshouses or prisoners and juvenile delinquents,

are also easily available from the census reports.

An interesting feature of the cost of institutional services is that although they are considerable they are constituting a relatively smaller percentage of public expenditures, especially as compared with those for schools and highways. The total state expenditures for charities, hospitals and corrections increased from \$89,189,400 in 1915 to \$215,627,016 in 1929, but in 1915 they represented 23.5 percent of all state expenditures and in 1929 their percentage had dropped to 16.6. In 1915 the percentages for schools and highways were 38.5 and 6.0, and in 1929 they rose to 39.8 and 16.9 respectively (United States, Bureau of the Census, *Financial Statistics of States*, 1920, 1931, p. 26, 28).

With the increasing numbers of institutional inmates there has been a growing demand that treatment in each case be adapted to the actual needs of the individual patient and directed both toward mitigating the effect of his particular handicap and toward lessening any social disadvantage associated with it. The development of professionally equipped social workers makes this more possible, and although it entails greater expenditures and somewhat more elaborate organization it also results in greater economy and decrease in human suffering. Institutional custody is not always desirable or even necessary; a complementary service can be rendered by supervisory agencies which make possible approximately normal life in the community for many "wards of the state" who at an earlier date could have been cared for only in institutions. The idea of treatment has always been present to some degree in the case of the insane and the sick; for the mentally deficient, the blind, the deaf and the young offender education as well as custody is now being provided; and in the case of delinquent boys and girls and adult prisoners there is usually some effort toward reformation. Mothers' pensions and foster homes for dependent children, probation for the delinquent child or adult, parole for the adult prisoner or mental patient, are illustrations of the way in which a professional public social service can complement the work of institutions.

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See: CHARITY; HUMANITARIANISM; PUBLIC WELFARE; SOCIAL WORK; SOCIAL INSURANCE; PUBLIC HEALTH; HOSPITALS AND SANATORIA; ALMSHOUSE; OLD AGE; DRAF; BLIND; CRIPPLES; MENTAL DISEASE; MENTAL DEFECTIVES; CHILD, section on INSTITUTIONS FOR THE CARE OF CHILDREN; PENAL INSTITUTIONS; POOR RELIEF.

Consult: International Conference of Social Work,

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sus, *Statistical Directory of State Institutions for the Defective, Dependent and Delinquent Classes* (1919), and also other special reports by the Bureau of the Census on the various kinds of institutions; Odum, H. W., and Willard, D. W., *Systems of Public Welfare* (Chapel Hill, N. C. 1925); White House Conference on Child Health and Protection, 1930, Committee on National, State and Local Organization for the Handicapped, Section 19a, *Organization for the Care of Handicapped Children* (New York 1932); Guild, F. H., *State Supervision and Administration of Charities*, Indiana University Studies, vol. iii, no. 33 (Bloomington, Ind. 1916); Illinois, General Assembly, Efficiency and Economy Committee, *Report* (Chicago 1915); Wright, H. C., *A Valuation of a System for the Administration of State Institutions through One Man Control as Operated in Illinois* (New York 1922); McCombs, C. E., "State Welfare Administration and Consolidated Government" in *National Municipal Review*, vol. xiii (1924) 459-73. For references concerning special groups consult bibliographies of particular articles listed in cross references above.

## INSURANCE

|                             |                    |
|-----------------------------|--------------------|
| PRINCIPLES AND HISTORY..... | ALFRED MANES       |
| INDUSTRY.....               | A. H. MOWBRAY      |
| LAW AND REGULATION.....     | EDWIN W. PATTERSON |

**PRINCIPLES AND HISTORY.** The theoretical treatment of insurance in American economic literature differs from that in European, particularly German, literature. Many outstanding American writers consider insurance as only one of the numerous risk covering agencies and therefore give inadequate or primarily legalistic definitions of its functions. Elsewhere this point of view is not generally held; with Germany as its center of growth, insurance has developed as an independent discipline distinct from other fields of economics and as such has received separate and extensive treatment. There is, however, general agreement among most economic theorists that the essence of insurance lies in the elimination of the uncertain risk of loss for the individual through the combination of a large number of similarly exposed individuals who each contribute to a common fund premium payments sufficient to make good the loss caused any one individual. Therefore before insurance can be undertaken on a sound economic basis not only the nature of an insurable risk but its probable occurrence and resulting loss must be determined.

It is obvious that all risks are not equally subject to indemnification by means of insurance. The chance or the uncertainty as well as the measurability of various types of risk differs. From an insurance standpoint there is no risk

unless there is uncertainty or, to use a better term, fortuitousness. It may be uncertain whether the risk will materialize in any particular case. Even death may be considered fortuitous, because the time of its occurrence is beyond control. Pure risks, such as hail or storm, cannot be produced deliberately by human agency; but there are many risks, such as fire, burglary or suicide, in which deliberate speculative causation can play an important part. Insurance as such, however, ceases to exist when more than the expected need is covered; that is, when a profit is consciously and deliberately planned for. In such cases insurance partakes of the elements of betting or gambling. This characteristic would be still more obvious were an individual to insure against someone else's risk and profit by its occurrence. There must always be the possibility, however remote, that the hazard will cause personal and direct loss to the insured, who must have, in legal phraseology, an insurable interest.

To secure a minimum of accidental over-insurance or underinsurance it must be possible to measure statistically the probability of the occurrence of the risk. The hazard must belong to a class large enough to conform to the theory of probability and to be calculable according to the law of averages, as must also the amount of coverage required and the number, magnitude

and duration of the premium payments. For two individuals to afford each other mutual protection would not be insurance; the law of large numbers would not apply and the degree of uncertainty would be too great. But when many thousands of persons or houses are considered, the risk and the future financial requirements are measurable once human ingenuity has devised a suitable technique, an actuarial science, for this purpose. In order that these future financial demands shall be met, however, certain economic conditions are prerequisite, such as the existence of a unit of value and suitable means of accumulating wealth through extensive capital investments. This does not mean that coverage has to be provided in money; it may take the form of goods (medicines, cemetery plots) or repairs (automobile or house repairs) or services (medical aid or legal assistance), depending on the type of hazard or risk.

The risk itself may involve a direct loss (burning down of a house), loss of profit (destruction of crops by hail or interruption of business), loss of capital (bankruptcy), loss of income (unemployment or strikes), the cessation of ability to save (advanced age), expenditures to avoid a threatened loss (prosecuting a liability case) or planned expenditures (endowment for a college education). In all these cases there exists a need for money or for the equivalent of money produced by a risk of some sort. Although risks

such as embezzling and the guaranteeing of mortgages are not pure insurance risks, they are generally considered so by statutory authorities.

The three principal branches of insurance—life, fire and marine, and casualty—may for convenience be grouped according to the interests insured, that is, coverage of tangible and intangible property risks and of personal risks, as in the accompanying classification. The practise of insurance companies, influenced as it is by tradition and statutory regulation, does not always follow specialization by forms as enumerated below. On the other hand, a more detailed analysis would show that each of these forms represents a variety of separate risks.

There is a fundamental distinction between the type of loss which life insurance and health insurance attempt to cover and other losses. If a house is damaged by fire or crops are harmed by storm, there is ordinarily some objective measure of the loss, and only this actual loss or a percentage of it is made good. In other words such insurance operates in greater or less degree as a contract of indemnity. But when an individual's life or earning power is affected no accurate measure of its value is possible. The insurance contract therefore assigns the risk a fixed value, which is all that the insured receives when the policy falls due.

The economic function of insurance is not the elimination of risk or loss—although insurance

#### CLASSIFICATION OF INSURANCE FORMS

| PROPERTY INSURANCE                               |                            | PERSONAL INSURANCE                             |          |                      |                               |
|--|----------------------------|--|----------|----------------------|-------------------------------|
| LOSS RESULTING FROM IMPAIRMENT OR DESTRUCTION OF |                            | LOSS OF INCOME OR INCREASED EXPENDITURE DUE TO |          |                      |                               |
| TANGIBLE PROPERTY                                | INTANGIBLE PROPERTY        | DEATH  | SURVIVAL | IMPAIRMENT OF HEALTH | INABILITY TO SELL LABOR POWER |
| Marine and other transportation                  | Compensation and liability | Life   | Old age  | Sickness             | Unemployment                  |
| Automobile                                       | Credit                     | Burial   | Juvenile | Maternity            |                               |
| Fire   | Business interruption      |  |          | Accident             |                               |
| Flood and storm                                  | Strike                     |  |          | Invalidity           |                               |
| Crop and livestock                               | Market loss                |  |          |                      |                               |
| Burglary   | Title and mortgage         |  |          |                      |                               |
| Embezzlement                                     | Corporate bonding          |  |          |                      |                               |
| Boiler and machinery                             | Reinsurance                |  |          |                      |                               |
| Plate glass                                      |                            |  |          |                      |                               |
| Depreciation                                     |                            |  |          |                      |                               |

organizations may find it profitable to engage in this activity—but rather the substitution of a known small loss for an uncertain large loss. The implications of this function are not as negative as they at first appear. Society as a whole benefits through the accumulation of capital reserves which make good the loss resulting from the destruction of valuable assets; business costs are lowered to the degree that risk is eliminated and credit strengthened; and the insured individual is enabled through mutual action to obviate poverty and destitution for himself and his dependents. The fact that the payments of all participants aid each participant in case of need is an essential characteristic of insurance. This principle of mutuality is not limited in the slightest degree to mutual companies but applies to all insurance organizations whatever their legal structure, to stock companies as well as to government insurance funds. The more numerous the individuals of each class who share the risk, the more exactly can it be estimated and the more cheaply can it be covered and protection administered. It is precisely because insurance is mutual that public opinion, even in states predominantly capitalistic, has almost universally caused the governments to abandon the theory of individual initiative in favor of compulsory insurance of risks such as health, workmen's compensation and fire.

Insurance has not been possible at all stages of economic development, nor is it probable that there will ever exist insurance for the coverage of all conceivable risks. In addition to such obstacles as an insufficient knowledge of the facts there may be an inadequate capacity for organization or legal and religious prohibitions, such as the ban on the taking of interest. The concepts of prerequisite conditions have changed considerably in the course of time; experience has shown that an imposing structure can be erected upon foundations which were considered inadequate in less highly developed periods; technological advance has brought with it new and formerly unknown hazards to life and property. Modern life is surrounded by a vast number of latent dangers produced chiefly by the harnessing of natural forces whose direction is entrusted to fallible human beings. On the other hand, even when all the technical conditions have been met, insurance will not be realized if there exists neither an economic need among a sufficiently large number of people nor the desire or the financial ability to make use of it. To the prerequisite conditions for the development of in-

surance might be added certain subjective limits arising from the ethical outlook of the individual and of his social group.

The history of insurance is as yet unwritten: only milestones of its evolution are known. Devices resembling insurance were not unknown in antiquity. In imperial Rome, for example, there existed *collegia*, associations of artisans, which paid the surviving dependents of their members a funeral sum in return for the payment of an initiation fee and monthly premiums. Loans on bottomry were common. Few such institutions of antiquity, however, survived into the Middle Ages. In most of the early mediaeval insurance institutions (funds for freeing comrades from imprisonment, for mutual bearing of losses due to fire or the death of cattle and for replacing cattle stolen from members of a guild) groups of persons joined together because of common interest. But with the sense of common interest both within and without the guild funds there was associated the acquisitive instinct to which modern insurance owes its origin, its entire development and its beneficial effects. The origin of insurance as a profit making business lay not so much in the guild system as in Italy's marine insurance trade, which began about the middle of the fourteenth century. Here the early phase of insurance ends. The first period of its evolution proper, characterized by the introduction of the insurance contract, lasted until the end of the seventeenth century. The second period, marked by the founding of insurance stock companies, includes the eighteenth century and the first half of the nineteenth. In the third period, which comes down to the present day, social insurance developed alongside individual insurance, while the latter, expanding everywhere beyond the boundaries of the several countries and continents, evolved into big business. In this general evolution there can be distinguished three types of insurance operation, more or less independent, not successive but rather passing often and continuously from one type to another. These three types may be called cooperative, capitalistic and governmental.

The organization of insurance on a cooperative basis is motivated by the same causes and follows essentially the same development in modern times as in antiquity. The capitalist type of insurance, the insurance business proper, was born of marine insurance, which, of Roman origin, was founded for profit and based on commercial calculation. Fire insurance, on the other hand, arose by the beginning of the six-

teenth century in Germany as a communal undertaking, developing thereafter partly as a governmental institution and partly as a business. The capitalism which characterized the second period of growth beginning with the end of the seventeenth century is expressed in the development of stock insurance companies. The first precursor of the modern insurance concern was a short lived marine insurance company founded in 1668 in Paris. Two marine insurance companies founded in England in 1720 are still in existence. In Germany the first corporation for marine insurance was founded in Hamburg in 1795 and another concern of the same type was founded during the same year in Berlin. Life insurance in its present form arose almost a hundred years later than marine and fire insurance of the modern type because of the fact that life insurance is built upon more scientific foundations. There was no mathematical statistical mortality research, essential to the modern life insurance company, before the end of the eighteenth century. Its development was moreover impeded by the legislation of previous centuries, which forbade the taking of interest, gambling or betting and which—not always unjustifiably—viewed life insurance as a bet or as a dangerous gamble because of its almost criminal excesses. The last third of the eighteenth century witnessed the rise of hail insurance and cattle insurance as aids to the new intensive agriculture.

The highly differentiated economic life of the second half of the nineteenth century brought with it numerous cultural gains accompanied by new dangers and new requirements: the growth of railroads; the increase in factory production and the liability of the entrepreneur; improved methods of building, especially the wider use of glass windowpanes, the installation of water pipes in dwelling houses; the extension of credit and mortgages; the rise of the automobile and of aircraft. All these innovations made room for the spread of the idea of insurance. Accident insurance was introduced in 1845 and liability insurance in 1876; these were followed by glass insurance, insurance against damage to water pipes and so on. Corporate fidelity bonding was first practised in 1840, title insurance and credit insurance developed in the 1890's, workmen's compensation met the need of statutory requirements of the early twentieth century and public liability insurance, especially of automobile risks, has expanded rapidly in the last decade. The expansion of the insurance industry made

necessary in turn the extension and spread of reinsurance, which more and more displaced coinurance. But the new epoch is even more clearly characterized by the growth of the insurance companies into enterprises operating on an international scale, by the founding of subsidiary companies and by the formation of cartel-like associations of entrepreneurs in all large countries and in all branches of insurance.

The introduction of social insurance proved an influential factor in the development of insurance during the last half century and has been most extensively developed in the various branches of personal insurance. Social insurance is not so much a new principle as the combination of various elements which may be found separately in individual insurance, whether private or mutual: compulsion, the establishment of monopolistic state funds, partial support by treasury funds and more distinctively the levy upon employers for premium payments. Social insurance originated in Germany and is closely connected with the name and the policies of Bismarck, who introduced sickness insurance in 1883, accident insurance in 1884 and disability and old age insurance in 1889.

A new era of growth began with the end of the first decade of the present century; new general insurance companies were formed for the writing of branches of insurance which previously had been undertaken separately. In addition numerous unions of local insurance societies and of those limited in membership were organized, leading increasingly to that more general distribution of risks which is especially advantageous for insurance. The World War did not exert as destructive an effect upon the position of insurance in economic life as might have been supposed, and between 1918 and 1923 more new companies were founded than in any previous five-year period. The effect of the post-war inflation period was catastrophic, but the successful stabilization of currencies brought with it to an astonishing degree a rapid and extensive growth of insurance. Horizontal concentration to reduce competition has been especially characteristic of this period. But vertical concentration, for instance, in the form of the combination of insurance and reinsurance within the same concern, is not uncommon. The increasing importance of the insurance industry has everywhere resulted in legislation leading to more effective state supervision of its conduct and its policy forms.

ALFRED MANES

**INDUSTRY.** In any survey of the modern economic world the business of insurance must have a prominent place. In the United States, where insurance is probably more extensive than in any other country, the aggregate insurance premiums of all classes of carriers for all types of risks is nearly \$6,000,000,000 annually; yet even in this country the full potential development has not been approached. Some American and more particularly English companies do an extensive foreign business in various parts of the world; today there are local companies even in such relatively undeveloped regions as the Fiji Islands. Moreover in many European countries governmental systems of social insurance are even more important than private systems.

By its nature the insurance business is a quasi-public utility. To be effective it must deal with large numbers of individuals, few of whom have any clear idea as to its fundamental principles. Through inequitable treatment harm might be done large classes of policyholders and unfair advantages be given others. And while it is possible to carry on a limited insurance service on the assessment principle, extensive operations require advance collection of premiums and sometimes, as in life insurance, the collection of at least a part of the cost many years before requirement for loss payment. Thus arises the need of wise conservation of unearned funds in reserve for future expenditure. For this reason most governments have assumed greater or less powers of supervision of the investment policies, rates and related aspects of the insurance business. While the industry has not yet been generally required to undertake the responsibility imposed on public utilities of justifying to a public authority its refusal to serve any who apply, this requirement, dangerous in insurance because of the intangibility of moral hazards, has been imposed in a few cases.

In the development of the insurance industry several types of carriers have received recognition of supervising authorities. None has yet proved so superior as to warrant acceptance as the one proper type; and only one, the individual underwriter acting alone, has passed from the stage. It is difficult to visualize a new type more effective than any yet developed; nevertheless, it might be unfortunate if supervision should cause such standardization as to preclude this possibility. Any new development must necessarily be surrounded with adequate safeguards for the public to whom it may offer its services. By a wise choice of carrier the insured may often

gain distinct advantage; not all types are suited to every condition, and careful discrimination is important. The tendency on the part of the insuring public in the United States to rely too greatly on a government license as a guaranty of safety imposes a distinct limitation on the range of permissible experiment.

Existing types of carriers fall into three general categories: proprietary, cooperative and governmental. In addition, notice may be taken of self-insurance. There is a real distinction between non-insurance and true self-insurance. Under non-insurance risk is not eliminated by artificial means, although extensive operations involving separate risks may bring about considerable regularity in loss occurrence. True self-insurance involves the establishment of a fund into which regular payments are made and from which losses are paid. Self-insurance is practicable only when the operations of the self-insurer are so conducted that a large number of independent risks are present, such as would be brought together through the operations of a professional risk carrier. The workmen's compensation and public liability risks of a metropolitan street railway system are examples of those suitable for self-insurance treatment. But even in this case the fund should be protected by an adequate surplus or reinsurance against an unusual concentration of losses in a brief interval of time.

There are two types of proprietary insurance carriers: individual underwriters, operating in syndicates, and stock corporations. Under careful supervision, such as is exercised by Lloyd's of London, underwriting syndicates have proved satisfactory as carriers of short time risks. Indeed they have furnished for centuries and still furnish a major part of the marine insurance of the world. They are not suited for and have not attempted the long time coverage of life insurance. The chief drawback in dealing with members of underwriting associations is the uncertainty of continuous financial responsibility except in cases where somebody, such as the Lloyd's committee, has power to use adequate pressure to assure it. Stock corporations have proved satisfactory carriers in all fields of insurance, although they are not per se proof against mismanagement. With adequate regulation and in some countries with merely enforced publicity of accounts and transactions only reasonable care on the part of the insured has been necessary to maintain his safety. In the United States the most serious criticism is that expense of operation is excessive, primarily because of the

cost of acquiring business under a competitive system which employs agents paid by commissions on premiums.

There are three distinct classes of cooperative risk carriers: first, friendly societies (*q.v.*) or fraternal orders (*q.v.*); second, mutual corporations; third, interinsurance, or reciprocal, exchanges. The distinguishing characteristic of the first group is the operation through local lodges which are also centers of social activity. Such lodges have generally confined their insurance activity to life insurance and the granting of disability benefits. Until recently they have tended to ignore actuarial principles and consequently have been forced to make painful readjustments. Low cost and social attractions have constituted their chief drawing card.

Mutual corporations may be subclassified according to their reliance on the assessment of members or on advance premium collections for the payment of losses. Even when reliance is placed principally upon assessment, it is the usual practise to collect a sufficient sum in advance to pay losses in the interval between assessment periods. Assessment is practical only for carrying risks closely uniform in kind and degree; it fails utterly when these conditions are lacking or in cases of progressive risk, as in life insurance. Its chief advantage is low operating cost because of simplicity of organization. The advance premium system, on the other hand, may or may not have coupled with it a supplementary assessment liability of the policyholder; in life insurance on an actuarial basis such provision is not common. The advance premium is usually more than adequate and excesses are refunded through so-called dividends. Since advance premiums in both stock and mutual systems must be conservatively determined to assure adequacy, mutual companies have the advantage of more accurate subsequent adjustment to actual cost. Except in life insurance, where the agency methods are similar to those of the stock company, lower costs are frequently realized usually by virtue of lower operating costs, principally acquisition costs; sales staffs work either on a salaried basis or on a lower scale of commissions than do the representatives of stock companies. In contrast dividends paid by the mutual life insurance companies derive mainly from interest in excess of that assumed in the actuarial calculations as well as from savings in mortality. The loadings by which gross premiums are derived from the net premiums found by actuarial calculations frequently contain a

margin for dividends, which in times of emergency may also be a safety factor. Mutual companies outside the life insurance field, in which they predominate in America, have been most successful in acquiring highly protected manufacturing risks for fire insurance and workmen's compensation insurance and isolated dwelling and farm buildings for fire insurance. In the large companies where the policyholders control in name only the high salaries paid the officers have taken the place of profits as an incentive to efficient operation.

Interinsurance exchanges are unincorporated groups of individuals reciprocally insuring each other and operating through an attorney-in-fact who is given a power of attorney by each member in the course of his application. In general, advance "deposits" are made by the several members against which the members' proportion of losses and expenses are charged. Periodically an adjustment is made by refund of balances or collection of deficiencies. While the attorney-in-fact is usually invested with full powers to do anything necessary for the conduct of the exchange he is not personally responsible for the results of unwise underwriting or loss adjustment. When the exchange is managed by a competent and honorable attorney-in-fact and membership is confined to the financially responsible with substantially similar risks, such exchanges have proved satisfactory carriers and have operated at low cost. In a number of cases, however, the plan has been subjected to grave abuse by irresponsible and dishonest individuals, who set up exchanges under their attorneyship and offer coverage to the general public without adequate explanation of the nature of the carrier.

Governmental carriers, that is, state insurance funds, are of two types. The term is applied, on the one hand, to a self-insurance fund for carrying risks to which the state and its subdivisions are exposed and, on the other, to state institutions set up to act as insurance carriers for the risks of its constituents. In the field of non-compulsory life insurance—which experience indicates must be sold energetically—they have written little business but have operated at very low cost. Where for reasons of state policy insurance has been made compulsory, it has been argued that the state must set up a carrier in order to provide insurance at the lowest possible cost. Sometimes the state fund has been given a monopoly of its field, as in certain European social insurance systems and in workmen's compensation insurance in some of the states of the

United States. In other cases the funds are competitive. Although they have at times been the victims of political abuse they have as a rule furnished sound insurance at low net cost because of low operating cost. Organization has in general followed the lines of private mutual corporations; save that a government board or bureau takes the place of the board of directors elected by the policyholders.

All insurance carriers except the simplest assessment type have certain common problems. Premium rates must be established for each class and degree of risk assumed; an adequate volume of risks must be procured to give a reasonable stability to the mass; and the company must be safeguarded against adverse selection and too great concentration of risks. Such work is known technically as underwriting. Premiums received in advance of requirement for loss payment must be conserved and suitably invested. Losses must be investigated and settled fairly. In addition every carrier has a large amount of detailed clerical accounting and statistical work calling for an elaborate and highly organized staff.

The problems of rate making and underwriting are closely associated. The economic function of insurance is the substitution of a fixed charge for an uncertain risk by transfer of that risk to a professional risk carrier who may thus acquire mass stability, with a consequent equitable redistribution of the losses and the expense involved. Thus the insurance contract must be a contract of indemnity—life insurance policies are to some extent an exception because of the impossibility of accurately appraising life values—and the rate must be equitable. The test of equity is that the individual insured should so far as possible pay only what would be his proportionate cost in a sufficiently large company composed exclusively of risks identical with his own. Precise equity is probably unattainable, but the aim of all rate making practise and procedure is approximate equity. In a competitive situation countenance by a carrier of substantial inequity carries its own punishment. The general rate level rarely gets high enough to yield more than a modest underwriting profit. If overcharged risks do not seek insurance elsewhere, forming if necessary new mutual carriers, competition of carriers for the "preferred" business augments acquisition expenses and reduces the margin of profit. The losses on the undercharged risks are then unbalanced and the guilty carrier is correspondingly weakened.

Although rates must be made for the future

they can be based only on past experience. Changes in condition, especially in long time trends, must be carefully observed; as, for example, the effect on accident rates and consequently upon costs of workmen's compensation of increasing mechanization of industry. Varying with the type of coverage the making of rates involves statistical study of experience, engineering technique and trained judgment of experienced underwriters. Seldom if ever is even a single carrier's experience broad enough to form a safe basis of rates. Moreover, since competitive bargaining over rates is disastrous, rate making can never be wholly an individual company matter but must always remain a group problem. The safeguards for the public are publicity in methods and in some cases direct or indirect public control. Since the rate must cover expense as well as loss cost, control of rates implies control of expenses. Sometimes, as in life insurance, the return upon invested funds must also be considered; but generally it is not possible to determine underlying probabilities with sufficient precision, and investment profits have been left as the source of return to stockholders.

The acquisition of an adequate volume of business presupposes an effective selling organization. Such organization is usually a blend of three types of systems: direct reporting, branch office and general agency. The first involves direct contact between the head office and the individual members of the sales staff, who may be paid by salary or commission, and is not adapted to complex conditions or to operations extending over a large area. It is used only by the simplest types of carriers operating over a small territory or by larger organizations for the region closely adjacent to the home office. Under the branch office system subordinate offices are maintained at central points in the charge of salaried officials of the company, whose compensation may be supplemented by a share of the profits from the business in their territory. In some cases the activities of the branch are limited to sales efforts and closely associated duties. In others the full range of operations (except investment of funds) is carried on in the branch office and only summary reports are made to the head office. The contacts with policyholders are maintained through local agents or brokers. This form of organization is best adapted to a well established company which has already developed a large volume of business in the territory. Under the general agency system contracts are made with individuals or firms for the



development of extensive territories. The general agent under such restrictions as his contract provides builds up and supervises his own organization of local representatives. He usually finances himself in this work and his profit is the difference between his commission and the sum which he pays local representatives and brokers. In fire and casualty insurance he has at times some powers and responsibility for loss settlements in his territory. In these fields he may have authority also to represent his company in rate making and other regulatory bodies.

Brokers are independent experts offering their services to the public in insurance matters. In marine insurance they are indispensable. While they represent the applicant in negotiations for insurance they obtain their compensation from the companies in a commission on the premiums paid. When they are given policies on order to deliver and collect they become the agents of the companies for that purpose. In life insurance policies are issued only at head or branch offices and the agent merely takes the application and delivers the policy. It is the usual custom in fire and most casualty lines to supply the agent with blank forms authorizing him to issue the policy and to report the facts to his supervising office. In the United States an insurance agency is often combined with a real estate office or other business, although strong efforts have been made by life insurance agents to eliminate the part time agent.

The American business man does not as a rule deal directly with insurance companies. If he is not solicited he usually takes his risk to an agent or broker, leaving to him the selection of a company. In fire and casualty lines agents frequently represent more than one company. Consequently competition between carriers tends to be a competition for those agents who can turn in the most business. This competition centers on rates of commissions, prizes and other allowances to agents and brokers. On the other hand, high commissions tend to bring about overselling, with a consequent high lapse rate; this has proved an unfortunate characteristic of the life insurance business, involving a serious economic waste. Excessive commissions also lead to rebating and other unfair practices which are difficult to control by statute. Moreover even the insurance of property values involves the intangible personal element as an important part of the hazard. All risks offered therefore must be carefully investigated. Where the insurance policy is issued only by head or branch offices, the

company may be safeguarded against excessive hazard by rejection of an application or by offering insurance only on special terms or at increased rates. Where the agent is authorized to issue policies he may be controlled to some extent by instructions. The final safeguard is exercise of the right of cancellation reserved to the company in the policy contract. Brokers are at times able to exert improper pressure upon agents and through them upon underwriters by offering a mixture of good and poor risks and insisting that if these are not accepted in toto the entire business will be placed elsewhere and other good business will be withdrawn upon expiration of the current policies. More or less effective efforts are made through company associations to control such competition. But it is extremely difficult to do so through purely voluntary associations and in some cases, particularly in the United States, it has been necessary to place statutory limits on commissions.

Underwriters must also consider the matter of concentration of risk. Insurance began among traders and in the cities and the chief demand for insurance still comes from the great metropolitan centers, where values are so congested and exposed to common hazards that careful underwriting calls for the retention of relatively small net lines. This involves the fixing of a maximum limit on the amount or "line" which will be carried on an individual risk and often the fixing of supplementary limits for groups of risks which may be exposed to loss from the same event. Hence there is apt to be in those centers an unsatisfied demand for insurance which tends to bring about the establishment of new carriers. These new carriers, however, cannot find an adequate volume of satisfactory business in large cities alone; they seek to diversify and spread their risks by conducting their activities in the smaller communities, where unit values are smaller and the extent of common exposure not so great. Here there is a larger underwriting capacity than necessary, involving the severest competition, which can be held within safe bounds only by wise cooperation, not merely for rate making but also for the regulation of agency relations and other practices. Regulation is exceedingly difficult to maintain unless it is required by law. The history of each branch of insurance in the United States is largely a record of efforts to maintain such organizations. The problem has been made the more difficult by the fact that insurance has been held not to be commerce and is therefore not subject to federal

regulation. The several states have not been consistent in their views, particularly on this matter of combination. At first the theory generally held was that it was an improper restraint of trade and should be suppressed. Many anticompetitive laws were the result. More recently a better understanding of the business and its problems has led to the repeal of many of these laws and in some cases to the requirement of combination under state supervision. But not all anticompetitive laws have been repealed, and many carriers are required to conduct their business in one state in a manner which in another would subject them to severe penalties.

In some fields, as in workmen's compensation, it is impossible to fix limits on the risks written, since public policy demands that all employees be insured for the full statutory benefit. It is also desirable at times to accommodate agents by assuming more than the fixed line on an individual risk. Groups of individually acceptable risks may give rise to excessive group lines. The carrier can protect himself in such situations by reinsurance. Although there were sporadic instances of reinsurance in the early history of insurance, the practice necessarily became more widespread as values presented to the carriers for coverage increased either individually or by concentration. The latter half of the nineteenth century witnessed the formation of a number of companies devoted exclusively to reinsurance. Such companies offer either facultative contracts or treaties; most reinsurance is now handled by the latter method, practised also by companies which do not confine their operations exclusively to reinsurance. Under the facultative method the direct writing company is not required to cede and the reinsurance company is not obliged to accept any particular risk. If the reinsurer is offered a risk, however, he is bound to it until he declines. Under an automatic excess treaty the direct writing company is bound to cede and the reinsurance company to accept all excesses falling within the classes stipulated. The treaty usually provides that the excess covered shall not be greater than the net retention of the original company; in order to be fully protected and yet offer its agents the opportunity to cover their clients adequately a direct writing company often arranges several treaties covering successive excesses. As a rule the coverage of the reinsurer is identical in terms with that of the direct writing company and transactions are reported periodically by a tabulation or *bordereau*. Companies writing such risks as workmen's

compensation protect themselves by a reinsurance treaty which covers losses on any risk from a single event in excess of a fixed limit and up to a secondary limit. Under such a contract, the premium for which is a fixed percentage of the total premiums for that kind of risk written by the direct writing company, there is no need of reporting individual risks. The amount of premiums is determined and paid periodically. Reinsurance carriers are subject to sudden increases in the amounts they have at risk in particular locations or on individual risks and must have the means of divesting themselves promptly of dangerous excesses. They must in turn arrange reinsurance facilities; many of these arrangements are international and large risks may ultimately be spread among carriers throughout the world. Young carriers with strong backing and good agency connections, finding the financing of a large volume of business too expensive, frequently arrange for quota share reinsurance of a fixed percentage of all business they write. When a fleet of carriers in a single field, such as fire insurance, is under the same management because of interlocking control, quota share pooling of all the business of each of the carriers is not uncommon. Similar reinsurance pools may be formed by independent carriers operating in the same line.

The public interest requires that in general the insurance policy be a contract of indemnity and from this arises the problem of loss adjustment. This problem is relatively simple in life insurance, since all policies are for fixed values and only total losses are encountered. In other fields it is most difficult to determine the carrier's obligation. The insured rarely reads his policy before a loss, and despite most careful definition therein of the risk assumed and the procedure for determination and settlement of losses he may have an exaggerated idea of his rights and none of his obligations. Overpayment of losses tends to lessen the interest of the insured public in the prevention and minimizing of losses. It not only tends to increase the cost to all policyholders but it invites fraud. The avoidance of overpayment is an obligation of an insurance carrier to its policyholders as a group. But the public renders all too little support to the companies, since it is commonly assumed that insurance companies like public service corporations are fair game. Thus the agents of the company which acquires a reputation for niggardliness and insistence on technicalities find it difficult to carry on. Because of the pres-

sure for liberality, not to say laxity, in loss settlement the adjusters are placed in more or less of a dilemma. In general the policy of representatives of well managed carriers is governed by their estimates of the good faith of the claimant. Where fraud is suspected, every technicality is insisted upon. If misunderstanding of obligations is accompanied by evident good faith, technicalities may be waived and values liberally estimated, so that policy provisions as to disinterested appraisal are invoked only when agreement is apparently impossible otherwise.

The need for conservation of funds during the interval between their receipt as premiums and their disbursement for losses and expenses creates the problem of investment. The normal length of this interval and the time and manner of loss payment are the determining factors in setting investment policies. Both vary materially with the type of coverage.

Fire and marine insurance provide coverage for relatively short intervals. The nature of the potential demand for funds requires that investments be quite liquid, for there may be need of large sums on short notice. Although reserves need be held only for losses in course of settlement, unearned premiums and incurred unliquidated expenses, wise management calls for the accumulation of considerable surplus. Total assets, of which about 85 percent are invested, aggregate in the United States a little less than three times the annual premium income. For most casualty lines the conditions are generally similar; but in some, for example liability insurance, the time required to determine the company's liability in particular cases provides an interval during which cash reserves may be built up out of current income. Large workmen's compensation losses may be incurred through single events, but the fact that benefits are payable over considerable periods of time slightly relaxes the need for liquidity. The reserves for unliquidated losses in casualty and compensation insurance are much larger than in fire and marine.

In life insurance reserves assume the greatest importance. The life insurance contract usually covers a long term of years. But because the premiums remain level throughout the term, the payments exceed the risk cost and the difference, the unearned premium, must be held by the company in the form of reserves which act as self-insurance to reduce the net amount at risk and thus compensate the increasing risk. Life insurance companies thus accumulate vast sums

for investment. Even in the United States, where the proportion of recent business is large in all companies, the assets at the present time exceed five times the annual premium income. If a company has a substantial premium income it has little need for concern with liquidity in investments. Security and regular yield are the prime requisites, the latter by reason of the necessary assumption of interest income in rate calculations.

Investment policies are controlled by the directors of the several companies. Unfortunately these directors, who are usually engaged in other businesses, have not always respected the trustee character of their reserves as guaranties of their contracts but under the guise of investment have indulged in speculation. At times this has been merely bad judgment but there have been instances of improper use of company funds for the advantage of officers, directors and others having a close relation to the companies, and some failures have resulted with loss to policyholders and stockholders. This has led to government regulations and restrictions with respect to investment policies. Theories and methods of governmental interference in investment activity differ widely. At one extreme is the British system of freedom of action with the requirement of full publicity and only minor prohibitions, such as those forbidding investment of life insurance funds in the shares of any insurance undertaking except with the consent of the court. At the other extreme stand Germany and some of the states of the United States, which prohibit definitely some classes of investments and restrict the proportion of funds which may be put in others. Under the German law, for example, stocks to be eligible must be listed on a German bourse and not more than 10 percent of the reserves may be so invested. Intermediate perhaps are those states which leave the field fairly open but require periodic reports and vest in an official of the state authority to require immediate sale of an investment which he does not regard as within the statutory category of first class securities. In general, only such real estate may be held permanently as is requisite for the convenient transaction of business. Other real estate may be taken on foreclosure of mortgages or otherwise in the satisfaction of debts but must be disposed of within five years unless an extension of time is granted by state supervisors. Investment in loans on personal security or so-called commercial paper is not permitted in the United States. Real estate mortgages, subject to

a set ratio to the value of the pledged property, are freely permitted. Government bonds and those of established private corporations are generally allowed. More restrictions are placed upon stocks, especially as investments for life insurance companies. Loans on security of stocks and bonds are generally permitted, at least on such securities as might have been bought. Officers and directors are generally prohibited from being interested except on behalf of the company in any such loans. Annual statements, including detailed schedules, from which the character of the assets and the investment policy may promptly be ascertained, are a universal requirement. Sometimes they must be published; usually they are filed as public documents open to general inspection.

In the United States alone the insurance carriers, with over \$26,000,000,000 assets and \$6,000,000,000 annual premiums, form an enormous collecting reservoir of investable funds. Their influence in the investment markets—for farm and urban mortgage loans, for bonds and stocks—is correspondingly important. In the autumn of 1929 no small amount of the loans of New York banks on stock market securities "for account of others" came from insurance carrier funds.

The qualities desired in life insurance investments—security of principal and fixity of yield for long periods—have caused their distribution over a period of years to vary between urban and farm mortgages, government, railway, utility and industrial bonds, in accordance with the state of the market and prospect of security and yield. Certain life insurance companies have until very recently confined their investments to mortgages, with a large proportion of farm mortgages, and built up extensive organizations for the purpose of handling such loans. The last quarter of a century has seen such an enormous growth in life insurance in the United States that recent discussions have shown some uneasiness regarding the adequacy of the volume of safe outlets for future investments. The need for fire companies to keep their portfolios liquid has caused a frequent turnover of their investments. Large profits have been made in rising stock markets and the companies have at times been suspected of speculating. It may be difficult to draw the line between speculation and proper safeguarding of liquidity in such times, as it is also difficult to find a just basis of valuation of insurance assets. Since bonds are bought by life insurance companies as permanent investments, it is ap-

propriate to value them by the amortization method, a practice which is prescribed in some states. Stocks, however, are not susceptible to valuation on the amortization principle and its application to bond investments of those classes of carriers subject to potentially heavy demands for ready cash is inappropriate. All investments of such carriers are properly subject to a market value test, which creates no little difficulty for supervisory authorities in times of declining markets. In the event of forced liquidation an insurance carrier usually sacrifices substantial but intangible values in agency organization. If the decline is temporary this should be avoided. The problem is to determine when the decline is permanent and whether it is safe to allow time for adjustment.

DISTRIBUTION OF ASSETS OF LIFE, FIRE AND CASUALTY COMPANIES OPERATING IN NEW YORK STATE AS OF DECEMBER 31, 1928

|   | LIFE COMPANIES | FIRE COMPANIES | CASUALTY COMPANIES |
|---|----------------|----------------|--------------------|
| Real estate   | 1.8            | 1.8            | 3.1                |
| Mortgage loans  | 41.9           | 3.3            | 5.1                |
| Bonds and stocks *  | 39.6           | 79.5           | 74.7               |
| Collateral loans  | .1             | 1.3            | .9                 |
| Cash, premiums in course of collection, accrued interest and like items | 4.5            | 14.1           | 18.2               |
| Loans to policyholders  | 12.1           |                |                    |

\* The relation of bonds to stock have relatively little in stocks, the are divided about evenly, while predominate slightly.

Source: New York State, Insurance Department, vol. 101

as follows: life companies investments of fire companies casualty companies bonds

The essentially mutual character of the insurance industry has led to the establishment of numerous associations and to the forwarding of their common interests. The lack of general understanding of the fundamentals of insurance, the large amount of unwise legislation proposed in consequence and the difficulty of opposing it individually have led to intercarrier organizations for lobbying and propaganda. Although actuated by motives of self-interest such propaganda and lobbying have often worked to the public advantage. Carriers and their representatives have sponsored research in fire prevention, accident prevention and life conservation methods. They have cooperated with the law enforcing authorities in the suppression of arson and in other protective measures. High technical capacity is requisite for certain kinds of work re-

quired by insurance carriers; for example, the work of the actuary. While general educational institutions have long furnished the basic ground work for such capacity they have until recently not attempted the necessary specialized training. Associations of actuaries, insurance institutes and similar bodies have tried to fill this need with the encouragement and sometimes the financial support of the carriers. Their publications have furnished material for study, and examinations for admission have provided the incentive to such study. Since the turn of the century such activity has increased markedly, and with the introduction of curricula in commerce in the leading universities a growing number of courses on insurance are being given. Some of these are general, dealing with the economic aspects and services of one or more classes of insurance, principally fire, marine and life insurance. Others are technical, concentrating on actuarial science and fire or accident prevention engineering. As more broadly educated and better trained men become available for the management of the carriers and as the public acquires better understanding of the services and problems of insurance, there will undoubtedly be an even greater efflorescence of the industry.

A. H. MOWBRAY

LAW AND REGULATION embrace three groups of legal provisions. The law of the insurance contract although nominally based upon consent actually prescribes the rights of insurer and insured under a highly technical document with less regard for freedom of the will than for equalization of bargaining power between the parties, for the legal protection requisite to an effective selection and control of risks and for the social desirability of a widespread use of the insurance device. The law of insurance regulation, grounded in the state's police power over private enterprises, is designed to secure the financial safety of insurance carriers, their prompt and easy amenability to suit by the insured and the fairness of their business methods. A third group of laws prescribes the operations of the state itself or of a subordinate governmental instrumentality as a carrier of workmen's compensation and other social insurance. This group is highly developed in Europe but is restricted in the United States to state compensation funds, war risk insurance and minor state insurance schemes.

The antiquity of insurance has long been disputed. If the mutual aid associations of Greece

and Rome—usually recreational societies with incidental death benefits—are included, the origin of insurance may be traced to ancient times. In a sense the family may be considered a primitive type of mutual aid group. At any rate the benefactions of the early societies were apparently without legal sanction and their existence has left no trace upon modern insurance law. If, on the other hand, only the entrepreneur type of insurance organization is included, then insurance originated probably in northern Italy around 1300. The mediaeval Italian contract (*polizza*) was the earliest known form of insurance policy.

The insurance contract being a promise to pay a larger sum (the amount of loss) in exchange for the prior payment of a smaller sum (the premium) was thought at first to violate the canonical prohibition of usury. Hence the early contracts were disguised as pseudo-sales; that is, the insurer agreed to buy the goods from the insured only if they were lost at sea. When the usury ban ceased to be operative and these evasive devices were abandoned, the clumsy forms of early insurance policies (witness the Lloyd's marine policy) made possible their abuse as wagering devices by those who suffered no loss from the catastrophe insured against. Early continental legislation was aimed at this evil. In England marine insurance contracts, probably introduced in the early sixteenth century and first extensively used in the Elizabethan period, came during the early eighteenth century to be used as wagering devices through the insertion of the "P. P. I." (policy proof of interest) clause, by which the insurer agreed to dispense with proof of the insured's interest in the property insured. English courts, unwilling to create a rule against wagering and tolerant of the protection thus afforded to smugglers, enforced contracts in this form until 1746, when they were declared void by a statute (19 Geo. II, c. 37) which was later reenforced by criminal sanctions [Marine Insurance (Gambling Policies) Act, 1909]. In the United States most courts did not await the advent of legislation before declaring wagering contracts unenforceable. They fashioned from the Puritan and pioneer tradition of useful industry a judge made public policy against wagering.

To differentiate insurance from wagering the courts require an insurable interest, which in its broadest sense is any relation—other than that created by the contract—between the insured and the event insured against, such that the

event if it occurs will cause loss or injury to the insured. A comparison of property insurance and personal insurance reveals marked differences in the application of the Anglo-American legal requirement of insurable interest. In property insurance the insurer's promise is by explicit wording, as in fire insurance, or by interpretation, as in marine insurance, a promise to pay the insured his loss or damage and the insured's interest is an upper limit of his claim to indemnity; in life and casualty insurance the insurer promises to pay a fixed sum on the happening of the insured event.

In Anglo-American law a legally enforceable right or duty in relation to the insured object is requisite in property insurance; in life insurance a relation of mere factual expectation of pecuniary loss, such as the insured's well founded expectation of beneficence during the life of the person insured, will suffice. Moreover while an insurable interest in property must exist, by the weight of authority, only when the casualty occurs, an insurable interest in life need exist only when the contract is consummated.

The recognized insurable interests in property fall into three main groups. In the first, a proprietary interest, ranging in extent from that of the sole owner to that of the lienholder or the lessee, is sufficient whether its basis be legal or equitable. In the second, a contract right, expressly made dependent upon the insured event or upon a contingency directly affected by it, is a valid interest [*National Filtering Oil Co. v. Citizens' Insurance Co. of Missouri*, 106 N. Y. 535 (1887)], although the contingent claim of an unsecured creditor against his debtor's property has generally been regarded as too remote for legal recognition. In the third, legal liability to pay for loss or damage caused by the insured event provides an insurable interest in that event. Thus the bailee of goods has an insurable interest in them because of his liability to compensate the owner for damage to them. A fourth class of interests, represented by an adult son's factual expectation of obtaining a gift of certain property from his father, is recognized in a few cases [*Home Insurance Co. v. Mendenhall*, 164 Ill. 458 (1897)] but is generally rejected as too uncertain and remote under the influence of an early dictum by Lord Eldon [*Lucena v. Craufurd*, 2 Bos. & P. N. R. 269 (1806)]. In general it may be said that expected profits and other economic advantages contingent upon the safety of property are insurable if supported by a legally enforceable right.

Both French and German law maintain a clear distinction between life insurance, in which no insurable interest is required, and the various types of indemnity insurance. For the latter a factual expectation of economic loss, even though unsupported by a legal right or duty, is both necessary and sufficient to constitute an insurable interest. Hence a legal right of no economic value, such as the ownership of property mortgaged for far more than its value, is not an insurable interest. The contrast with Anglo-American law is thus complete in theory. The actual divergence is less because legal rights and economic advantages usually coincide. Expected gains are insurable in French and in German law.

In the Anglo-American law of life insurance a legal relation, such as a woman's right to support from her husband, is a sufficient insurable interest; but so is a mere factual expectation of benefit from the prolonged life of the person insured, such as that of a foster child not legally adopted to continued support from the foster parent. The unsecured creditor has long been recognized to have an insurable interest in the life of his debtor on the theory that payment of the debt is directly dependent on the debtor's earning capacity. Recent legislation in New York has extended group life insurance to meet this need [N. Y. Laws, ch. 292, sect. 1 (1929)]. The beneficiary's love and affection for the person whose life is insured have, however, been deemed insufficient in a majority of the states of the United States, partly because the English statute of 1774 (14 Geo. III, c. 48) requires a pecuniary interest.

An adult who procures insurance on his own life may name as beneficiary a person who has no insurable interest. The exercise of an independent choice by the former is regarded as a sufficient prophylactic against wagering by the latter. The growing recognition of this principle in the United States, coupled with the established practise of requiring a signed application for life insurance from the person whose life is to be insured, has restricted the problem of insurable interest to the rare situation in which the beneficiary induces the applicant to apply for a policy upon his life paid for by the beneficiary. The older notion that a continuing insurable interest was necessary as a deterrent to mercenary murder was exploded by a brilliant opinion of Justice Oliver Wendell Holmes upholding an assignment (not contemplated when the policy was issued) of a valid policy to one

having no insurable interest [Grigsby v. Russell, 222 U. S. 149 (1911)]. Yet the requirement of insurable interest has not been relaxed in American law to the same extent as in German law and French law, which seek to counteract the sinister tendencies of wagering on death by requiring merely the consent of the person insured to the original issuance and to every subsequent assignment of the policy. American statutes frequently limit the amounts insurable at various ages on the lives of minors, even where a parent is the beneficiary. Similar restrictions are found in English, French and German legislation.

The peculiar obligation of the insured to act in good faith toward the insurer is recognized in all legal systems. The doctrine of concealment requires that the applicant for insurance voluntarily disclose all known facts which would materially affect the insurer's decision to make the contract. At a time when the English common law of commercial bargaining was pervaded by the ethics of the jungle, Lord Mansfield to foster the business of underwriting as an aid to the expansion of British foreign trade laid down this doctrine in an opinion [Carter v. Boehm, (1766) 3 Burr. 1905] which was substantially copied in subsequent British legislation (Marine Insurance Act, 1906, sects. 17-19). The nullification of a contract because of innocent non-disclosure of a material fact known to the insured was justified by the inaccessibility to the insurer of information about marine risks and by the practise of having expert brokers familiar with the material factors of the risk to represent the insured in negotiations with the underwriter. English law rigorously applies the same rule to other kinds of insurance [Horne v. Poland, (1922) 2 K. B. 364]. American courts have accepted this rule for marine or inland marine risks. Insurance against terrestrial risks is avoidable only if the insured has withheld material facts with intent to defraud. This judge made reform was eloquently defended by the late Chief Justice Taft [Penn Mutual Life Insurance Co. v. Mechanics' Savings Bank and Trust Co., 72 Fed. 413 (1896)] on the ground that the insured is inexpert in estimating risks and that the insurer commonly relies upon independent investigation of the risk.

To Lord Mansfield's influence is also due the English rule that the insured's non-fraudulent misrepresentation of fact, which materially induces the insurer to contract, gives the latter a privilege of avoiding the policy. This doctrine

was accepted in American insurance law, but its range of operation has become restricted. In fire insurance the practise of issuing the policy without a written application from the insured has made the doctrine practically inapplicable. In life insurance the legal effect of innocent misrepresentations by the insured in his application has been diminished by judicial decisions and by legislation. A growing minority of courts hold that the insured should not suffer forfeiture because of honest erroneous opinions about his health, however unqualifiedly expressed. Some statutes prescribe that a non-fraudulent misrepresentation avoids the policy if the fact misrepresented is found by the tribunal to have increased the risk—that is, the probability—of death. Others even restrict the insurer's defense to cases in which the fact misrepresented actually contributed to the death of the insured. The scope and effect of these ineptly worded laws remain yet to be settled.

The codification of insurance law which took place in Germany in 1908 and in France in 1930 has mitigated the harsh consequences of the insured's innocent concealment or non-disclosure. Except in cases of fraud the insurer may not in French law cancel the contract for concealment or misrepresentation discovered after a loss has occurred; the insured suffers only a reduction of his claim in inverse proportion to the premium which would have been charged had the whole truth been told. The German law adopts the view even more favorable to the insured that a fact which did not contribute to the loss or to the extent of the insurer's liability is no ground for defeating the insured's claim except in marine insurance. Cancellation before loss is permitted in French law even when the insured's deception was innocent; in German law, only if the insured was culpable. In the United States a lone New Hampshire statute [Public Laws 1926, ch. 276, sect. 4 (1926)], revising pioneer legislation in this field [N. H. Laws, ch. 1662 (1855)], allows cancellation after loss only if the misrepresentation was fraudulent or if the fact misrepresented contributed to the loss. Otherwise recovery is reduced as under the French law, but the method of estimating this reduction remains obscure.

Oral contracts of insurance are valid in German law and, with some statutory exceptions, in English and in American law but not in French law. The universal practise of insurers, however, save in case of temporary coverage is to issue a formal policy. Since this document is drafted by

the insurer with an eye to his own interests, judicial interpretation favors the insured wherever doubt as to its meaning is possible. The marine policy became standardized in archaic language which left judicial interpretation a wide range of flexibility. The British Marine Insurance Act of 1906 virtually codified this uncouth hulk in its present form along with the encrusted deposits of judicial construction. The paucity of American legislation reveals a *laissez faire* attitude toward this esoteric branch of insurance.

The amazing growth in the United States of the popular branches of insurance during the latter half of the nineteenth century was accompanied by increasing complexity and length of the terms of the insurance policy. Liberty of contract bred weasel promises, against which judicial interpretation struggled with only partial success. Under the guidance of astute lawyers the insurers redrafted their contracts so as to circumvent decisions favoring the insured. In the competition among insurers, legally unrestricted and actually severe, rates were more important than the terms of the contract; and the insured's inability to understand the latter tempted the insurers to multiply the contractual restrictions upon their liability. Many of the restrictions were motivated by a genuine and not wholly unfounded distrust of the common man's honesty in dealing with insurance companies. Thus many American insurers sowed the dragon's teeth of legislative reform. The crop is still maturing.

One of the most salutary results of this legislation has been the compulsory standardization of policy forms. Although leading New York fire underwriters long sought uniformity of policy provisions for their own protection in the adjustment of losses involving several companies under different policies, only the legislative threat of a standard policy to be drafted by the superintendent of insurance [N. Y. Laws, ch. 488 (1886)] spurred them to produce the New York standard fire policy, a form still prescribed with minor modifications in the statutes of many other states. In New York this form was superseded in 1918 by a shorter form, prepared under the direction of the National Convention of Insurance Commissioners, which eliminates some of the harsh consequences of technical defaults by the insured. An earlier Massachusetts form drafted by legislators is even more favorable to the insured. Despite these legislative reforms American fire policies are still much more

lengthy than those used in England and seem to have more technical loopholes for the insurer than those in France and Germany. Workmen's compensation policies have frequently been standardized under American legislation. In life, accident and health insurance the legislation merely prescribes and proscribes certain types of clauses.

The problem of adjusting the technical requirements of a successful insurance enterprise to the needs, capacities and ethical notions of the common man is not peculiar to the United States, where, however, for reasons which are not entirely clear it has become more acute than elsewhere. Technical requirements appear as conditions of the insurer's promise to pay. Non-compliance with any one of these conditions relieves the insurer of liability. Some conditions have a more important bearing on the risk than others; some deviations from the required condition are serious, while others are merely technical. The English law of warranty was developed by Lord Mansfield on the assumption that the court should not inquire into the purpose of the expert underwriter in inserting the warranty or into the materiality of the breach. This assumption, not wholly unjustified in respect to the bargained for warranties adapted by marine insurers to each particular risk, led to the doctrine that any breach of the warranty as literally construed precluded recovery by the insured regardless of the materiality of the breach. This strict rule has been steadily adhered to by the English courts [Dawsons, Ltd. v. Bonnin, (1922) 2 A. C. 413]. American courts apply it with widely varying degrees of severity.

The extension of this strict doctrine to modern machine made policies poured forth by a central home office and distributed through a myriad of local agents, many of them indifferently trained and only avocationally interested, wrought havoc with honest claims. Attempts to attain an equitable interpretation of the numerous conditional clauses have led to confusion both in judicial decisions and in legislation. Particularly fruitful of litigation are the numerous fire insurance provisions aimed at fraudulent incendiarism by the insured, such as the clause invalidating the insurance if the insured is not sole and unconditional owner or if the insured chattel is mortgaged or if other insurance is procured without written consent of the first insurer. Judicial interpretation of these clauses in accordance with the purpose for which they were inserted has frequently eliminated technical de-



fenses. Some American states have enacted that only a default which is material to the risk will avoid the policy. More drastic legislation in a few states requires the insurer to prove that the breach of condition actually contributed to the loss. The German insurance code excuses the insured's default if he proves that it did not contribute to the loss. The French law of 1930 affords less liberal protection to the insured.

Another embattled safeguard in American law is the limitation upon the local insurance agent's power to bind his company. Either he has no authority whatever to modify the printed forms, as in life insurance, or he has authority to modify only by a written endorsement, as in fire insurance. These restrictions, coupled with the parole evidence rule which excludes proof of contemporaneous conversations not embodied in the written contract, tend to effectuate uniform centralized home office control over multitudes of local agents. Yet the ordinary man accustomed to the looser dealings of local merchants and department stores can scarcely understand why the agent who takes his premium has no power to bind the company by oral statements. The harsh consequences to the insured of this slot machine plan of distributing insurance coverage are mitigated by the twin doctrines of waiver and estoppel. While the American decisions are in hopeless confusion as to the scope and meaning of these doctrines, it may be said that they apply in general where the insurer's agent with knowledge of the insured's default lulls him by soothing speech into a sense of security without properly endorsing the policy. The federal courts rigorously exclude proof of the agent's contemporaneous conversations unless the insured sues in equity to reform the policy. A decided majority of the state courts allow such proof, in a trial by jury, for the purpose of relieving the insured of a breach of condition. Hence the insured's rights will often depend upon whether or not the insurer can seek the beneficent protection of the federal courts. At their best waiver and estoppel impose upon the insurer a duty of serving the individual needs of the insured. At their worst they cloak fraudulent claims or rationalize judicial sympathy and prejudice.

Sympathy and prejudice, particularly of jurors, add to the American insurer's troubles a juridical risk unmatched in England, where judges control juries, or on the continent, where judges alone decide. Had the English statute of 1601 (43 Eliz., c. 12), which sought to take in-

surance litigation from the common law courts by creating a special insurance court, been successful, American law might have inherited a special jurisdiction for insurance cases similar to that of the juryless admiralty courts. As it is, jurors' verdicts against insurance companies reflect the same tendency to effect a redistribution of wealth which is manifested in verdicts against other rich corporations. The introduction into life insurance policies of a clause making the insured's claim legally incontestable after one or two years from date of issuance has proved an unforeseen boon to insurers by opening the doors of the juryless equity court to the timely cancellation of a policy procured by deception.

The growth of social insurance, although more backward in the United States than abroad, has been paralleled by an increasing tendency to make private insurance coverage available for victims of the casualty other than the contracting party. This tendency has been most marked (aside from workmen's compensation insurance) in automobile liability insurance, where statutes which perfect the injured person's claim against the insurer of the automobilist who injured him have been upheld by the Supreme Court on the ground among others that liability insurance tends to make the driver more careless and thus enhances the danger to other persons [*Merehants' Mutual Automobile Liability Insurance Co. v. Smart*, 267 U. S. 126 (1924)]. Quasi-negotiable marine insurance certificates protecting all persons who become interested in shipments of goods have facilitated export trade, and fire insurance obtained by bailees on goods "held in trust or on commission" serve a similar purpose in inland trade. While American and English laws still treat the ordinary fire policy as a "personal" contract which does not follow the transfer of the property, in France and in Germany automatic coverage of the transferee, at least for a brief period, is now the rule. The use of life insurance to protect the widow and children of the breadwinner has been recognized in numerous American statutes which exempt the proceeds of the policy in the hands of the beneficiary from the claims of the insured's creditors, even in case of bankruptcy. This is only another example of the way in which insurance law transcends the bounds of the individual contract. Another tendency away from an individualist economy is seen in the growth of mutual insurance carriers.

Legislative and administrative regulation of insurance enterprises dates from almost the be-

ginning of modern commercial insurance. The Barcelona Code of 1435 prescribed brokerage fees, and a Florentine law of 1523 established official control of rates and of policy forms. Regulation of reserves and investments were introduced by nineteenth century American legislation. Not until the twentieth century did English or continental legislation approach that of the United States in strictness, and today only Germany (law of 1901, with drastic amendments in 1931) exercises a comparable degree of supervision.

Four types of state control have been used. The state may prescribe the initial qualifications of a new enterprise, as in the early special incorporation statutes of Massachusetts. The state may require annual publication of financial statements on the assumption that the insuring public will thus be enabled to choose the more reliable companies. This device was unduly relied upon in early American legislation. The state may establish norms for the subsequent conduct of the enterprise, backed by criminal penalties or the threat of judicial receivership. Finally, without abandoning any of these devices the state may establish a continuous official supervision with summary administrative powers. This last stage has been attained in every state of the United States by investing a single official (the insurance commissioner or superintendent of insurance) with these powers. In Germany and in France advisory committees representative of insurers, insured and actuaries participate in the official control.

In England the attempts of the Privy Council from 1574 to 1576 to regulate marine insurance rates proved abortive. Insurance enterprises as such were not subjected to regulation of their financial arrangements until 1870, when life insurance companies were required to make initial deposits of £20,000 each and to file financial reports annually with the Board of Trade (33 & 34 Vict., c. 61). The same or similar requirements were extended in 1907 and again in 1909 to other types of insurance companies. The Assurance Companies Act of 1909 (9 Edw. VII, c. 49) for the first time brought individual underwriters, such as the members of Lloyd's in London, within the scope of such regulations; yet the beneficent autonomy of those individual underwriters' associations, approved by the Board of Trade, was preserved by exempting their members from requirements other than the deposit of £2000. The vexatious problems of fraternal societies were dealt with more compre-

hensively and effectively by the Friendly Societies Act of 1896 (59 & 60 Vict., c. 25) than by comparable American legislation. The Industrial Assurance Act of 1923 (13 & 14 Geo. V, c. 8) confers summary inquisitorial powers on the industrial insurance commissioner and attains continuous administrative supervision. Thus English legislation better safeguards the interests of the proletarian policyholder than of the well to do. In the United States the converse has generally been true. On the whole regulation in England has been mild.

The American insurance commissioner or superintendent has extensive and flexible powers over the conduct of insurance enterprises. He may refuse to issue or revoke an insurance company's license, and the unlicensed insurer becomes subject to heavy penalties if it continues to do business. The grounds of refusal or revocation are sometimes specifically prescribed by statute; but in other instances a blanket provision is added, such as "whenever in the judgment of the superintendent of insurance it will best promote the interests of the people of this state" [N. Y. Laws, ch. 9 (1913)]. Grounds for the revocation of agents' licenses are more narrowly prescribed. In those few states which authorize the licensing of insurance brokers revocation is usually authorized on the ground of untrustworthiness or incompetence. Another important administrative device is the commissioner's power to demand the privilege of making an extensive examination of the books, securities and affairs of local enterprises, commonly at the expense of the enterprise examined. To ascertain the financial safety of insurance companies he is authorized to evaluate their assets and liabilities and to approve or disapprove their investments. His powers over policy forms are somewhat less discretionary and apply only to a few types of insurance. Only in the exercise of his power to prescribe rates, usually limited to fire and to workmen's compensation insurance, does he ordinarily hold a formal hearing.

Elastic discretion and inadequate procedural safeguards have led to some abuses, less frequently through corruption than through official zeal to stretch the scope of regulation beyond the terms of the statute. Thus the tendency to enforce by unauthorized administrative sanctions the payment of private contract claims against insurers or against brokers is an encroachment on the judicial prerogative of determining the validity of such claims. While judicial remedies against the commissioner are available to check

these and other bureaucratic abuses, they are sparingly invoked by insurance companies because of the resultant unfavorable publicity and official ill will.

It was early held that the regulation of interstate insurance business is beyond the powers of Congress over interstate commerce [Paul v. Virginia, 75 U. S. 168 (1868)]. Hence each state enforces its own legislation as to both domestic and foreign enterprises. The power of the state to exclude arbitrarily an insurance corporation of another state has, however, been denied by the Supreme Court [Fidelity & Deposit Co. of Maryland v. Taffoy, 270 U. S. 426 (1926)]. The burdens imposed on interstate insurers by forty-eight autonomous officials and some ten thousand sections of insurance law are lightened by extralegal influences. Imitation of the legislation of other states, notably of New York, has lessened divergences. The National Convention of Insurance Commissioners, organized in 1870, a gathering of state officials which meets twice yearly, has conducted numerous investigations of their common problems, drafted important uniform legislation and standardized administrative practices, especially in regard to the voluminous annual reports required of insurance companies. By expediting the interstate exchange of official examiners' reports it has decreased the expense to the companies of multiple supervision and relieved the smaller state insurance departments of tasks for which they are inadequately manned.

The constitutional limits of the state's police power over the insurance business are not clearly defined. Since the Supreme Court upheld the regulation of fire insurance rates on the ground that competition was practically ineffective [German Alliance Ins. Co. v. Lewis, 233 U. S. 389 (1914)], the insurance business has been in some measure "affected with a public interest." Although insurance companies are forbidden to discriminate unfairly between applicants for insurance or to give rebates to those whom they choose to insure they are not like public utilities under a legal duty to serve all who apply. No showing of public necessity or convenience is prerequisite to the incorporation or licensing of a new insurance enterprise. Insurance is in the twilight zone of state control.

State supervision of insurance has passed the experimental stage. In the United States its preventive work has well protected the insuring public from commercial enterprises inadequately capitalized or fraudulently managed. Its

constructive work has effectuated important changes which the insurers would not or could not bring about voluntarily. A notable example is the establishment of the compulsory reserve and of the life policyholder's right to a share of the reserve fund, the cash surrender value, through the efforts of Elizur Wright, commissioner of Massachusetts, after the middle of the nineteenth century in 1854-61. Here as in other constructive efforts the state bureaucracy has served less by invention than by selecting its norms from among those professional standards and business mores which are deemed to have the greater social utility.

EDWIN W. PATTERSON

See: RISK; SPECULATION; FRATERNAL ORDERS; FRIENDLY SOCIETIES; MUTUAL AID SOCIETIES; SOCIAL INSURANCE; GOVERNMENT REGULATION OF INDUSTRY; INVESTMENT; CORPORATION TAXES; MARINE INSURANCE; FIRE INSURANCE; LIFE INSURANCE; CASUALTY INSURANCE; BONDING; AGRICULTURAL INSURANCE; AUTOMOBILE INSURANCE; HEALTH INSURANCE; CREDIT INSURANCE; COMPENSATION AND LIABILITY INSURANCE; WORKMEN'S COMPENSATION; BANK DEPOSITS, GUARANTY OF; GROUP INSURANCE.

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INSURGENCY, POLITICAL. Rebellion against authority is far from rare. It is attempted in various forms and for various motives and has various consequences. In international law the term insurgency is used to describe an internal political revolt which the withstanding state does not wish to recognize as war and which other states are not ready to recognize as belligerency (see INSURRECTION). The consequences are of interest to international lawyers but the situation arises with relative infrequency.

The term insurgency is more often employed in domestic party politics. There have doubtless been insurgents wherever authority has been asserted over groups, but the word was first used to describe those Republicans who in 1909 revolted against the party leadership in the House of Representatives, dethroned Speaker Cannon and reformed the rules of the House.

The 1909 movement was not the first movement of its kind in American party history, for insurgency although not called by that name had raised its head in 1872 and in the 1880's and 1890's.

Dissatisfaction with the first Grant administration, lack of confidence in the leadership of

the Republican party and a desire for a different policy toward the South led to the movement of liberal Republicans in 1872. The leaders of these dissentients were distinguished men—Carl Schurz, Charles Francis Adams, William Cullen Bryant, Lyman Trumbull, Whiteclaw Reid—who had outstanding ability and possessed the public confidence. A liberal Republican convention nominated Horace Greeley for the presidency and the nomination was endorsed by the Democrats at their convention in Baltimore. Grant was elected and, since his second administration was no more successful than the first, the liberal Republicans continued their irregularity. After Hayes was nominated most of them became regulars. In 1884 independent Republicans supported Cleveland on the ground that Blaine was an unfit leader. They were called mugwumps, an epithet which had been used to describe the liberal Republicans of 1872 but which did not gain currency until it was used as a name for the influential Republicans—again including Carl Schurz—who bolted their party twelve years later. During Cleveland's administration there were "silver Democrats," and in 1896 "gold Democrats" were unwilling to accept Bryan as the nominee of the party. They put up their own candidate, but he polled only 130,000 votes.

These insurgent movements were connected with presidential nominations and campaigns. The movement of 1909 began on the congressional terrain. Its principal objectives, which were attained in March, 1910, by coalition with the Democrats, were the exclusion of the speaker from membership on the Committee on Rules and the election of the committees by the House instead of their appointment by the speaker. Once these objectives had been attained, the movement in all probability would have had few further immediate results had it not been for the attempt made by President Taft to discipline the insurgents and for the split between President Taft and Roosevelt. The insurgent Republicans were prominent in the Progressive party of 1912, but by 1916 most if not all of them were again regular. Some of them became irregular again when Senator La Follette ran for the presidency on a third party ticket in 1924.

The term insurgency is still used to describe "progressive" Republicans who are out of tune with the regular leadership. In recent years congressional insurgency has largely been confined to the Senate, where its objectives have been chiefly legislative and inquisitorial. The con-

gressional investigations of the Harding and Coolidge administrations were largely brought about with the support of the insurgents. It is interesting to note that the insurgent movement of 1909-10 and recent irregularity in the Senate have been led by representatives and senators from the west. This is natural enough, for the leadership of both American political parties still derives from the older sections of the country. It is to be expected that the newer sections will send to Washington representatives whose opinions and interests are not in rapport with the opinions and interests of the eastern and middle western states.

The Democrats have been spared—or have not been blessed—by an insurgent movement similar to that of 1909. One reason is doubtless the fact that the Democrats are usually in the congressional minority. Insurgency seems to be encouraged when a party has a majority, for then leadership is highly prized—so small a value is placed on a vigorous party opposition in the United States—and tends to bring forth the countervailing tendency of insurgency. It would be accurate to say, however, that dissentient groups in the Democratic party have been just as frequent as dissentient groups in the Republican party; but their identities have been inchoate and their activities have been temporary and not too notorious.

The indigenous character of American party development, with the parties extragovernmental, elaborately organized, under irresponsible leadership and made up of loose federations of state or sectional parties, encourages factionalism. Insurgency can be an avenue to political prominence. A larger percentage of insurgents than of regulars can become known to the country. Irregularity is more interesting than regularity, while it is not unlikely that there is a higher percentage of able men among the revolters than among the regulars. Unlike politicians on the continent, American insurgents cannot use their irregularity to obtain cabinet posts or the one great prize in American politics, the presidency. American political parties are inclined to select only "safe" men for their highest posts. Publicity, in short, is the principal means and perhaps the chief end of political insurgency in the United States. There is no possibility of influencing the tenure of a government or of persuading a parliament to withdraw its confidence from the executive. A revolt can accomplish little more than to force the regular organization to modify its policy. Or it may add numerical

strength to the minority party so that the majority group becomes a minority. Finally, the price of acquiescence may be greater legislative preferment for the revolvers--consideration of measures which they espouse or better places in the committee hierarchy of Congress.

It is interesting to note that representatives and senators who insurg in Congress are infrequently irregular in presidential elections and that their temporary independence rarely means even temporary abandonment of the party label. Since the insurgents are dominant in their local party organizations—for example, Senator La Follette always controlled the Republican party machine in Wisconsin—the only discipline which the national party may attempt is a withdrawal of federal patronage or a threat of exclusion from important congressional committees. These sanctions may be boomerangs, as President Taft discovered. If the party majority is small, the congressional leaders may need insurgent votes to “organize” Congress; or the party leaders may simply conclude that discretion is the better part of valor. In these cases discipline is not attempted.

Complaint is sometimes made that the irregular senators and representatives from smaller states have prominence and power disproportionate to the size and influence of their constituencies. There is little merit in such a suggestion; for an irregular senator sent to Washington by a majority of the votes of a small state may be an effective representative of sizable minority opinions in large states. In Congress the legislative hopes of insurgents or progressives or irregulars are made more easily realizable by the bipartisan character of the bulk of congressional legislation. As is frequently pointed out, few important laws are driven to the statute book by the advocacy of one party in the face of opposition by the other party. Congressional majorities are usually bipartisan and under such circumstances a bloc of representatives or senators, anxious for more progressive measures than the regular majority leaders are willing to sanction, can be extremely powerful.

In Great Britain and on the continent political insurgency is far from unknown, but because of different governmental structures and party organizations it has disclosed different tactics and objectives. In Great Britain revolts against party leadership have had different strategy and objectives. For example, Liberal dissentients known as Adullamites and headed by Robert Lowe and Lord Hugh Grosvenor opposed on

principle Gladstone's Reform Bill in 1866 and were largely responsible for the defeat of his government. In much the same way twenty years later the Irish question created irreconcilable minorities in both the great English parties. But this defection was so extensive and so continued that its participants were not in the same category with the occupants of the cave of Adullam.

A better English illustration is perhaps the Fourth party, which indeed had hardly more than four members. The two ablest were Arthur Balfour and Lord Randolph Churchill. Organized in 1880 after Gladstone had won his Midlothian campaign and when the leadership of the Conservative opposition in the House of Commons might have been more vigorous and effective, the Fourth party made its members far more prominent than they could have been if they had remained regular Conservatives. Partly because Gladstone's temperament made him easy to bait—and the brilliant Fourth party men knew how to do it—they were far more annoying than were the leaders of the official opposition. There was in this insurgency slight divergence on principle. The consciences of Balfour and Lord Randolph were not bothered by what they conceived to be mistaken Conservative doctrine. They wished to make their mark in Parliament quickly; and insurgency was the highly successful method that they employed. All four members of the party were given office in Lord Salisbury's government and their insurgency was at an end.

On the continent, where most cabinets are coalition cabinets and parties are multiple, irregularity is frequently the shortest road to ministerial preferment. This is not to say that doctrinal differences do not exist. Splits in the French Socialist party, for example, proliferated a single organization into several, and in other continental countries the same phenomenon has been responsible for the post-war birth of communist parties. But what may be called insurgency frequently occurs in France because of reasons which to the foreign observer seem purely personal. To the intimately informed the nuances of doctrine may be perceptible, but to the outsider it frequently seems that a group of deputies withdraws from their previous group and organizes their own group solely for the purpose of prominence and profit. Since a French cabinet must pick its members so as to secure the support of a majority of deputies, a newly organized group may be strategically

placed. One or two of its members may receive the accolade of office solely because of their separate organization. Hence revolt against authority can be made a stepping stone for the revolvers.

When parties are elaborately organized and under strict discipline, insurgency is a more serious and less promising manoeuvre. If the members of the Fourth party had been less able and less well connected they would have been punished by ostracism. On the other hand, insurgency within a well organized party may continue for a time but may have to result in separation. The difference may be tolerated if it relates to a matter of strategy—for example, as to whether the members of the French Socialist party should participate in forming a bourgeois government—but when the difference is doctrinal cleavage is likely.

Insurgency of course manifests itself in non-political groups: in churches, educational institutions, trade unions and so on. Sometimes it is little more than a matter of personal cleavage. The insurgents desire the positions which the leaders hold. In other cases there are differences of principle. The clash between modernists and fundamentalists is one of doctrine although it may be exacerbated by the clash of personality. In some trade unions—notably the textile unions, whose membership is largely made up of immigrant races—insurgency is communistic. The essence of statesmanship, whether it is political or industrial, is to detect dissident movements before they become formidable, to scotch them or to put their leaders in office and thus encourage them to become regular. It is the essence of leadership also to remember that while some men are born insurgents and some deliberately seek to be insurgents, some have insurgency thrust upon them.

LINDSAY ROGERS

See: PARTIES, POLITICAL; MACHINE, POLITICAL; BLOC, PARLIAMENTARY; FACTION; CAUCUS; INDEPENDENT VOTING.

Consult: Michels, R., *Zur Soziologie des Parteilebens in der modernen Demokratie* (2nd ed. Leipzig 1925), tr. by E. and C. Paul as *Political Parties* (New York 1915) pt. ii, especially ch. vi; Ostrogorsky, M. Y., *La démocratie et l'organisation des partis politiques*, 2 vols. (new ed. Paris 1903), tr. by F. Clarke (New York 1902) vol. ii, pt. v; Haynes, F. E., *Social Politics in the United States* (Boston 1924) ch. viii; Ross, Earl D., *The Liberal Republican Movement* (New York 1919); Thomas, Harrison Cook, *The Return of the Democratic Party to Power in 1884*, Columbia University, Studies in History, Economics and Public Law, no. 203 (New York 1919); Atkinson, C. R., *The Committee on Rules*

*and the Overthrow of Speaker Cannon* (New York 1911); DeWitt, Benjamin Parke, *The Progressive Movement* (New York 1915); Gorst, H. E., "The Story of the Fourth Party" in *Nineteenth Century*, vol. lii (1902) 864-76, 1033-45, and vol. liii (1903) 132-42; Siegfried, A., *France, a Study in Nationality* (New Haven 1930) chs. iv-v.

**INSURRECTION.** While the term insurrection as used by international lawyers and jurists to refer to a particular legal situation has a reasonably precise meaning, its use by historians, political scientists and sociologists is unfortunately characterized by extreme ambiguity and confusion. It is loosely used along with revolution and rebellion to refer to an armed resistance to government. In general an uprising directed toward a radical modification of the existing political or social order throughout the whole territory of a state is referred to as a revolution, while the word rebellion is more frequently confined to efforts on the part of a portion of a state to throw off the authority of the remainder. Insurrection usually refers to movements smaller in scope and purpose than those described by the other terms. But obvious exceptions come to mind at once. The American Revolution was in reality a rebellion. The insurrection of the Paris Commune of 1871 was an abortive social revolution, while the Great Rebellion in England in the seventeenth century was a temporarily successful revolution. The Whisky Rebellion in the United States and the Sepoy Mutiny in India were both insurrections.

Whether the distinction between types of resistance to government be based upon scope and extent, purposes or methods, no sharp line can be drawn between the three terms. It may be suggested, however, without departing from common usage that the term insurrection should be limited to the initial stages of movements of opposition to government which take the form of armed violence as distinguished from non-violent non-cooperation or passive resistance. Such armed movements may develop into what may better be described as rebellion or revolution, depending upon whether they are directed toward territorial secession or toward the overthrow of a government throughout a state. The use of the more general terms is justified, however, only when the movement attains sufficient magnitude to require the use of a substantial portion of the armed forces of the established government for its liquidation and when it has definite political objectives beyond mere negative resistance to constituted authority. In this

sense an insurrection may be thought of as an incipient rebellion or revolution still localized and limited to securing modifications of governmental policy or personnel and not as yet a serious threat to the state or the government in power.

Considered as a phenomenon of social and political dynamics insurrection involves the use of armed force against the established government in order to achieve public purposes which cannot in the opinion of the insurgents be achieved by pacific means. Motives may be private but insurgents almost always tend to rationalize them in terms of public good, and the ensuing struggle is for control of the machinery of the state. Pacific means of attaining political objectives are adequate so long as the contestants for public office and political power envisage their particular interests as phases of the general interest or are at least prepared to subordinate them to the prevalent conception of the general good as represented by those in authority. When this is no longer the case, acquiescence is no longer forthcoming and armed action is likely if circumstances offer hope of success. In other words, the "constitutional consensus," which normally furnishes the frame of reference within which the political process continues peaceably, breaks down under the tensions between the hostile and irreconcilable groups into which the body politic has become divided. Discussion, bargaining and compromise are then replaced by coercive violence in the clash of rival wills to power. Whether the ensuing insurrection develops into factional warfare, secession, political overturn or social revolution depends upon the lines of cleavage between the conflicting forces. In every case a resort to armed resistance emerges out of a politico-social situation in which irreconcilable interests and programs are adhered to in such uncompromising fashion that the risks of an open trial of strength seem less dangerous to the contestants than continued acquiescence in a situation which is regarded as intolerable.

The effectiveness of insurrection as a political weapon can scarcely be measured in abstract terms, since the variables in each instance are too numerous to admit of prediction and insurrectionary movements are frequently carried forward by their own momentum into rebellion or revolution. Governments threatened by insurrection usually resort to armed repression, the success of which obviously depends upon the fortunes of war, the numbers and organization of the insurgents and the attitude of groups

hitherto neutral. Concessions may sometimes be made to forestall armed action and to weaken the ranks of the rebels. If an outbreak occurs and is put down, the treatment meted out to the defeated groups will depend upon the attitude adopted by the government in power toward their purposes and their capacity for creating future disturbances. Where the line of force is drawn between geographical sections or parties or factions, with basic economic and social interests not involved, the defeated insurrectionists are likely to receive only mild punishment and may even secure a complete or partial redress of grievances. Where the struggle is a true class war, repression is likely to be savage and merciless, as in the Red and White terrors of post-war Europe. The importance attached by the contestants to the interests at stake conditions the attitudes of the contending groups toward each other.

In international law the concept of insurgency has recently been accepted as a basis for defining the legal rights and obligations of states in public disorders more serious than mob violence and less serious than true civil war. Outside states may legitimately take cognizance of the existence of a condition of insurgency when their interests are affected. In 1895 President Cleveland recognized the existence of a state of insurgency in Cuba. Similar action has frequently been taken with regard to civil disturbances in other Latin American states. Such action confers no special rights upon the insurgents, but merely recognizes a state of fact and warns nationals of the state taking the action that the situation warrants more vigorous enforcement of local neutrality laws. The question of whether the state in which the disturbance is taking place is responsible for injuries to aliens resulting from insurgency has usually been answered in the negative when due diligence has been observed in the protection of foreign lives and property and the injuries result from *force majeure* which the *de jure* government, despite its best efforts, has been unable to suppress. Occasionally, however, the United States and some European powers have attempted to enforce liability upon weaker states in which insurrections are chronic. Interference by outside states on behalf of the insurgents is contrary to the principles of international law. The act passed by the United States Congress in 1912 authorizing the president to prohibit the export of arms or munitions of war to American countries in which "conditions of domestic violence exist" has under the provision giving



the president power to prescribe limitations and exceptions to the operation of the law been frequently applied to hamper insurgents in Latin American countries. The Sixth International Conference of American States in 1928 adopted a convention prohibiting all traffic in arms with insurgents. If an insurrection leads to persistent and widespread hostilities, outside states may recognize the belligerency of the insurgents, as did Great Britain and other European states in the American Civil War. In this case the local state is relieved of all responsibility for insurgent acts and the usual principles of the international law of war and neutrality apply.

FREDERICK L. SCHUMAN

*See:* FORCE, POLITICAL; VIOLENCE; REVOLUTION AND COUNTER-REVOLUTION; CIVIL WAR; BELLIGERENCY; NEUTRALITY; EMBARGO; DE FACTO GOVERNMENT; TREASON; RIOT; MUTINY.

*Consult:* Arias, Hiermodio, "The Non-Liability of States for Damages Suffered by Foreigners in the Course of a Riot, Insurrection, or Civil War," and Goebel, Julius, "The International Responsibility of States for Injuries Sustained by Aliens on Account of Mob Violence, Insurrections and Civil Wars" in *American Journal of International Law*, vol. vii (1913) 724-66, and vol. viii (1914) 802-52; Eagleton, Clyde, *The Responsibility of States in International Law* (New York 1928) p. 138-52; Moore, J. B., *A Digest of International Law*, 8 vols. (Washington 1906) vol. i, sect. 74, vol. vi, sects. 1044-48; Garner, J. W., "Re-  
sponsibility of Suffrage by Foreigners for Mob Violence on Account of Mob Violence in American Society," *American Sociological Law*, *Publications*, vol. vi (1927) 40-63, and discussion by H. R. Coffey, p. 63-66

INTEGRATION, INDUSTRIAL. *See* COMBINATIONS, INDUSTRIAL.

INTELLECTUALS are persons possessing knowledge or in a narrower sense those whose judgment, based on reflection and knowledge, derives less directly and exclusively from sensory perception than in the case of non-intellectuals. Although moral or aesthetic development is often associated with intellectualism, these qualities stem from other roots and are not indispensable components. While intellectuality is not, as Schelling and others have held, necessarily productive, those who have merely accumulated knowledge are not true intellectuals. The scholar must possess priestly qualities and fulfil priestly functions, including political activity. His knowledge, as Fichte says, "should be truly applied for society's use; he should get people to feel their true needs and acquaint them with the means of their satisfaction" (*Werke*, vol. i, Leipzig 1908,

p. 258). While the most typical intellectuals are academicians or instructors in schools of higher learning, it would be wrong to define intellectuals in terms of academic examinations; while they are necessarily educated, the education they possess may vary widely in quantity and type from case to case. The "half" educated, the "eternal student," even the self-educated man—all are intellectuals in so far as they assimilate the materials of knowledge and employ them in mental labor, in so far as they are vocationally concerned with things of the mind.

Intellectuals play a special role in social life. In general they tend to revolt against the existing order wherever it hinders their freedom of intellectual activity. Their demand for freedom of teaching, freedom of study, university autonomy and freedom of student activities has played a prominent role in the development of movements of revolt in Europe and is beginning to be of some importance in the United States. Furthermore since their intellectual pursuits bring them into contact with theories and information not available to others, they often come to regard the social order in which they find themselves as anachronistic with reference to ideas and institutions developed elsewhere or at other periods. Hence they acquire an intellectual motive for urging change; this assumes a patriotic coloration when they feel that the change they advocate is a national need. These attitudes were typically expressed by the Russian Decembrists and the westernists in general in their struggle against czarism. A characteristic influence over general developments was exercised by the intelligentsia in eighteenth century France. The best representatives of the bourgeois intelligentsia from Rousseau to Voltaire were absorbed in "philosophy" rather than in economics or politics. Devoted to generalizations and the elaboration of logical constructs, they came more and more to champion "pure principles." Thus largely without conscious intent they served the French Revolution, seriously weakening the political resistance of the ruling classes by undermining their confidence in the good of their cause. The revolution itself was swept by intellectualism, especially that naïve optimistic belief which the Jacobins communicated to the masses—that since evil in men was the effect of bad state institutions and their ideologies, a change in the form of the state and the work of the guillotine would restore "natural good" to the hearts of the survivors.

The thesis that intellectuals champion revolu-

tionary ideas must, however, be taken with a grain of salt. In most historical cases only a section of intellectuals has been involved, as, for example, an age group or a professional group. While the French *Jeunesse des Écoles* was radical, there was no corresponding solidarity among the professors. German literary men in the first half of the nineteenth century opposed government institutions and state power and were more patriotic, more social minded and more radical than the more or less well to do official professors and bureaucracy with the same intellectual training. In Paris in 1830 and 1848 and in Vienna in 1848 university students formed revolutionary legions, and the German *Burschenschaft* and the Russian students have also been more or less revolutionary; but it is beyond historical proof and contrary to knowledge of the behavior of comparable groups to maintain that this was true of all the students. While in France the political and historical sciences, whose most prominent representative was Louis Blanc, served the Revolution of 1848, Proudhon correctly maintained that the literary intellectuals handicapped it by diverting the passions of the masses into romantic and erotic channels. In England the participation of university trained men in socialist politics has never been extensive, except perhaps in the Chartist movement and in the Fabian Society, a study group rather than a political party. This has been a consequence of the fact that in England politics as a profession was and in part still is the privilege of people of means (election contests are extremely expensive) who have achieved a career or who because of their aristocratic birth need none. In the United States intellectuals, who are usually not well off economically and who are socially overshadowed by business men and without *esprit de corps*, are largely dominated by utilitarian values and only a limited number are to be found in the leadership of unions or radical political parties.

The theory that the intelligentsia has an immanently revolutionary character is then not in accord with the facts. Differing among themselves basically in origin, character, training and theory, intellectuals are the officers and subalterns of all arms and of all armies. In the politics of any period the parties of revolution, of continuity and of reaction have all been in their hands, and thus in a sense their efforts have negated each other.

Intellectuals have played important roles in stimulating national consciousness, the basis of

their attitude being some form of the idea that the nation has a mission. This mission can be accomplished only with the aid of an extensive intellectual staff of mythologists, archaeologists, poets and the like, although the result of their work corresponds somewhat with an existing popular feeling. The late Middle Ages, the Renaissance and the Reformation were to some extent colored by the nationalism of intellectuals whose professional interests as a consequence of the rise of the national languages for court and literary use tended away from the universalism of Latin and the papacy. The struggle against ultramontanist had not only a religious, social and politico-economic basis but also a basis in the desire of intellectuals to strengthen their position in their respective countries.

During the nineteenth century in Europe intellectuals cultivated the nationalist idea, kept it alive during difficult times and led it to victory over all obstacles. Today students are among the foremost leaders of nationalist movements in Asia and Africa. While crude mass nationalist reaction against foreign rule has always played an important role, the struggle of nationalist political movements for power has had to await intellectual leaders to shape ideas, to spread them among ever widening masses and to stimulate popular response. It may be said that without students, professors, journalists and writers no modern national state could have come into being. More recent language conflicts in Europe have had important roots in the fact that considerable pecuniary interests of publishers, editors, authors and journalists are bound up with the maintenance and advance of any national speech. These persons are natural defenders of the language and its literary monuments with which they happen to be linked emotionally as well as professionally. In countries of several nationalities, as, for example, the Austrian monarchy, there arose out of such circumstances national conflicts over schools, universities and government offices. Intellectuals had to fight for their nationality as for life, for an Italian savant without an Italian university or a Czech poet without a popular Czech school system had little significance. In some situations nationalist intellectuals, hampered by cross currents of economic interests in their efforts to organize broad masses of workers or peasants on the basis of a national culture and to fight a nationalist struggle, come to advocate a socialist society as the only one which can solve the nationalist problem.

The World War, at least in its literary expressions a struggle among national cultures, mobilized intellectuals by placing upon them the burden of lower and intermediate army leadership and by using them to elaborate a rationale for the war. In this task strong emotion was achieved by intellectuals at the expense of pure science. They turned out many literary nationalist manifestoes, such as *Es ist nicht wahr* (1914), in which German scientists proved themselves thoroughly uncritical and platitudinous, and the *Manifeste du parti de l'intelligence* (1919), issued by fifty-seven French intellectuals, chiefly litterateurs, advocating a national policy of force. The Italian official professorial staffs in 1915 justified by irredentist ideals Italian participation in the World War.

In many central and east European countries, especially since the war, growing numbers of intellectuals and students participate in anti-semitic movements. While the basis of antisemitism has often been ethical and sentimental, the fact that a disproportionate number of Jews are economically able to acquire advanced education and to pursue learned professions has played a major role in creating these movements and in spreading them through academic circles. Jews are less numerous and more assimilated in England, Italy, the smaller countries of northern and central Europe and France; these countries have been relatively free from this attitude despite the fact that some faculties (business law, mathematics, economics) are largely manned by Jews. Although academic antisemitism is without political form in the United States it is not uncommon, and most faculties of non-professional schools, especially in the more important universities, are practically closed to Jews. The *numerus clausus* for Jewish students applied openly in some central and east European universities is achieved in many American institutions by administrative action.

The greatest contribution of intellectualism to a practical movement is Marxism. By transferring socialism from the utopian to the scientific level of thought and by demonstrating the existence of an objective, economically inevitable trend toward socialism it intellectualized the modern labor movement, endowing proletarian interests with the ethical aspects of a universal cultural movement, and made it conscious of a "scientific function"—bearing the germ of a new society.

This achievement, which has had such boundless political consequences, was largely the work

of bourgeois intellectuals; indeed it may be stated as a historical law that class movements are led by members of the classes against which they are aimed. Marx correctly said in the *Communist Manifesto* that it was the tragic fate of the bourgeoisie to be the teacher of its economic and social arch-enemy, because it is compelled in its constant battles ("at first with the aristocracy; later on, with those portions of the bourgeoisie itself, whose interests have become antagonistic to the progress of industry: at all times, with the bourgeoisie of foreign countries") "to appeal to the proletariat, to ask for its help, and thus, to drag it into the political arena," supplying it with a weapon, in the form of education, which is destined to be turned against the teacher. In addition the bourgeoisie becomes the fencing master of the proletariat when as a result of constant interclass contact members of the bourgeoisie, especially many intellectuals, are detached and use their knowledge and spirit to inspire the working masses to struggle against existing conditions.

Intellectual socialists are of the following main types: ethicists, armed with social conscience; scientists, convinced of the necessity for or the practicability of socialism; demagogues; quacks, selling confused ideological merchandise; men of the Coriolanus type, who desire revenge for personal misfortune, including in a depersonalized, class sense the so-called intellectual proletariat, the declassed; and satiated rich men, philanthropists or *grands seigneurs*. These types fall into two principal categories: "missionaries" and "interested parties." There are of course innumerable mixed types. Sometimes special groups of intellectuals tend by virtue of their particular experiences to drift toward socialism more rapidly or more generally than the whole body of their fellows. For example, the percentage of intellectual Jews in socialist ranks is relatively large. This fact may be explained by the analytical and critical qualities which the social experience of the Diaspora has bred in the Jewish mind. In pre-war central and eastern Europe furthermore social oppression, especially as expressed in the *numerus clausus* in the universities, when it did not divert the ablest Jews into business caused them to suffer keenly at the hands of prejudiced authority. In addition many were forced to study abroad, an experience which accentuated the comparative looseness of the Jew's connection with the traditions of the peoples among whom he dwelt and laid an emotional basis for internationalist ideology. Other

groups of intellectuals who have suffered from similar discriminations have shown comparable trends to radicalism of varying degrees; such are aliens, religious dissidents and, latterly in the United States, Negroes. In the case of the Jewish intelligentsia their international relations and relationships and frequently an element of Hebraic Messianism contribute to their radicalization.

Ethically the alliance of bourgeois and talented intellectuals with socialist parties signifies a capacity for entering into the alien fate of the masses and adapting their personal, individual fates to it. While the worker may be driven to socialism merely as an instinctive reaction to his class position, the intellectual reacts in terms of distress involving his intellectual life. He acts under ethical or intellectual constraint, except in those cases where he is instinctively or consciously seeking to use the proletariat as the raw material for a personal political adventure.

As a matter of fact intellectuals are in some ways untrustworthy as leaders of political parties of any character. By their very nature they are often led, especially in parliamentary struggles, to an attitude which tends to blur natural social antagonisms and to hamper the play of class forces. For example, there has developed among parliamentarians in England an atmosphere of sport, "fair play" and friendly agreements among opposing politicians, all of whom are "members of this club"; and in France despite the severity of election and parliamentary struggles an attitude called *camaraderie*, which combines *esprit de corps* with an attitude of mutual responsibility, binding deputies of the most diverse parties closer to each other than a deputy is bound to a rank and file member of his own party.

Disgusted by the behavior of their own class and its individual members, intellectuals first tend to have utopian illusions concerning the character of the proletariat; and their subsequent discovery that workers are also human beings sometimes makes them cynical. The purer their intentions and the higher their ideals, the sooner they lose courage in the face of mass cowardice, brutality or egoism. Especially those seeking revenge are led to open or veiled desertion of their ideals by each outstanding success of their policies. They endeavor to lead the masses along paths which lie close to their personal interests and, when the masses are unwilling to follow, sever connections to seek a career upon the basis of the notoriety achieved through them. Again, radical intellectuals tend toward impossibilism;

through favorable circumstances they may lead a movement to a victory which they ruin through excesses and undue severity. More often, becoming dogmatic and pedantic, they ride a movement to death for the sake of "immortal" principles. This tendency toward extremism arises also from the nature of mental work, which can be easily dissociated from hard reality, from the intellectual's experience in the transvaluation of all values and from the vehemence of emotions and convictions, newly released in fighting his former class. Regarded as apostates, deserters and fanatics intellectuals are most hated in the milieu of their birth and hence tend to set up rigid principles which justify their conduct. Moreover the intellectual who engages in social conflict frequently serves a movement poorly or even deserts it because of his dislike of so-called detailed work.

The attitude of the working masses toward the intellectuals who serve them as leaders has its own mode of change. When a movement is still naive and inchoate, the intellectual who offers his services appears as a savior and as such worthy of confidence and admiration. Even when the supply of intellectual leaders has increased and new, "really proletarian" leaders have begun to develop from the workers' ranks, the intellectual is indispensable because of the increasing complexity of the problems of the party and auxiliary organizations, the broadening of political aims and the invasion of new arenas of struggle, such as parliament. Now, however, the moral position of intellectuals becomes less unassailable; they are accused of job hunting and careerism and are felt to be a foreign body. Furthermore their struggles and intrigues among themselves compromise them in the eyes of the masses. It would, however, be false to assume that leaders drawn from the ranks of the proletariat manifest greater political dependability than those coming from the educated bourgeoisie; the process of becoming middle class is rapid among both labor leaders and the upper strata of the workers, and these too may desert the cause. Nevertheless, labor leaders of proletarian origin tend to discipline severely, to displace and even to mistreat colleagues of upper class origin from a sort of feeling of class struggle. Some intellectuals have tried to win greater confidence from the masses by sacrificing their forms of life to their principles on the theory that words are less effective as propaganda than the silent example of daily life. The ideal of self-denial incidentally involves a heroic postulate

laid down by Bakunin: immediate disappearance or suicide of the leaders after the success of the revolution in order to prevent the rise of a new ruling class in their persons.

While educational categories can be defined only in terms of examinations and diplomas and have no economic significance, Karl Renner's characterization of intellectuals as "those beyond economics" is misleading. Neither those in the liberal professions nor those drawing state salaries are free from the effects of the business cycle in respect to real or money income. Nor are clear divisions along social and economic lines absent among intellectuals. For example, in England students of the old, aristocratic universities of Oxford and Cambridge rank socially above those of the new and more plebeian universities of Manchester and London, and university graduates tend to fall into the middle or the upper middle class according to the amount and type of their training and economic success attained in their professions. Such facts as well as the geographical dispersion of intellectuals make it hard to organize them.

The social status of student bodies is conditioned among other things by the fact that for several years, during which their contemporaries as laborers, merchants and managers of industry produce and earn, they as students only consume and that they enjoy a far reaching qualitative as well as a quantitative autonomy of work known as academic freedom. Thus the university period is a sort of capital investment of time and money, and the very fact of this investment proves that students—aside from scholarship holders or stipendiaries—come from a possessing class. The few exceptions are candidates for entrance to the bourgeoisie, the university acting as a bridge from a lower to a higher stratum of society.

While there is thus a definite logical and empirical connection between property and education, it cannot be said that each class has a fixed amount of education as an immanent peculiarity or necessary cultural attribute. With the exception of the old English universities the student body does not belong *ipso facto* to the bourgeoisie, and intellectuals must not be confused with the bourgeoisie. In eighteenth century France intellectualism was a transition to the *noblesse de robe*; there was then a sharp distinction between manufacturers or merchants and bourgeois intellectuals as subclasses.

Intellectuals in the lower income groups are termed the intellectual proletariat, a phenomenon

which arises as a consequence of an overabundance of persons offering their knowledge in the market. Always a pathological condition, it is caused by an intellectual overestimation of formal education in general; by sudden stoppage in the consumption of intellectual commodities due to general impoverishment; by industrial backwardness which forces youth into the civil service or a liberal profession, both of which are unprofitable because overruled; and to a small extent by personal negligence and foolishness resulting in ruined careers. Intellectuals who do not find a satisfactory place in the social order are retrospectively *déclassés*; they have been lost to their class of origin (birth); and prospectively *spostati* (dislodged): they have not proved their ability to win good jobs. While it is obvious that the size of the intellectual proletariat is related to the rapidity of social change, the intellectual proletariat does not consist merely of unsuccessful members of the upper classes. It also includes the sons of small manufacturers and artisans, who seriously menaced by large scale industry turn to an intellectual profession and endeavor to obtain a place at the government trough. From the standpoint of the political state there are two main groups of intellectuals: those who have obtained such places and those who have unsuccessfully tried to do so. The first, considered the most loyal of citizens, are always ready because of class egotism and personal selfishness to defend the state which feeds them, no matter what questions are at stake. The others are sworn enemies of government policies, eternally restless spirits which lead the bourgeois opposition and even revolutionary proletarian parties. The number of intellectual proletarians fluctuates widely; but although the state from time to time is compelled to transform thousands of dangerous opponents into active protectors and clients by making them officials, in general the tendency of government officialdom is to grow more slowly than would satisfy middle class elements. Having, however, some expectation of socio-economic advance the intellectual proletariat constitutes a transition class and reflects its characteristics. When this element is impatient or loses hope of improvement it may be absorbed by the lower classes. Poor persons of education become consciously antagonistic to the educated well to do. They furnish the yeast for social revolutions and champion the masses in the class struggle, which in part becomes a struggle for power of two economically differentiated educated classes.

Estimates of the social value of intellectuals

differ widely. Plato, for example, characterized the ideal republic as one in which philosophers would be kings and kings philosophers. Most intellectuals continued to cherish such a view of their kind: after the Napoleonic era the intelligentsia proposed a prominent role for itself, Saint-Simon's doctrine of the producer, for example, calling for a supreme council of scientists to direct economic life; and today intellectuals in many countries insist on their peculiar ability to govern reasonably, fairly and efficiently. The nineteenth century was profoundly influenced by the bourgeois intelligentsia and valued it highly. Early in the twentieth century some intellectuals began an intense spiritual self-criticism, a trend which is still going on and which has found in France its richest expression. Today some writers try to base upon the well known fact that both workers and employers entrust the political advocacy of their interests to intellectuals a theory that the intellectual fulfils a special function of social initiative, creativeness and leadership.

Some Marxists hold that the intelligentsia can maintain its intellectual power and freedom and properly fulfil its creative function only by affiliation with the working class. This view has some support in the fact that while the possession of education, as of riches, the power to command services and exclusiveness, is a hallmark of the bourgeoisie, intellectuals are bourgeois of slight social rank if they are bourgeois merely through the possession of education, and that while mental work is considered by the bourgeoisie to be more honorable than manual labor—when it is more profitable—to do no work at all and to live on one's income is considered most honorable of all.

In the syndicalism of the Sorel school the function of the intelligentsia shrinks from that of teacher to that of pupil. At the French socialist convention of Toulouse in 1908 Lagardelle defined the intellectual's task not as teaching the proletariat but only as interpreting the proletariat's experiences, using its data and employing its new principles for general cultural work. In any case this function of interpreting the experience which has been accumulated by the proletariat would presuppose the highest degree of intellectualism.

On the other hand, some thinkers have branded the political function of intellectuals as uncreative and sterile and, in so far as it serves the masses, pernicious and intrinsically false. Édouard Berth, Sorel's disciple, complains bit-

terly that producers entrust the championing of their interests to intellectuals who enthralled by demagoguery and without economic interests sell themselves like harlots to all parties for money and kind words, while at bottom they are unable to serve any.

Maurras places before intellectuals two alternatives: money (capitalism) or blood (tradition). He argues that since under the hegemony of finance adaptability to temporary requirements is valued rather than objectivity, the intellect is degraded through loss of independence. Hence the intelligentsia is powerless in a parliamentary democracy, while in a more authoritarian regime, where a caste principle of some sort rather than the principle of wealth would be the element of continuity, it would regain its proper importance. The materials of education and tradition must be taken from the masses, who waste them, so they may again acquire purity and fineness; and intellectualism must be removed from politics. Others, whose values are similar, believe they may conclude from the protest against democracy and the aristocratic tendencies manifest at the beginning of the Third Republic by such brilliant French minds as Renan, Taine and Fustel de Coulanges that the intelligentsia retains the character of an élite. Some intellectuals now ridicule the nineteenth century as the epoch of stupidity, decry efforts to "rationalize the unrationalizable" and oppose to Rabehais' "divine skepticism" the apparent objectivity of Auguste Comte. Others protest against the nationalization and politicization of literary men and scientists, movements which have progressed greatly since 1800; and perhaps Benda is right in attributing this development to the greater intrusion of the state into the life of its subjects. It is of course true that intellectualism is not "purely scientific" in spirit and "universal" in passion but actively champions states, classes and fatherlands. For good or for evil the scientist is no longer "exempt from civic duties"—he is a taxpayer and must do military service; more important, he has been conquered by the "fact," the concrete, and has adapted the world of his ideas to it. But thinkers who protest against this condition tend to emphasize the subjective aspect of intellectualism and to neglect the objective significance of a non-universal, non-scientific nature which characterizes much of the so-called universal and purely scientific intellectual work. In any case no very clear prescription for avoiding political service in its broadest sense has been given by these critics.

In some countries the prevailing trend even of the state is anti-intellectual. Although the Soviet state was partly the creation of intellectuals, today intellectuality in the U. S. S. R. is subordinated to the needs of the state and to a considerable extent "Americanized"; that is, spurred on to performances of maximum energy, particularly in the task of increasing production. In Fascist Italy intellectualism is subordinated to the strongly centralized concept of the state, the military origin of Fascism and its social discipline. At the same time corporatism has given a strong impulse to juristic, technical and some economic studies. In the more or less democratic countries intellectualism although largely demoralized still continues to play its old political role.

Finally, it may be said that while education is undoubtedly power, only a minimum of intellectuality is needed for the acquisition and exercise of political power for any length of time; such factors as energy, self-confidence and understanding of men are of far greater moment. The influence of the intelligentsia upon the mass remains superficial; it can unleash political movements which profoundly change the social structure, but only when aided by objective factors.

#### ROBERTO MICHELS

See: EDUCATION; PROFESSIONS; RESEARCH; UNIVERSITIES AND COLLEGES; ENDOWMENTS AND FOUNDATIONS; ACADEMIC FREEDOM; FREEDOM OF SPEECH AND OF THE PRESS; LIBERTY; NATIONALISM; CONSERVATISM; RADICALISM; CLASS STRUGGLE; REVOLUTION AND COUNTER-REVOLUTION; FRENCH REVOLUTION; RUSSIAN REVOLUTION; CLARTE MOVEMENT.

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INTELLIGENCE. See MENTAL TESTS.

INTENT, CRIMINAL. The modern notion of responsibility in both civil and criminal law seems to involve a mental element. But if in the civil law it is more readily recognized that liability may exist without fault, a criminal act is scarcely conceivable unless deliberately committed by the guilty person. It thus appears almost axiomatic in the modern criminal law that two elements are necessary to constitute a crime: first, an injury; and, second, an intention to cause it.

Nevertheless, the history of the doctrine of criminal intent shows plainly that it is an element that has usually been rendered largely illusory. In many circumstances there may be enormous practical difficulties in distinguishing intent from negligence, and even an accident may appear to be negligence. The legal and popular conceptions of intent do not always coincide. In popular speech physical act, intention and motive are not as sharply differentiated as they usually are in law. In legal contemplation the requirement of intent is met not by the willing of the mere physical act but by the accomplishment of the constitutive elements of a crime. Even when the rules for determining criminal intent have been settled, it is far from an easy matter to apply them. The proof can be had only from external circumstances, a factor which leads either to the relaxation of the rules themselves or to the indulgence of presumptions. Fundamentally a great part of the confusion has been due to the failure to accept all the logical consequences of the requirement of guilt as the basis of punishment. Old notions have persisted.

For historically the necessity for the existence of any mental element is the late requirement. The right of satisfaction recognized by early law is an undifferentiated claim which may in modern terminology be based on tort, crime or a breach of contract; but whatever the basis of liability it attaches to purely external consequences. Since the right of satisfaction . . . right to reparation, the question of the wrongdoer's intent is considered irrelevant.

Still the idea appears fairly early that some difference must be made between injuries caused deliberately and those caused involuntarily. In the Pentateuchal legislation (*Numbers* xv: 27-28) a thoroughgoing distinction was made between "ignorant" and "presumptuous" wrongs because in theocratic society sins and crimes are similarly regarded. In Plato's *Laces* voluntary and involuntary injuries are systematically distinguished, and the latter are more severely punished than the former; but Plato is aware that the distinction is something of a paradox and by no means generally adopted. In Hellenistic times various philosophic sects, notably the stoics, introduced moral concepts into legislation and thereby made it necessary to distinguish between the harmful result and the evil will. Punishment was confined as far as possible to the latter: thus Cicero could say that it is an implied rule of mankind (*iucita lex est humanitatis*) to punish not the event but the *consilium* (*Pro Tullio*, 22, 51).

This conception was adopted more and more fully in the mature Roman law. It had always played a larger part in the Roman law than in other ancient systems: the qualification *sciens dolo malo*, "wittingly and willfully," is found in early documents and the supposed sacral law of Numa uses the expression *dolo sciens*. The term *dolus malus* in its abbreviated form *dolus* became in popular and later in technical speech the embodiment of the concept of wrongful intent. While public punishment was permissible only if *dolus* was present, *culpa*, or negligence, sufficed for the *delicta privata*. It is disputed whether in the imperial period after the reign of Hadrian *culpa* was not sufficient in the case of such heinous crimes as murder and arson.

A criminal theory had to be recreated for western Europe during the Middle Ages. The concept of law of the Germanic tribes consisted almost entirely of more or less elaborate tariffs of compensation for injuries. Practically no account was taken of intent or of wrongful

purpose. The liability for consequences was indeed recognized in a maxim: *Qui insciens peccat, sciens emendat*. But contact with the Roman law and especially the canon law—the developed Christian theology went the full distance of considering only the wicked will as really punishable and the harm done as immaterial—forced men once more to pay attention to the subjective condition of the wrongdoer. The result was, nevertheless, merely a compromise.

The Roman *dolus* received only lip service. The canon law held that *versanti in re illicita imputantur omnia quae sequuntur ex delicto*, which implied no relation of will between the act and its consequences; the mere fact that the offender was engaged in evil sufficed. The ruling doctrine of the Italians, who were especially important in the elaboration of the general doctrines of the criminal law, was that the accused was responsible for all the consequences of an intentional deed which according to an objective standard must necessarily or probably follow from it. From such sources emerged the *dolus indirectus* of Carpov, which dominated criminal theory almost into the nineteenth century. In its essence *dolus indirectus* is the assertion that all the foreseeable but not necessarily foreseen consequences of a criminal act are to be regarded as willed. *Dolus indirectus* thus represented merely a modification of the idea of *versari in re illicita*.

The necessity for the existence of intent in English criminal law has been expressed in the maxim of *mens rea*. The old Germanic rule of criminal responsibility is found in the *Leges Henrici* of the twelfth century; in this same code, however, in what Liebermann called a "shrieking contradiction" there is a phrase unintelligently filched and corrupted from the *Decretum* of Gratian: *reum non facit nisi mens rea*. This is a sentence from the sermons of St. Augustine referring to perjury, and it is doubtful whether in that passage *reus* had yet acquired its mediæval meaning of guilty. The maxim is not heard of again until it is cited by Sir Edward Coke in his *Institutes* (3, 6) with the addition of *actus*, and from Coke the requirement of a *mens rea* has been accepted in Anglo-American law.

The difficulties involved began to show themselves as soon as proof of a *mens rea* as an element distinct and separable from the unlawful act was deemed necessary. Such distinct proof was usually unobtainable and recourse in

general was had to presumptions and inferences from the fact that an unlawful act had been committed. The denial of a *mens rea* required the averment of some specific defense, such as accident, incapacity or the like. It is small wonder that Sir James Fitzjames Stephen was ready to declare the phrase *mens rea* to be an entirely meaningless one.

When the source of the maxim is remembered, it would be natural enough to imply that only the "guilty intention" was punishable, but this was never seriously accepted in English law. The proposition *voluntas reputatur pro facto*, "the will is taken for the deed," was voiced in connection with the crime of treason, since the mere "compassing the king's death" was in itself treason. But even here as in conspiracy an overt act of some sort—if only writing the plan out on paper—was in fact required, and the few cases that went further were not considered authoritative.

Indeed English law has gone almost to the opposite extreme of maintaining the old responsibility for consequences. It presumes every adult to intend the natural consequences of his acts. The *mens rea* is present at least theoretically when a criminal act is committed in the course of the performance of a "wrongful" action. This may be not only an act that is a mere civil tort but an act that is a breach of the accepted rules of morality. Such was the opinion of many of the judges in *Reg. v. Prince* [(1875) L. R. 2 C.C.R. 154]. It is true, however, that some crimes require a "special *mens rea*": they are those that must be committed with "malice aforethought," "knowingly," "negligently," "fraudulently." But the effect in such cases is merely to change the burden of proof: the crown must prove the ordinary *mens rea* by further evidence than the mere inference from the *actus reus*. It must be remembered also that "malice" in English law is not equivalent to intent but includes also forms of civil purpose, design or motive. Thus while the terms *dolus indirectus* and *versari in re illicita* are not current English law, the ideas they represent are present perhaps in their most extreme forms.

The American law is much the same as the English, with one most important difference: the *mens rea* is not so readily constituted from any wrongful act. Many courts have held that an act merely *malum prohibitum* will not suffice. Offenses requiring special intent also constitute the exceptions to responsibility for indirect

intention. With respect to at least crimes of homicide (*q.v.*) American law, which has divided murder and manslaughter into degrees, is generally more rigorous than English law in insisting on direct intention. This is indeed a great difference, because crimes of homicide most frequently result in fortuitous consequences, and the most important aspect of the struggle to limit the scope of intention has everywhere been in connection with such crimes, a struggle that has succeeded in most European countries even where *dolus indirectus* is still otherwise recognized.

This is now the case, however, in a decreasing number of continental countries: the most important exception at present perhaps is France. The change has been brought about chiefly through the influence of German criminal law theorists. The campaign against *dolus indirectus* began with Leyser, Böhmer and Nettelbladt toward the end of the eighteenth century. Decisive for the subsequent development was Feuerbach's theory of the psychological compulsion of the criminal law, which led inevitably to the result that only conscious violations of express prohibitions could be punishable. The final result has been that German penal science and the German courts have abandoned *dolus indirectus* with all its associated ideas. Nevertheless, this again has not meant the complete triumph of direct intention. For in place of *dolus indirectus* there has arisen the modern doctrine of *dolus eventualis*, which has come more and more to be accepted in European doctrine and drafts of penal codes.

It is impossible to supply a generally applicable definition of eventual intention, for the reason that the doctrine is not everywhere held in precisely the same terms. In its essence, however, it consists of two requirements. In the first place, the consequences which result from an act must be actually not merely putatively foreseen. In the second place, the person who acts must have taken a certain intellectual or emotional attitude toward these consequences. It is with respect to this necessary attitude that opinions differ. The celebrated so-called Frank formula is based upon the hypothesis that the person who acts would not have been restrained from his deed even if he had come to the conclusion that consequences would certainly follow. The prevailing German doctrine, however, is of a more positive character: the person who acts must have decided to act in any event whether the consequences ensued or not. This

doctrine is based upon the so-called *Willens-theorie*, whose most determined champion has been Hippel and which asserts that the consequences are willed because the person who acted was in "accord" with the eventuality. Opposed to this theory is the *Vorstellungstheorie*, numbering a strong minority of adherents, who assert that it is sufficient for the person who acts to consider the consequences as probable. But certainly not all consequences are willed which are considered probable. The will theory is also not free from difficulties but it probably has the merit of being closer to popular conceptions. It must be recognized, however, that the theorists who have distinguished between *Wille* and *Vorstellung* have perhaps advanced matters less than might be supposed, for the reason that the problem of proof makes it difficult to apply the distinctions.

Any consideration of the responsibility for intent apart from the responsibility for negligence would be misleading. In no legal system has responsibility been confined to intentional conduct alone. The tendency in earlier centuries was to consider some forms of gross negligence as at least presumptively intentional. Upon the basis of the somewhat obscure Roman *culpa lata* the Italian law constructed the doctrine of *culpa dolo proxima* to serve as a form of presumptive *dolus*. In the first period of the German common law absolute distinctions were made between *culpa lata*, *levis* and *levissima*. To escape the implications of his theory of guilt Feuerbach was eventually driven to invent a *culpa dolo determinata*, which served as a substitute for *dolus indirectus*. He also spoke of "conscious" negligence—an idea that has descended to modern German criminal law, where it now serves, however, solely as the boundary of *dolus eventualis*, having in itself no consequences for measuring punishment. Moreover it is only in modern law that the decision that an act was merely negligent does not as a rule entail at least milder punishment. Both the mediaeval Italian law and the German common law seem to have punished as a matter of general principle all crimes committed through negligence, unless indeed *dolus* was of the very substance of the crime. The practise under the German and French codes is to set the accused free when there is a failure to establish *dolus* unless the codes expressly or by necessary implication provide also a punishment for negligence in the particular case. Such express provisions are rare with respect to major but common with respect

to minor crimes. The contraventions of European codes are usually construed to require only negligence; while this result has been achieved by construction under the German and French codes it is provided expressly under the new Italian code of 1931. Again it is axiomatic that where *dolus indirectus* is recognized the field of criminal negligence will be small, as it is especially in Anglo-American law. Finally, it should be recognized that probably all countries can show some examples of responsibility not only for intentional or negligent crimes but for consequences alone; such provisions are usually found with reference to crimes of great public danger.

To realize the full reach of the doctrines of criminal responsibility it is also necessary to consider the effects of the doctrines of mistake or ignorance of fact or law. Their net result is often to make a violation of the criminal law intentional in only an artificial sense. The general tendency in all mature legal systems has been to excuse mistakes of fact. Of course the mistake must relate to the constitutive elements of the crime. If Jones intending to murder Smith mistakes Robinson for Smith and murders him, he is guilty of murder because the law forbids the killing of any human being. On the other hand, errors of law have been very rarely excused. However, for both the Roman law and the Italian law of the Middle Ages it has been disputed whether a consciousness of criminality was necessary. The Roman law seems to have allowed the plea of *ignorantia juris* to be made by rustics or women, an idea that was later recognized in various places. One of the causes for the controversy with respect to past systems is the difficulty of determining whether the excuse of ignorance or mistake of law represented a rule of responsibility or a presumption of proof. As has been seen, *mens rea* in English law was never held to mean that ignorance of the criminal law was an excuse. In the German common law down to the end of the eighteenth century the rule was *error juris non excusat*. Under the influence of Feuerbach the excuse was later actually admitted for several decades with the result that there set in a sharp reaction, which has restored the old rule in modern German law. In France exceptions are made in very unusual circumstances. The Norwegian code, however, provides that where there is a mistake of law the punishment may be decreased or even abrogated altogether. In fact many of the continental theorists are in favor of abrogating

or at least modifying the generally prevailing old rule, and some of the recent drafts of penal codes provide for milder punishment. But the problem is a difficult one. It is true that modern criminal norms are so complex that the average citizen cannot be expected to know them all. On the other hand, a relaxation of the old rule may very well endanger the legal order.

It is obvious that the part played by intent as an element in crime has depended largely upon the penal theory which has been current at any given time. Where the underlying principle has been retaliation, as in early societies, intent will play only a very slight part, since the purpose of retaliation on its rational side is to equalize the loss of the injured. Under the theory of deterrence—still the accepted theory of modern communities—punishment is directed against the will of the prospective offender, and hence it is conceived that it can be effective only if the offense is a matter which the will can control. When reformation is considered the object of punishment, intent must still be considered the essential element of a crime, because it is only the wicked will that can be the subject of correction and reformation. But even where contrition has made punishment unnecessary as a corrective, it may still be required from a religious point of view in order to purge away the pollution of the crime. A version of this doctrine appears curiously enough in such statements as that of Fichte that the criminal has a right to be punished and that he is therefore unjustly treated when this right is denied him.

The writers of the Enlightenment emphasized classification of punishments according to the grievousness of the wrong. They directed their efforts chiefly against the penal system which had grown up in continental Europe—an amalgam of the primitive desire of retaliation, of the newer concept of the duty of the state to protect itself against destructive forces and of the canonical theory of crime as a sin to be discharged by purgation. In theory the last element demanded a very delicate gradation of evil intent and a much more precise adjustment of punishment to individual deserts than did the system of the reformers. In practise, however, the continental penal system had degenerated into the arbitrary and often brutal determination of punishment by "reasons of state." Only too often not *dolus* but the *praesumptio doli* sufficed. The reformers demanded the fitting of the punishment to the crime and insisted upon

the attribute of personal guilt, which meant necessarily the presence of intent.

The modern positivist school of criminology has compelled a reconsideration of most questions of penology from a scientific point of view. Since this school refuses to admit the freedom of the will and considers the right to punish to be justified simply as a measure of social protection, it might be expected that the adherents of these schools would insist upon concern only with the happening of injurious consequences. The initial tendency, from which there has been a reaction, was to accept over-hastily theories of scientific determinism. The concept of intention may be retained by the most uncompromisingly scientific theory in order to express the fact that an individual has the power to select social rather than antisocial ends, although how and why he will use this power is not certainly predictable. This leaves the question exactly where it was in the most definitely "subjective" schools. The problem becomes one of inducing individuals to select social ends and of how they are to be treated when they refuse or neglect to do so. It follows that as long as in popular belief intention and the freedom of the will are taken as axiomatic, no penal system that negates the mental element can find general acceptance. It is vital to retain public support of methods of dealing with crime.

The positivists delight in pointing out the inconsistency of punishing a negligent act as a crime. Indeed it is difficult to see how such punishment can be reconciled with the postulate of guilt. Either the latter must be abandoned or a theory created which will fit the punishment of both intentional and negligent acts. A unified theory has usually been sought. Attempts have been made to see in the act of negligence a defect or a failure of the will. The application of the penal law to negligent as well as to intentional acts has been seen to be justified by its schooling of the will. The place of negligence in the theory of guilt seems to have attracted a particularly great amount of attention among Italian theorists. Two types of Italian theories may be distinguished: the theory of *prevedibilità*, which regards negligence as punishable because the offender has not foreseen a consequence that he might have foreseen—a view that is taken essentially by the positivists; and the theory of *causalità efficiente*, which insists upon guilt and finds it in the willing of the bodily action which may be

illegal. The latter theory really shifts the ground upon which the ordinary concept of intent rests; moreover the initial action may be involuntary or negligence may involve a total omission to act.

The question of criminal intent will probably always have something of an academic taint. Nevertheless, the fact remains that the determination of the boundary between intent and negligence spells freedom or condemnation for thousands of individuals. The watchfulness of the jurist justifies itself at present in its insistence upon the examination of the mind of each individual offender. Courts will doubtless long be compelled to separate from the mass of the community certain definitely recognizable irresponsible classes, such as infants and idiots, and to hold the rest of the community responsible for the direct consequences arising from their acts.

MAX RADIN

See: CRIMINAL LAW; CRIME; PUNISHMENT; HOMICIDE; NEGLIGENCE; INSANITY, LEGAL; SANCTUARY.

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*rechts* (Berlin 1930). The Frank formula mentioned in the text is contained in Frank, R., "Vorstellung und Wille in der modernen Doluslehre" in *Zeitschrift für die gesamte Strafrechtswissenschaft*, vol. x (1890) 169-228. The rest of the German literature may be found in such textbooks as Hippel, Robert von, *Deutsche Strafrecht*, vols. i-ii (Berlin 1925-30) vol. ii, sects. 23-26, and Mezger, Edmund, *Strafrecht* (Munich 1931) sects. 41-46. The German law is compared with that of other European countries in Hippel, Robert von, "Vorsatz, Fahrlässigkeit, Irrtum" in *Vergleichende Darstellung des deutschen und ausländischen Strafrechts, Allgemeiner Teil*, vol. iii (Berlin 1908) p. 373-599, which also contains references to Hippel's earlier studies. Hippel's survey is brought nearer to date in Schaffstein, Friedrich, *Die Behandlung der Schuldarten im ausländischen Strafrecht seit 1908*, *Strafrechtliche Abhandlungen*, vol. cccxxii (Breslau 1928). For Italian and French literature: Carnara, F., "Dolo" in his *Opuscoli di diritto criminale*, 7 vols. (Lucca 1874-77) vol. ii; Spirito, U., *Storia del diritto penale italiano*, 2 vols. (Rome 1925); Ferri, Enrico, *Principii di diritto criminale* (Turin 1928) pt. ii, ch. iii; Garraud, R., *Traité théorique et pratique du droit pénal français*, 5 vols. (3rd ed. Paris 1913-24) vol. i, sects. 267-312.

INTERALLIED DEBTS. See LOANS, INTER-GOVERNMENTAL; REPARATIONS.

INTEREST. *History of Doctrine.* Interest in its primary meaning is the payment for the use of money; more broadly, it may mean the return on investment in any form. In theoretical analysis it is generally taken to mean a "pure" remuneration for the use of money, or yield on money capital; pure interest is deduced from nominal interest by elimination of all elements imputable to cost or effort of administration, to insecurity of payment of interest or principal, to prospective changes in the purchasing power of money and to amortization necessary to maintain the principal intact. The word interest came into use in the late Middle Ages, replacing the term usury. The Greeks called the interest payment *tokos*, meaning offspring, whence Aristotle's statement that "money does not breed." The modern term comes from the Roman law expression for an indemnification for damage due to the delay in the interval (*interesse*) before repayment, one of the chief forms under which payment for loans came to be tolerated by canonical and civil courts. Interest in the modern sense was in the Middle Ages merely an important type of usury; since then the term usury has become specialized to mean interest at exorbitant or illegal rates.

In tribal and economically undeveloped societies there is a strong sentiment against lending

money at interest, which is usually prohibited as between members of the social group. The repugnance to interest has been ascribed to the danger of weakening the group in a military sense, since citizens capable of equipping themselves for war might be reduced to penury or slavery through debt. In Greece and Rome, where the ownership of landed estates was the gentlemanly source of income, the opposition to money lending was ostensibly grounded in ideas of social respectability; the opposition tended to disappear when money lending was regularly conducted on a scale which permitted the capitalist to live according to the genteel standards of the old aristocracy, and in the period of high civilization the law permitted interest at restricted rates. In the Middle Ages the prohibition was premised on religious and ethical principles. A loan was usually made under stress of special need for consumption purposes, and it was considered that to exact interest under such circumstances was to take advantage of a brother's need. Indeed it was admittedly a compromise with strict Christian tenets to require repayment of the principal. The doctrinal basis of the opposition to interest was found in the concept of objective value, any departure from which was looked upon as unjust. It was argued that no value could attach to the use of a consumptible good separate from the good itself, and money was regarded as consumptible because it could be used only by parting with it. Another argument was directed against the payment for time, over which no man could claim ownership. Church apologists therefore contend that mediæval practise never seriously interfered with loans made in the course of business, where the use of funds had a money value to borrower and lender, provided only that the charge was "just." Moreover the payment of rent for the use of land or durable goods was never condemned by the churchmen or the canon law.

As trade and industry developed and a general loan market came into being, lending ceased to be treated as different from other market transactions. The role played by the Reformation in this connection has been disputed. Some attribute to Protestantism an important part in the disintegration of the mediæval effort to apply ethical ideals to business relations, while others contend that it was rather a reaction, centering in relatively backward Germany, against the advanced humanistic tendencies of the Renaissance. In any case the prohibition of usury became increasingly difficult to enforce.

Legal devices and forms which to the modern student seem merely disguises for loans at interest came into general use; these forms were troublesome and their interpretation by the courts was uncertain. During the sixteenth century there developed a movement to abolish the prohibition; its literary champions were the Protestant leader Calvin and the French jurist Dumoulin. The first legal action was in England, where at the close of the reign of Henry VIII the prohibition of usury was replaced by a legal maximum [37 Henry VIII, c. 9 (1545)]; after a reaction this legislation was restored under Elizabeth [13 Eliz., c. 8 (1571)]. Other countries soon followed.

In the two following centuries the justice of charging interest was still the subject of controversy in voluminous theological and political writings but no attempt was made to discuss interest as an economic problem. The attack ran in the old moral and religious terms; and the defense was based on the supposedly evident fact that the use of money is a source of gain, is therefore of value to both the debtor and the creditor and hence should be treated by law like other articles of commerce. In the latter half of this period the demand for regulation was based more on mercantilist grounds: English writers, for example, argued that low interest cost was necessary to help English business to compete with foreigners in the export trade.

The next stage in the historical development of interest theory, comprising the work of the classical school of economists, extends for more than a century after 1776, the date of publication of Adam Smith's *Wealth of Nations*. Writers of this school contributed little toward the formulation of an integrated distribution theory, in which interest theory falls. They regarded the problem of distribution not as one of pricing services furnished to production but as one of dividing the total income of society into the shares of the three economic classes which they recognized. The landlord's share, rent, was explained as a "surplus," on the ground that it did not enter into the price of the final product stated in terms of pain cost. Wages were explained by the simple observation that the laborer must live. Thus the way was opened for treating the share of the capitalist, which was called profit, as a residue after the other shares were paid. J. S. Mill, for instance, regarded it as a settled doctrine that profit arises because labor produces more than is required to sustain the laborer; in other words, because

industry produces more than the laborers get. Yet the explanations of wages given when the topic of wages and not that of profit is explicitly under discussion run in very different terms; the most famous of these explanations, the wages fund theory, even assumes profit as previously determined (or negligible) and makes the wage share either the total capital or the portion actually used to employ labor. The classical school never faced the problem of the nature of capital as a quantity and hence could not have said anything very illuminating about the rate of interest. Their general conception of capital was that, like products generally, it is produced by labor and hence is really the embodiment either of a certain quantity of labor or of the subsistence goods on which the laborer lives while performing that labor.

In contrast to their vagueness regarding fundamentals, classical writers showed profound insight in many partial analyses and especially in practical conclusions. N. W. Senior in particular, following up hints in Ricardo, developed brilliant ideas in connection with capital and its return; and his lesser known contemporaries, Rae and Longfield, came near to explaining interest on the ground of capital productivity. Senior made the general character of capital and its function in production one of the four fundamental propositions from which he wished to develop the whole science of political economy. In his effort to bolster up the pain cost theory of price at one of the weak points recognized by Ricardo, Senior argued that the essence of capital as an element in cost is the pain of abstinence. Yet it is indefensible to attribute to him, as Böhm-Bawerk does, an abstinence theory of interest. Besides his clear and repeated explanations of the productivity of capital Senior stated expressly that abstinence has nothing to do with the return after capital has changed hands through gift or inheritance. In his discussion of profit he assumes that the sacrifice of abstinence would prevent the return from ever falling to zero but explains the actual level first as a residual and finally, after a very tortuous argument, by the proportion between capital and labor in existence; this is true but incomplete.

Economists of the classical school achieved progress also in their discussion of the various elements into which the gross return on capital must theoretically be analyzed. Adam Smith himself made it clear that in typical cases

part of the return must be treated as essentially a wage—later called wage of management—and another part as compensation for risk, true interest being different from both. J. S. Mill even had fairly clear notions of a further differentiation between payment for risk in the sense of an insurance premium against a recognized hazard and mere accidental deviations from a normal return because of miscalculation or unforeseen changes. These beginnings developed into the tendency to treat profit not as the gross income including interest, which was the usage of the classical writers, but as the final residual income of the entrepreneur after a deduction of both interest and wages of management.

The confusion in the classical reasoning between the causality problem of the market value of services of various kinds and the ethical question of remuneration for sacrifice explains in part the contemporaneous development of another system of economic thought which treated all property income as exploitation of labor. The socialistic and anarchistic schools, from Godwin and Thompson to Louis Blanc, Rodbertus and Karl Marx, have held that the modern economic order based on "economic freedom" has merely substituted the economic power of property ownership for the physical and military power of slave owner and feudal lord as a means of enabling the upper class to live by the sweat of the masses. Practically every detail of socialistic theory can be taken almost verbally out of the classical treatises, which habitually referred to labor as the producer of all wealth. Abstinence as a justification for interest was particularly vulnerable to ethical attack, since most of the abstaining seems to be done by persons who have first consumed all they can or at least more than they need. This point was used with telling effect by Lassalle in Germany. Whether they do or do not explain how property income is possible exploitation theories do not offer a cause and effect analysis of the proportions obtaining between property and labor incomes. As to the ethical challenge which they present, it goes without saying that in competitive society every income is based on economic power. Whether or when or how far property income is defensible on grounds of abstract right or of social expediency is a question to be answered by the ethical or political philosopher rather than by the economist. Interest is merely a form of payment for the use of real wealth transferred from one person to another. Hence no special objection can be

directed against it; its merits and demerits are those of private property and of a social order based on ownership. Moreover it is questionable, at least in theory, whether a clear cut distinction can be drawn between property and labor incomes. As was emphasized by Smith and Senior among the classical economists, a large part of the earning power of individuals paid for as labor is really the fruit of an investment no different in principle from any other; and another large part is the result of inheritance or chance.

Discussion of interest theory during the generation preceding the World War centered around the work of Böhm-Bawerk. Before him the English economist Jevons had given a mathematical version of a type of productivity theory along with a very penetrating discussion of the relative valuation of present and future goods. But Jevons' work received only limited recognition until similar views were presented in more popular non-mathematical form by the Austrian school, which for interest theory practically means Böhm-Bawerk, although Wieser's variant of the productivity theory is more in harmony with accepted doctrine of today. While it appears to rest on the preference for present as against future goods Böhm-Bawerk's view of interest is really a productivity theory, since the possibility of productive investment is the most important, at least from a short time point of view, of the three "reasons" advanced by him for such a preference. Jevons, Böhm-Bawerk and the writers who have followed their line of approach interpret capital as meaning essentially the substitution of more indirect or "roundabout" for more direct methods in production, as an increase in the time length of the production process with a resulting increase in efficiency of the use of primary factors. This is similar to the classical conception of capital, except that the earlier writers lacked the notion of correlated variation in elements of complex situations; they tended to think of capital as conditioning production in an absolute sense rather than of the amount of product as subject to increase by increasing proportions of capital. Böhm-Bawerk also labored to establish a distinction between the psychological preference of present to future and the notion of abstinence. He had great influence, especially in the United States, where particularly Fetter and Fisher took his work as a point of departure in constructing time preference or eclectic theories.



In recent years attention has been centered on Schumpeter's theoretical construction which regards interest as belonging essentially to a dynamic economy. The innovators among the entrepreneurs who bring forward new and more efficient methods of production and business management obtain a surplus over cost, a part of which is returned in the form of interest to banks and other suppliers of capital funds without which the new projects could not be executed. In the absence of new inventions and other advances there is according to Schumpeter no room for interest. In application to statics Schumpeter's theory is similar to Marshall's in that it deals with the long run equilibrium rate; while for Marshall this rate is determined by the interrelation of "waiting" and productivity, Schumpeter assumes that the rate is zero. It is difficult to see the reasons for this assumption: there is no limit to the use of capital even in the absence of new inventions, although the rate of return would of course fall indefinitely low as investment proceeded. Intellectually Schumpeter's dynamic interest is related to subsequent attempts to explain interest on loan funds in terms of banking cost.

*General Theory.* The theory of interest begins properly with two facts. The first is the existence of various kinds of goods, the use of which has economic value as distinct from the objects themselves; it is actually bought and sold, and the payment, based on the length of use, is called a rent. The value derived from possession of an item of wealth for an interval of time may be of three main kinds: immediate satisfaction, as in the case of durable consumption goods; assistance in producing other goods, as in the case of producers' goods; increase in sale value of the item itself through time, whether through natural increase in its quantity, improvement in its quality or change in the conditions of supply and demand. An effective increase in value must of course exceed any direct cost incurred in connection with it. The second fact is that many kinds of rentable goods can be produced under conditions and at a cost more or less accurately known. Both of these facts are of a technical sort; that is, they are data for the interest theorist, although they may be problems for the business manager.

The peculiar feature of interest which makes it a special problem for economics is that it is not a rent paid directly for the use of property in the concrete sense but is a payment for

the use of money (and as such takes the form of an abstract number, a ratio or percentage). Yet while the borrower obtains and repays a money loan, it is the use of goods which the borrower wants and gets by means of the loan. If loans for consumption are left out of account, as they may well be since under modern conditions their terms depend upon those of loans for productive purposes, the rental or yield of goods the use of which is obtained by means of the loan provides under normal conditions the income paid out in the form of interest. Competition tends to bring about equality of return from equal investments; the ratio of this equalized return to investment is the rate of interest. Since the income from property is a given fact, the problem of the rate of interest is that of explaining how the amount of the investment, the capital, is determined in monetary terms; in other words, it is the problem of the evaluation of productive property.

The psychological or time preference or *agio* theorists solve the problem of capital according to the immediate facts of demand and supply, buyers' and sellers' offers, viewed psychologically. There is in the market, they argue, a certain aggregate of such goods, on which the owners set a certain estimate and which prospective purchasers likewise value according to individual tastes and means. The value set on an item of wealth is of course the value of the stream of income which it is expected to yield in the future in comparison with similar units of service or satisfaction at the moment. The competition of buyers and sellers will set on income yielding wealth a price which makes the amount demanded equal to the amount offered at that price. This price involves a uniform market rate of discounting future values. Thus if at the equilibrium point it takes \$1 in hand to buy \$1.05 payable one year from date, it will also take \$20 to buy a piece of property yielding a perpetual income of \$1 per year; all other income bearers will be valued on the basis of the same arithmetic proportion and the rate of interest will be 5 percent. Taking into consideration the ordinary form of loan, involving repayment of principal, and ordinary investment and accounting policy, which reckons return only after full provision for maintaining the investment in perpetuity, the correct standard for comparison is that of a perpetual income of given size with the value of the wealth yielding such an income. As regards any particular item of wealth the process of evaluation takes the

form of capitalizing its income, with allowance for its expected duration, at the general market rate.

The productivity theorists approach the problem of capital valuation from a different angle. They do not question the validity of the time preference reasoning but find that it lacks finality as an explanation under actual conditions. They observe that as regards unique and non-reproducible durable goods there is no objection to the capitalization theory of evaluation, as a first approach at least; and if all durable wealth were of this character, in other words, if there were no possibility of producing it, there would be no objection to the theory as a final explanation. But the possibility of more or less closely reduplicating existing types of wealth or of producing new types of wealth yielding future satisfactions places the matter in an entirely different light. If the capitalized value of any income bearer is more than the known cost of producing items yielding an equivalent income stream, people will instead of purchasing the existing items set about producing new income yielding goods and these will sell not at their capitalized value but at the lower level set by cost of production. Conversely, no new wealth will be produced for the future unless the capitalized value of the expected income is greater than the cost of production. Hence if new wealth of more or less durable form is actually being produced, all such wealth must sell under competitive conditions for precisely the cost of producing items of any physical type yielding the same income (after all deductions necessary for perpetual maintenance).

If goods are valued for the sake of their future yield, then their physical character is a matter of indifference; all such goods viewed economically form a perfectly homogeneous class, and the value of any item depends only on the amount of the future income maintained in perpetuity. It is characteristic of the psychological theory itself that only the future income as such is valued. Hence if it is possible to produce any goods yielding future income, the cost of production of these must determine the value of all goods of the class. Under equilibrium this value will be equal to the value as determined by capitalization, but that is because the supply of any good yielding more than interest on its cost will be increased as long as this relation holds. For non-reproducible goods or goods yielding less than interest on reproduction cost capitalized value with rate

determined at the investment margin and cost of production of equivalent goods are in fact different ways of saying the same thing—as long as any kind of durable wealth is actually being produced. In a society or a world in which there is actual growth the rate of interest is determined by or simply is the ratio between perpetual annual income and the cost of income yielding goods at the margin of growth. New investments will not be made unless they offer more than the purchase of old ones, which forces the writing down of the old ones to the level of the new.

That interest is the ratio between perpetual income and cost at margin is true only under "perfect competition." In actual markets economic adjustments work themselves out more or less slowly and imperfectly. Perhaps the most typical result in real life is to "overdo the thing" in expanding or contracting investment and thus to set up oscillations in the rate of return. Since neither the yield nor the cost of new wealth items can be exactly foreknown at the time when productive commitments are made, any piece of new property may from the start yield more or less than the interest on its cost and the longer the item lasts the more uncertain becomes the relation between return and cost. When an unforeseen change in conditions occurs, the owner of wealth affected by it receives a speculative profit or suffers a speculative loss through appreciation or depreciation of his investment. The capital value of an investment is measured directly in the case of new, free capital just flowing into concrete forms of wealth and is arrived at by the capitalization process in case of all concrete items of wealth in existence.

Another variant of the productivity theory is that advanced by Jevons and Böhm-Bawerk, which states the basic facts in terms of the length of time elapsing between the application of labor (and any other primary factors) and the enjoyment of the fruits and in terms of the efficiency in the use of these factors as a function of the time length of the production process. There is obviously a rough correspondence between this notion and the one expounded above which relates the cost of income yielding goods to the net return obtained from their utilization. While Böhm-Bawerk's view may be more appropriate for some theoretical analyses, it is fatally handicapped by the lack of a general and accurate conception of the length of the production process. In a certain loose historical sense capital goods may be resolvable into labor and

time or into labor, "nature" and time; but no particular item can be so treated for the simple reason that in the production of any capital good the use of preexisting capital goods is always involved. There is no working distinction between capital and other factors. Without the presence of the element of uncertainty all natural resource values at once become capital; from the standpoint of the market itself they are capital in any case. Much the same must be said of a large element in labor power, which is a produced good; it is social institutions which justify any separation of labor from capital, as the case of the slave suffices to prove. Nor is there a computable time length of the production process in any particular case; still less is there an average length in a literal sense. Much capital is completely permanent unless made obsolete by unpredicted changes, and a series containing infinite items cannot be averaged. An average can be found only theoretically by dividing the annual maintenance and replacement into total capital value, a calculation which presupposes that all the data of the capital and interest relation are previously known. In fact it is always intermediate products, not the application of labor over more time in a literal sense, which produce the increase in output. Interest must be treated as the productive yield of capital, defined and measured by its cost or the cost of equally productive items, in terms of sacrificed immediate goods.

Eclectic theories generally make use of the demand and supply scheme of analysis to combine the psychological and the productivity explanations of interest. To complete the exposition it is necessary therefore to consider the problem in terms of demand and supply. In this connection it is not clear what is supply and what is demand, what is being priced and what is the price, since both the commodity and its price are stated in money terms. One may regard interest as the price of the commodity, use-of-capital, or savings as the price of future income. The former is the more familiar view: the supply of the commodity, use-of-capital, comes from saving, while the demand for it comes from the people controlling opportunities for investment.

In this view the supply is the total amount of productive wealth in society, and the savings made in any short interval constitute merely a small addition to it. The rate of saving, which is only the rate of increase in the supply of capital, may or may not depend on the interest

rate; but in any case the supply as such keeps on increasing always, at all rates. The supply is thus highly inelastic: strictly speaking, it is absolutely inelastic at any instant of time. Demand, on the other hand, is highly elastic, since it is indisputable that the opportunities for investment would absorb large amounts of capital with only a gradual lowering of the rate of return. Hence demand determines the price, supply being a "datum," a given condition but not a cause.

The other view of the interest transaction as a purchase of future income for present wealth in hand corresponds to the statement of the problem as essentially that of the valuation of productive wealth. Now, if the commodity is future income, supplied through the production of income yielding goods, and the demand comes from savings, then the supply is indefinitely elastic and the demand inelastic. The virtually unlimited possibility of using more capital in production means that future incomes can be provided in correspondingly large volume at a slowly increasing cost. Other things being equal, it is true that a given investment—that is, cost incurred—does tend to yield income at a decreasing rate as the amount of investment increases, since capital as a factor in production is subject to diminishing returns; but this decrease is very slow in comparison with the total magnitudes involved. It appears, for example, that in the United States the elasticity of demand for capital is around unity; that is, the total supply of capital, which includes the entire national wealth, would have to be doubled before the interest rate would be reduced to half its value at the beginning of the test. This would call for saving for a full generation at a high rate, so that it is correct to consider the supply of future income at a given time as practically unlimited, indefinitely elastic. The demand for future income, represented by the amount of savings available for investment, is at a given moment narrowly and almost absolutely limited. In the theoretically perfect adjustment it would at any instant be zero in absolute amount, a mere rate of flow, disappearing in investment as it appeared in saving. In this situation, as in the case of any commodity produced under nearly constant cost, demand conditions—the psychological comparison between present and future—can operate only to affect the volume of savings without an appreciable influence on the price at which they are invested. Men with different estimates of future in terms

of present satisfactions will save different amounts (or conceivably consume varying amounts of capital already in hand), but the effect on the interest rate of the resulting changes in total supply of capital will in any short short interval, even a year, remain negligible.

In the long run the yield on new investment depends in part on the amount of capital previously invested (in all past time) and thus reflects variations in the amount of savings in the past, which may be said to depend on comparisons made in the past between present and future. This does not affect the conclusion that at any given time the supply of capital is a datum and that the current psychological estimates have no effect on the rate. Moreover serious objections arise with regard to the historical view itself. At the rates of pure interest which have obtained in modern times it would require a generation for a saver to get in income a total sum equal to that given up in making his investment. In reality the net accumulation of capital depends on the fact that savers maintain their capital and leave it behind when they die. At most they consume the income; and the classes which make substantial savings even reinvest a part of income through life. It does not seem very realistic to call the decision to save and invest, looking beyond one's own life, a choice of future rather than present satisfaction. It may of course be put in that form in order to construct a rationale of economic choice. But there is no reason to believe in the reality of "impatience" or of preference of present to future as a general principle of conduct, if conditions are correctly stated to isolate this comparison from other factors, particularly if interest itself is eliminated as a factor. A realistic discussion of the motives involved in decisions as to saving would run rather in terms of interest in security and power, of living standards, of forms of social emulation and of similar facts of social psychology and culture history.

Nor is it legitimate from a long time point of view to assume that other things remain equal in connection with the law of diminishing returns on investment. As new investment tends to lower the point of equilibrium on a descending demand curve for capital, other social changes are always and inevitably acting to change the position of the curve itself. In fact these two sets of changes have roughly offset each other through history, so that there has been no clear trend of the interest rate upward or downward,

especially in the modern industrial era. The relative constancy of the interest rate has aroused the curiosity of many economists and provoked much speculation. An older view, held by Henry George and Alexander Del Mar, found a physical basis for interest in the average rate of growth of animals and plants, while Cassel has made the ingenious suggestion that it may be connected with the length of human life. A sufficient explanation is found in the tendency of practically every form of social progress both to make saving easier and to increase the demand for capital, raising the curve vertically if drawn with quantity on the base line. Even if invention and all forms of social progress ceased and saving went on at an indefinitely high rate, the interest rate would never fall to zero; for there is no limit to the possibility of using capital to increase the supply of innumerable commodities which could in time become free goods. There is no empirical evidence or abstract reason even for the belief that under such conditions the point of long run equilibrium—a naturally stationary supply of capital—would be reached. It appears therefore that Marshall's long run equilibrium theory is just as untenable as the short or long run psychological theories.

The long run may be discussed only in the manner of the philosophy or theory of history. The interest rate tends to fall or rise as the effect of accumulation runs ahead of or behind the effects of other types of social change, notably increase of population, development of natural resources, invention of new technical processes and opening up of new fields of demand. Accumulation itself likewise depends on the general movement of taste and the people's outlook on life. Here analysis of the type of price theory in terms of tendency toward equilibrium under given conditions has no applicability whatever. The problems and theories are necessarily sociological or institutional, and comparatively little help may be expected from any sort of deductive theorizing yet devised.

From the standpoint of computation there are two ways of looking at the interest relation. One is the everyday view of the interest loan or other investment in which the investment itself is maintained permanently. From the gross yield of the property is deducted, first, all operating expense; second, direct upkeep cost; and, finally, a sum which accumulated to the point of retirement from service will replace the original investment. The remainder is a

perpetual net income; when divided by the cost of the property it shows the rate of interest. It is evident that both the cost of a capital good and the annual contribution to a sinking fund for replacing it involve the interest rate itself. Another method of formulation is more suited to the bond market and amortized loans. In a continuous market under stationary conditions any investment can theoretically be made, continued or realized at will; hence the accumulated cost (less return if any) up to any point in time must equal the discounted net return looking forward from the same point. Both of these facts may be stated as equations with the interest rate as the unknown; a few algebraic operations would simplify the two equations into the same form. It is most realistic to take as the equating point the moment when construction is complete, equating past cost with future return. If  $S$  dollars per year are saved and invested for  $C$  years and the resulting property yields a net rental of  $R$  dollars per year for a service life of  $L$  years (with no scrap value), then  $SA^L(A^C - 1) = R(A^L - 1)$ , where interest is compounded annually and for simplicity  $A$  is written for  $(1 + i)$ , unity plus the interest rate. The first view more nearly corresponds to the realities of the situation than does the view of discounting. The essence of the matter is that artificial capital goods yield during life a total net rental greater than their cost; the difference is, roughly speaking, interest on the cost for the period, which must be distributed equally through time. To do this exactly calls for compounding continuously instead of annually by the use of the same type of formula as that given above.

*Historical, Dynamic and Sociological Aspects.* A survey of the general theory of interest serves to emphasize the vast territory which would still have to be covered in order to give much concrete information about the factors determining the rate on a loan under varying historical and social conditions or even on loans of a different character in the same country and year. In the first place, the general theory itself is abstract in a sense beyond that implied in generality: it explains in terms of given conditions which are taken for granted in every aspect except the quantitative. Back of the motives affecting choice immediately, at the time and place in which the decision is made, is an infinite complex of why's and how's, ultimately including most of human history. A final explanation of any economic choice would have to

include these factors in their concrete character, giving a sociological or institutional treatment instead of one based on the analogy of mechanical forces. In the second place, there are considerations which affect the terms of loans and investments in greater or less degree in different classes of cases, large or small, running into unique circumstances of the individual case. Some of these considerations are of such a character as to supplement the general theory, some rather of the nature of interfering forces which prevent competitive tendencies from finding effective expression.

Even in the most highly developed loan market hardly two loans are alike within significant limits, and many divergent types must be recognized. Superficially viewed, this is something of a paradox, since the commodity dealt in is the use of wealth in its most abstract form; yet loans are in fact much less amenable to standardization than many concrete commodities, such as wheat. But in addition to the unlimited diversity of circumstances among different loans and capital commitments at any given moment there is the supreme fact that they all look to the future for their value. And with reference to the future both an intrinsic uncertainty as to facts and an even wider divergence of human opinions and attitudes defy specification. ■

Even in the most advanced countries there is no one general interest rate and no one general money market, although there is a perfect market for certain securities dealt in by name and an approximation to a general market for loans of very short duration and unquestionable security. In practise in virtually every case the making of a loan is a matter of negotiation, and negotiation is the antithesis of what happens in the perfect market of economic theory. A few governments and large corporations are in a position to issue securities within limits and to offer them to the public through an impersonal marketing organization, but even with them a new loan of considerable size will be floated by negotiation. Even within the field where standardization of loans is carried farthest, it is normal for the bank rate to be about double the rate on the best bonds, while call money may go at a fraction or at a multiple of the latter. Farm mortgages plod along very steadily at an intermediate level, while the others fluctuate in their respective ranges, largely independent of one another. Outside the field covered by organized markets the loan rate may be almost rigidly uniform through widely varying conditions—an

instance of the "customary price" in connection with loans—or may fluctuate within the widest limits from case to case; the latter is of course the more usual situation. Generally the rate is much higher than in organized markets. Thus in the south in the United States Negroes are said to borrow \$5 at the beginning of the week and repay \$7 at the end of it, an interest rate of 40 percent per week. Loans made to the very poor on furniture and similar articles are said to range from 100 percent up. In instalment selling, a method by which a large fraction of the automobiles and a smaller fraction of many other goods are regularly marketed in the United States, the terms involve a rate of interest from 11 to 40 percent; it is to be noted that these rates are charged to persons of good credit standing and on quite sizeable sums. The Uniform Small Loans Act, designed to curb the exactions of loan sharks and adopted by over twenty states, prohibits interest above the monthly rate of 3½ percent.

Because of the overwhelming difficulty of the task no study of the general interest rate through history has as yet been undertaken; even the investigations of limited periods in the history of single countries are not detailed enough to permit confident generalization. Until the nineteenth century the available information relates to specific cases which may or may not be typical; yet even when allowance is made for their uncertain representative value, the data are sufficient to illustrate the extreme divergence of nominal interest rates in different epochs. This, however, should not be taken to imply qualification of the statement that the rate of pure interest has been surprisingly constant through history.

Thus W. H. Dubberstein's study of numerous clay tablet records extending over many centuries found that in later Babylonia the rate of 20 percent recurred with monotonous regularity; the rate was twice as high in the neo-Babylonian and Persian periods (650–325 B.C.). In Ptolemaic Egypt the regular rate was 2 percent per month (Westermann, W. L., *Upon Slavery in Ptolemaic Egypt*, New York 1929, p. 32). In Greece the rate at the time of Solon was about 16 percent; at Corcyra in the second and third centuries B.C. loans on good security commanded 24 percent while the common rate at Athens in the time of the orators was from 12 to 18 percent (*Palgrave's Dictionary of Political Economy*, vol. ii, new ed. London 1923, p. 429). Mommsen states that in Rome the rate in the time of

the monarchy was probably about 10 percent per annum (*The History of Rome*, tr. by W. P. Dickson, vol. i, new rev. ed. New York 1905, p. 195). Under the later republic interest was usually stable and low, normally ranging from 4 to 6 percent. In Asia, where invasions, inefficient government and indirect business methods made for insecure possessions, 12 percent was a low rate even in times of peace (Frank, T., *An Economic History of Rome*, 2nd ed. Baltimore 1927, p. 294). The Byzantine law of Justinian limited the rate of interest to 12 percent for loans on cargoes, 8 percent on loans for business purposes and 6 and 4 percent in other cases (Ashley, W. J., *An Introduction to English Economic History and Theory*, vol. i, 4th ed. London 1909, p. 210). In the early Middle Ages Byzantine commerce could raise money at the moderate rate of 8 to 12 percent; the rate was lower still in the tenth century, which was quite unusual for the rest of Europe (Boissonade, P., *Life and Work in Medieval Europe*, tr. by E. Power, New York 1927, p. 51).

For western Europe in the Middle Ages it is difficult to make definite assertions regarding the interest rate, because the fact of interest was concealed or disguised in consequence of the usury laws. Interest was certainly high for most loans. Ashley states that the rate which the Jews were permitted to charge in England in the thirteenth century was two pence per week on the pound, or approximately 43 percent per annum (p. 203). According to Sombart the rate permitted to the Jews by a regulation of 1243 in Provence was 300 percent, while that specified by the emperor Frederick II the next year was 173 percent (*Der moderne Kapitalismus*, 2nd ed., Munich 1916, vol. i, p. 626). In contrast Boissonade states that during the Hundred Years' War commerce in Italy and Germany obtained credit at the rate of 4 to 10 percent (p. 288), and M. M. Knight asserts that commercial interest rates in southern Europe became standardized from the thirteenth century at 10 to 17 percent (*Economic History of Europe to the End of the Middle Ages*, Boston 1926, p. 116).

For the Renaissance and the following period data have been made available by Ehrenberg (*Capital and Finance in the Age of the Renaissance*, abr. and tr. by H. M. Lucas, London 1928) from the Fugger records and other sources. Ferdinand and Isabella sold annuities bearing 10 percent (p. 24). In the sixteenth century the rate on commercial loans on the Antwerp bourse, an effectively organized market, was from 2 to 3 per-

cent per fair, i.e., 8 to 12 percent per annum (p. 247). In a list of thirteen short period loans made to various governments between 1519 and 1521 the rate varies from 7 to 27½ percent besides "considerable" brokerage charges (p. 259-60). In the decade 1532-41, it is asserted, there was a slow reduction in the rate of interest, which varied from 13 to 20 percent in 1535-36 (p. 265). For the years 1546-47 there is available a list of loans in which the Fuggers were borrowers, chiefly from other south German banking families, and another list of loans by the Fuggers to various courts and governments; in the former the rate varies from 8 to 10 percent, in the latter from 11 to 13½ percent (p. 269).

The first modern bank, the Bank of England, was founded at the end of the seventeenth century in connection with the first funded state debt. From that date one may speak of a general rate of interest in a sense not previously possible, especially as London has since been the central capital market of the world. The transactions of such a bank and dealings in such funds involve a publicly known rate, and publication is the main consideration in standardization. The initial loan to the state, which was a new dynasty of questioned status engaged in a major war, was at 8 percent; but the rate fell rapidly and after the conversion of 1750 the English government was borrowing from the bank at 3 percent. In 1751 the government issued 3 percent consolidated annuities; but later the consols fell far below par, fluctuating with the wars and the progress of the industrial revolution. In Holland in the second half of the eighteenth century, as Adam Smith observes, the government was borrowing at 2 percent and private persons at 3 percent (*Wealth of Nations*, bk. i, ch. ix).

Modern conditions may be said to begin after the post-Napoleonic settlement and the final establishment of English coinage on a gold basis. Since the first quarter of the nineteenth century information on interest rates becomes increasingly abundant both for the London money market and for other markets. An analysis of such data reveals the existence of permanent differences between rates on the same type of loan in different markets as well as between rates on different types of loans in the same market. Only when allowance is made for the fact that each type of rate in each money market seems to have its own zone of variation do the fluctuations of the rates appear more or less cor-

related. If the level of the interest rate after 1825 is to be judged by the yield of British government consols, which by many authorities is taken as the nearest available approximation to pure interest, it will be found to have fluctuated between 3 and 3½ percent until the 1880's; the trend after that was downward until the turn of the century, when the rate began to rise, reaching its customary level by 1910. Similar data for the United States are available only from the last quarter of the nineteenth century. Thus F. R. Macaulay's index of bond yields, based on the quotation for the "best" railroad bond—that is, the one with the lowest interest rate—indicates that the interest rate was approximately 5½ percent in 1875; it fell fairly steadily to about 3½ percent in 1900, rose to about 4 percent by 1914, reached its post-war peak at 5 percent in 1921 and has fluctuated since in the neighborhood of 4½ percent.

There is no great difficulty in indicating the general lines along which changes in the general interest rate and divergences between various types of nominal interest rates are to be explained. The most important immediate causes producing changes in the interest rates in modern times (acting apart from or through the intermediary of real investment opportunity and real savings) have been the fluctuation of business conditions in the now unpleasantly familiar cycle, war and the opening up or saturation of new fields of investment, of which the railways are the stock example. The main causes of divergence in the rate from one type of loan to another at a given time are included in the categories recognized by Adam Smith and his followers; namely, trouble or expense in connection with the loan and uncertainty of payment of interest or principal. To these should be added the case of monopoly: special conditions may cut a borrower off from the general market and give a lender power approaching that of exclusive control over a necessity of life.

Administrative expense clearly accounts for the excess of the bank rate over that on good bonds. Indeed some economists have held that the interest rate under modern conditions is determined by the operating expenses of banks, a statement to be interpreted in connection with the entire theory of the relation between currency and interest. Again, a pawnbroker may lend at a rate per month equal to that yielded in a year by good securities and still make no more than the same net rate of interest, if account is taken of the expenses incident in the conduct of

a pawnshop and the competitive wages to which the pawnbroker may lay claim.

Uncertainty, which is a better general term than risk, affects more or less every loan or investment, depending especially upon how far into the future the commitment looks. The measurable element of uncertainty, risk in the proper sense, can be climinated by applying the insurance principle in some form. But the subjective and individual element of uncertainty is not susceptible to standardization; it is a matter of how much confidence one feels in his opinions about the future course of events and of how much courage he has in acting upon his convictions. Uncertainty, more or less connected with expense, explains the major differentiations in interest rates between different sections of the money market. Rates are high in new countries and frontier areas, partly because experience offers no basis for accurate prediction of the future or objective estimation of risk and partly because the lenders typically live far away in the older centers and have to depend on sources of information in which they place limited confidence. There is also the cost of obtaining, transferring and validating such information as is available as well as special mechanical costs of administration at a distance. Such considerations also apply as between loans separated by other than geographical distinctions, particularly between older and newer types. In addition most capitalists are more informed or feel more confidence in their information about certain types of investment than about others. The fact probably does not produce important permanent differences, but it certainly retards the flow of capital from one field to another in response to rapid changes in real investment prospects.

One phase of the factor of uncertainty has to do with changes in the general price level, to which Irving Fisher has given special attention. Apart from any connection with general business conditions changes in prices should obviously affect the interest rate, if they are generally foreseen. If the value of money is expected to fall between the contraction and the maturity of a loan, the borrower should be correspondingly more disposed to borrow and the lender less disposed to lend until the rate goes high enough to compensate for the change. Perfect foresight would clearly mean foreknowledge of conditions during the period of the loan and not an adjustment of the rate on the assumption that the rate of change at the time the contract was made

would hold good forever, as Fisher assumes; but the latter interpretation of foresight may more nearly describe the way men think and act. People do not have the necessary foreknowledge, in the full sense of the term, and even in the face of actual changes they inveterately tend to consider the value of money as absolute unless it is visualized in some concrete speculative price, such as the quotation of one currency in terms of another. As a matter of fact, to the extent that the effects of anticipated changes in the value of money do appear in the history of interest rates and prices they are largely due to an indirect influence; namely, the relation between price changes and business conditions. Rising prices mean large profits, because wages and other basic costs tend to lag, and hence an increased demand for loans. Also capital owners may be more disposed to go into business for themselves rather than to lend their funds at a time when things are "booming," which would mean a reduction of apparent supply as well as increase in demand.

However the matter is viewed, the problems of interest, of the price level and of the business cycle overlap. Certain economists, notably Fisher, consider the business cycle essentially a phenomenon of price level changes, a "dance of the dollar"; while others would regard price changes as effect rather than cause, some of them suggesting even that the primary phenomenon is precisely the artificial stimulation of the creation of capital through credit expansion. The obvious relationship between the interest rate and cyclical price movements arises from the fact that in the modern business world the great bulk of the medium of exchange consists not of money in the primary sense of a money commodity, such as gold, but mainly of bank credit and to a lesser degree of government credit. Bank credit, whether in the form of deposits or of banknotes, represents a right to obtain gold on demand and under a gold standard depends for its validity on the power of the banking system to make this right good. But only a fraction of the normal total volume of bank deposit and note obligations is represented by gold stored up anywhere to meet the demand; the primary backing of such credit consists of the presumably liquid assets of borrowers from banks. Deposits and notes for the system as a whole are created through loans by banks to their customers. Since the banks lend money chiefly for productive purposes, taken in the broad sense to include merchandising, there exists a close



and inseparable connection between the phenomena of money and circulating credit on the one hand and those of capital and interest on the other; a new bank loan is an addition at once to the supply of effective currency and to that of effective capital, for the proceeds are used by the borrower in the same way as is a loan based on real saving.

If "other things remained equal" it would be fair to argue that the creation of capital by bank loans represented a tax on the owners of money through a reduction in the purchasing power of each unit. For the writing of slips of paper and the making of book entries by bank clerks do not directly create any more goods or productive capacity, and the new purchasing power placed in the hands of borrowers must be subtracted from that of the effective money previously in circulation; the dilution of the circulating medium must manifest itself in a rising price level. It is arguable, however, that new purchasing power may serve to bring into use existing wealth or productive power previously idle and so to increase the total output and circulation of goods instead of raising prices. Then in effect the new real capital created through the loan will represent no real cost to society as a whole other than what may be involved in putting idle capacity to work, and this may even be a gain.

Apparently both of these effects are represented in some degree in what actually happens. An expansion in the volume of bank loans is associated with both an increase in the total volume of production and a rise in the price level; the latter is higher than it would have been in the absence of credit creation, even though it may not rise absolutely. In the past business expansion financed by created media of exchange has turned out to be a process which ultimately reversed itself, giving rise to cycles. Precise proof of what is causal in the process depends on a very accurately measured statistical knowledge of the sequence and timing of changes or upon the successful control of the phenomena by actual manipulation of some element in the situation. Until such proof is available it is not possible to say positively even that the process is necessarily self-limiting and reversing or that this feature is necessarily connected with the use of credit currency and with expansion and contraction in its volume.

For the student of interest the important fact is that all these phenomena exert a large and at times overpowering influence on the loan

market, acting on both the supply and demand sides. One effect is a fairly sharp separation between short term and long term loans, the latter being relatively much less affected. In the market for short term loans the fundamental investment conditions, with which the general theory of interest is concerned, may be eclipsed at crucial points in the cycle by the special situation generated by the cyclical movement. The demand for loans may be dominated at the moment by the state and prospects of business from a cyclical standpoint and by the necessity for business men to meet outstanding obligations and keep solvent. The supply of loanable funds may be just as completely dominated by the state of bank reserves and the general banking position and by the vicissitudes to which money incomes in general are subject because of monetary changes.

The effects of the cycle exercised through phenomena associated with long term capital are more varied. The fluctuations of profit connected with cyclical movements of business affect the magnitude of corporate savings which have become an important source of supply of new capital. Although corporations invest reserves to some extent in public securities or in those of other industries, the bulk of their savings represents plant extensions and improvements; the increase in corporate savings based on rising profits is thus a factor contributing to the overdevelopment of industries momentarily prosperous, which tends to unbalance development and to aggravate the cycle. The fact that interest on long term loans is a fixed charge which does not rise with the general upswing is one of the factors responsible for the lag of costs during prosperity and contributes to unsound expansion. On the downswing the bond or mortgage interest becomes a heavy charge on industry; and the long term creditor often becomes complete owner of the business, entirely wiping out the equity of the active direct owners.

Interest as a form of property income which does not involve its recipients in direct participation in active processes of business and production is bound up in a capitalist society with group antagonisms. There is a tendency to regard as parasitic people who live from a fixed and assured income completely divorced from effort or concern with the work and life of the masses. The antagonism between the active business group and its silent partner, the outside investor of long term capital, creates the opportunity for abuses such as insiders' profits or

the shift of losses to investors; while the presence of such a party as the innocent investor, whose property must not be affected, makes regulation by public authority difficult and sometimes unfair, since most of its burden is apt to fall on the owners of the equity. At the same time the shrinking in the value of fixed incomes during prosperity and the passing of productive enterprises during depression into the hands of people who neither want nor are fit to assume the responsibility of management create social problems of far reaching significance. These social antagonisms and problems tend to become increasingly vital as industrial civilization makes more use of accumulated wealth both in providing for the satisfaction of consumers' wants and in playing the game of power in the national and international arenas.

Capital and interest are commonly regarded as peculiarly characteristic of the capitalist order. Thus while the regulation of wages by public authority and the limitation of profits by taxation were accepted as interesting experiments not vitally affecting the foundations of the capitalist system, the emergency decree of December 8, 1931, reducing interest on private loans in Germany was interpreted by many as evidence of the passing of capitalism. Yet there is no abstract reason or experimental evidence, in so far as any is available, to justify a belief that interest will disappear in a socialist or communist society. The use of the pecuniary calculus to maintain the existing stock of capital and to increase it by accumulation as well as to distribute it among the various branches of production must lead to the employment of an interest charge for the use of capital. As long as capital is merely maintained, the interest charge may be nothing more than an accounting device and the interest income received by the national authority may be returned to the producers either as a uniform reduction in the prices of all goods below cost or in some other form. But if new capital is accumulated, the presence of interest as an element of cost would mean that only a part of the total output is distributed to the population in the form of consumers' goods. In a socialist economy, however, the class living on interest income would disappear and with it also the social problems and antagonisms to which rentier incomes in a capitalist society give rise.

FRANK H. KNIGHT

See: DISTRIBUTION; CAPITAL; VALUE; COST; DEMAND; SUPPLY; ABSTINENCE; RISK; SAVINGS; ACCUMULATION;

INVESTMENT; USURY; BANKING; COMMERCIAL; MONEY MARKET; CORPORATION FINANCE; RENTIER; NATIONAL INCOME.

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**INTEREST'S.** When a number of men unite for the defense, maintenance or enhancement of any more or less enduring position or advantage which they possess alike or in common, the term interest is applied both to the group so united and to the cause which unites them. In this sense the term is most frequently used in the plural, implying either that various similar groups or advantages combine to form a coherent complex, as in the terms vested interests, moneyed interests and labor interests, or that the uniting interest is maintained against an opposing one, as in the expressions conflict of interests and balance of interests. Interests so understood usually have an economico-political character.

The importance of compact interest groups in the development and the vicissitudes of states was recognized by the great historians of antiquity in the struggles leading to the legislation of Solon and of Clisthenes, in the tenacious system of the Spartan oligarchy and later in the struggle of the orders at Rome, in the agrarian reforms of the Gracchi and in the conflicts which led to the establishment of the principate and the empire. Modern historians have seen in the clash of interests, as the conjuncture of conditions and events favored one side or another, one of the universal factors in social and political change. In one of its broadest forms it appears in the conflict of older agrarian interests with the aggressive interests associated with commerce, finance and industry. To the Marxians all history is a record of a series of clashes between various changing class interests; in the modern economic order the important conflict of interests is that between capitalist interests and those

uniting the wage earning classes. These economic interest complexes, however, are limited by competitive differences within themselves and are crossed by interests of varying potency derived from other than purely economic considerations, such as those of status, race, nation, region and religion.

The historical dominance of interest groups has at various times been challenged by conceptions of society based on individualistic doctrines, such as those of the social contract and of natural rights. In the formation of modern democratic institutions there are discernible two very different attitudes of revolt from the feudal system of established class interests; in the earlier stages the two work together, but later their latent contradiction appears. One is the democratic idea, the other the opposition of the growing interests which industrial development has stimulated, the interests of manufacturing and trading groups seizing their opportunity to dethrone the interests of the landed class. The feudal system of estates was a system of interests adjusted to the domination of property in land. The growth of other forms of property required a modification of the system but not necessarily of the principle. The "divine right of kings" was with relative ease transformed into the "divine right of freeholders." The English Revolution of 1688 was simple because it merely extended to a slowly increasing class and a slowly changing situation the old principle that the property of the country should govern it. Writers like Locke and Harrington were not revolutionary prophets but new interpreters of the old doctrine of the political role of property interests. Their social contract individualism was sharply limited by their theory that the state exists for the preservation of property. With the industrial changes of the later eighteenth century the concept of interests ceased to be formulated in the simpler terms of homogeneous "property." The new economic interests evoked by the industrial revolution revealed a different kind of struggle, which has continued with additional complications up to the present.

On the other hand, the democratic idea in its pure form was essentially opposed to the interest principle. It translated the doctrine of natural rights into the "self-evident" maxim that "all men are created equal" and drew from it the conclusions which Locke and others who had used the same language had conveniently refused to draw. This was the principle the uncompromising logic of which was enunciated by

Rousseau. It was the principle which inspired the Declaration of the Rights of Man and which in revolutionary France abolished all corporate interests within the state. It was the principle of the Declaration of Independence. It was in a later form the Benthamite principle that every man is to count as one and that the greatest happiness of the greatest number is the goal of the state.

The conflict of these two doctrines received much illumination in the course of the eighteenth and nineteenth centuries. The groups which were seeking political power were ready for the time being to enlist under the democratic banner, but when the battle was won the victory proved generally to belong to the interests represented by these groups rather than to the people as a whole. One of the most significant illustrations of the initial convergence and later divergence of the two doctrines is afforded by the events following the American Revolution. It is seen in the transition from the language of the Declaration to that of the constitution. Historians of the school of Beard have stressed the part played by economic interests in the framing of the constitution and in the struggle between the Federal and the Republican, or Jeffersonian, party. They have maintained that if Thomas Jefferson still employed the language of the Declaration after the development of the Federalist-Republican schism, it had become the language of agrarian protest against capitalist control. It need not be assumed that the ideal of democracy as enunciated by John Adams or by Jefferson had no vitality in its own right; but certainly the evidence is good that it was serviceable also, because of its vitality, to the protagonists of struggling interests. So far as the framers of the constitution are concerned, they have left no doubt as to their conception of the role of interests. They recognized that "a landed interest, a manufacturing interest, a mercantile interest, a moneyed interest with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views" (Madison in *The Federalist*, no. 10). They recognized that this conflict of interests creates the problem of government and is the origin of factions or parties. But they thought that this conflict must be held in check and some balance of interests must be established in the very framework of government.

The question as to how far the state is based on group interests, whether thought of in terms

of class or of economic function or of territory, and how far on the general interest of a whole community has been a prominent issue in modern political theory. The followers of Rousseau, the school of Fichte and Hegel, have insisted on the subordination of group interests to universal state purposes. Some present day writers, such as M. P. Follett, take the same point of view (for example, in *The New State*). Others maintain that the state while deriving cohesion from interest groups is in principle above them and is ideally the impartial arbiter of their claims (Hocking, W. E., *Man and the State*). The opposite point of view is represented by such writers as Bentley, who in his *The Process of Government* claims that political issues are inevitably determined by the strength of group pressures. The adherents of the Marxian school go even further and assert that the state is essentially for the domination of one class over another; they lay stress on the solidarity of the controlling capitalist interest in the modern state. The Marxist ideal, however, points to a coming socialist state which will be essentially classless and in which the interest principle will be overthrown. The Soviet experiment has tended to give a new emphasis but also a redirection to this ideal. A somewhat different conception is held by such writers as Duguit, Benoist and Cole, who have maintained that the reorganization of the state through the representation of purely functional groups would restore to the machinery of government a reality which the "democratic" system of territorial representation lacks and would also make possible a more effective coordination of these interests within the whole. Since, however, interest groups find an important means of expression and influence through political parties and since political parties seem an inevitable condition of any democratic system, the efficacy of these proposals remains doubtful. Both the fascist and the socialist conceptions of the state assume the coercive abolition of political parties.

In economic theory the concept of interests has not been so prominent. In earlier stages this was perhaps due to the identification of economics with "political economy." The cameralists and the mercantilists took their stand on the solidarity of national economic interests. The physiocrats did work out a system of economics based on an assumption of the relative social utility of interest groups. Although Adam Smith had on occasion referred to group interests, to the classical economists they were unimportant

for the explanation of economic phenomena as compared with competitive individual interests. The historical school of economists, however, stressed the role of the group rather than that of the individual and in studying the rise and fall of institutions necessarily paid considerable attention to the conflict of interests. Socialist economists tended to stress interests even more strongly but for the most part limited their attention to the interest complexes of broadly defined social classes. The possibility of a more thoroughgoing study of the economic role of interest groups as such is suggested by the work of economists like Sombart and Veblen. Furthermore alongside the more formal studies of economic theory there have always been studies of practical economic problems and of economic institutions, in which the question of group interests has generally been accorded considerable attention.

In the theory of law interests have generally been considered as sources of conflict requiring readjustment through social agencies. From this point of view judicial decisions and the law behind them constitute a specially sanctioned process for the peaceful settlement of conflicts of interests. Law is on this ground contrasted with customary and other non-legal modes of determination of the range of interests, and the development of law is attributed to the inadequacy of these modes as interests have grown in variety and in complexity. Under such conditions custom develops too slowly to keep pace with social changes and leaves too many "areas of discretion" which are productive of social disturbance. Voluntary agencies of adjustment although they play an important part are also quite inadequate, often lacking sufficient authority to compose the issue and often, when effective, tending to disregard the interests of members of society other than those who are directly involved in the dispute. John Dickinson has said: "No fact is more important for an understanding of social processes or of the development of agencies of social control than that a conscious adjustment of interests between numerous parties cannot shape itself initially through the spontaneous action of all the interested parties, but must ordinarily result from the special efforts of some external agency . . . charged with the task of surveying the situation as a whole and devising a plan." Such an agency not only is authoritative but also can adapt its determinations to the requirements of each changing situation.

Some writers on the theory of law have given

a greater reality and concreteness to the old conception of legal rights by translating them, in the language of Ihering, into "legally protected interests." Rights, in other words, become a particular species of social interests, selected for recognition and confirmation by legislation and judicial decision. This idea has in turn led to the concept of the state as essentially an organization for the determination and adjustment of the interests operative within a society. By Krabbe, for example, the state is conceived as a regulatory power over interests, in consideration of the necessity for the continuous adjustment of these interests for the sake of practical harmony. The state, in his view, should be regarded not as the "possessor of public interests" but as a complex of agencies which administer a series of public services and of organs which generally bring into a workable system the various conflicting interests of the community. This process Krabbe speaks of as "an evaluation of interests," although in interpreting this statement the saying of Korkunov should be borne in mind that "law is the determination, morality the evaluation of interests."

In the field of sociology and social psychology the term interests has also had considerable vogue. From the beginnings of modern systematic sociology writers have sought to distinguish and classify the various aims or strivings of human beings which give rise to the varieties of social phenomena and especially of group behavior. Herbert Spencer dealt with what he called the "internal factors of social phenomena," and Lester Ward sought to classify "social forces." Ratzenhofer employed instead the term interests, being chiefly concerned to show how variant or antagonistic interests of individuals and groups explain or illustrate his theory of social conflict. This usage was adopted by Albion Small although for a different purpose and was popularized by him among American sociologists. Small offered his own classification of interests; and various other writers, such as Ross, Ellwood and Hayes, engaged in the same task. Their definitions of the term were essentially psychological. Thus Small said that "an interest is an unsatisfied capacity corresponding to an unrealized condition, and it is predisposition to such rearrangement as would tend to realize the indicated condition" (*General Sociology*, p. 433). His own list reduced itself to the following: health, wealth, sociability, knowledge, beauty, rightness. The crudity of this list is obvious; and, while it was improved upon by the other writers

referred to, the difficulty of finding a basis for classification remained. Nor was the attempt to explain social phenomena as expressions or embodiments of specific interests particularly successful. Moreover a fundamental difficulty lay in the confused application of the term at once to the subjective phenomena of motivations or desires and to objective phenomena, such as wealth. For this reason MacIver has proposed that a clear distinction should be drawn between attitudes or states of consciousness, on the one hand, and interests, or the objects toward which these states are directed, on the other. The confusions and difficulties of the interest concept have led various sociological writers to reject the term altogether and to substitute such terms as values and wishes.

If the term interests is used with this objective significance as the correlative of attitudes, the concept becomes particularly useful in the explanation of the growth and change of social organization. Under more simple conditions of society the social expression of interests was mainly through caste or class groups, age groups, kin groups, neighborhood groups and other unorganized or loosely organized solidarities. The coherence of these groups was fostered by appropriate traditions—established interpretations, as it were, of the interests or values which the groups embodied. A social class, for example, sustained its relative dominance not simply by insistence on the merits of the interests which were peculiar to its members but indirectly by the translation of these presumed merits into an ideology of prestige and social function. The attitudes thus engendered in dominant and inferior groups alike both masked the group interest and helped to perpetuate it. With the advance of civilization interests are organized in particular associations and in this way become more specialized, defined and limited. In an industrialized society with its division of labor and its opportunity for widened contacts every interest of any proportions establishes an organization for its promotion. Many quite limited and selective interests are enabled to draw their scattered adherents into personal or impersonal relations over greater areas, while the more universal interests extend correspondingly the range and the size of their organization. Thus the most marked structural distinction between a primitive and a civilized society is the paucity of specific associations in the one and their multiplicity in the other.

This definite organization of interests reacts

upon the character of the interests as well as on the modes in which they are pursued. A broad distinction may be drawn here between like and common interests. Persons have like interests in so far, for example, as each seeks a livelihood for himself. They have common interests in the degree in which they participate in a cause, as the welfare of a city or country, which indivisibly embraces them all. The two types of interest are inextricably combined in their attachment to associations. Thus the like interests which lead to economic association are reinforced by the sense of membership in a corporate unity on the success of which the attainment of these like or distributive interests depends. Moreover the association gives a greater stability to the interests which it promotes. An organized interest, especially if it assumes the form of incorporation, achieves a certain continuity in spite of the fluctuating devotion and the changing composition of the membership.

With the increase of organization the conflict of interests takes new forms, and the problem of establishing some harmony between them thrusts new tasks upon the state. There are some interests which remain localized and others which have special local aspects. But on the whole the attribution of interests to localities, the principle on which the system of representative government has been built, has diminishing significance. Moreover, inasmuch as with the development of communications many of these interests, both economic and cultural, are organized on lines that transcend the boundaries of individual states, the regulation or protection not only of such interests as may be deemed more specifically national but also of those which have inevitably a wider range introduces considerations at variance with traditional ideas of the sovereign independence of states.

International conferences reveal on a larger scale that essential problem of the reconciliation of interests which every social organization, temporary or permanent, has to face. Every organization presupposes an interest which its members all share, and its task is to find a way of reconciling with or adjusting to this wider interest the conflicting interests of its component groups or individual members. While some attention has been given to this subject, for example, by the school of M. P. Follett, much remains to be done to clarify the nature of the problem, to analyze the varying forms which it assumes and to discover methods by which the larger interest of the whole group can be most

effectively maintained against the particular interests which divide it.

R. M. MACIVER

*See:* SOCIAL ORGANIZATION; GROUP; CLASS; CLASS STRUGGLE; STATE; PARTIES, POLITICAL; BLOC; PARLIAMENTARY; LOBBY; PLURALISM; FUNCTIONAL REPRESENTATION.

*Consult:* MacIver, R. M., *Society: Its Structure and Changes* (New York 1931) chs. iii, viii-ix; Hocking, W. E., *Man and State* (New Haven 1926); Coyle, G. L., *The Social Process in Organized Groups* (New York 1930); Bentley, A. F., *The Process of Government* (Chicago 1908); Krabbe, Hugo, *De moderne staatsidee* ('The Hague 1915), tr. by G. H. Sabine and W. J. Shepard (New York 1922); Follett, M. P., *The New State* (New York 1918); Dickinson, J., "Social Order and Political Authority" in *American Political Science Review*, vol. xxiii (1929) 293-328, 593-632; Beard, C. A., *The Economic Basis of Politics* (New York 1922), *An Economic Interpretation of the Constitution* (New York 1913), and *Economic Origins of Jeffersonian Democracy* (New York 1915); Michels, Roberto, *Zur Soziologie des Parteinens in der modernen Demokratie* (2nd ed. Leipzig 1925), tr. by E. and C. Paul as *Political Parties* (New York 1915); Veblen, T., *Imperial Germany and the Industrial Revolution* (New York 1915), and *The Vested Interests and the State of the Industrial Arts* (New York 1919); Ratzel, Hugo, G., *Die soziologische Erkenntnis* (Leipzig 1898); Small, A. W., *General Sociology* (Chicago 1905) ch. xiii; House, F. N., "The Concept 'Social Forces' in American Sociology" in *American Journal of Sociology*, vol. xxxi (1925-26) 145-72, 347-65, 507-25, 763-99; Marschak, Jakob, "Zur modernen Interessendifferenzierung" in *Soziologische Studien zur Politik, Wirtschaft und Kultur der Gegenwart*, Alfred Weber gewidmet (Potsdam 1930) p. 80-105.

INTERGOVERNMENTAL LOANS. *See* LOANS, INTERGOVERNMENTAL.

INTERLOCKING DIRECTORATES. Two corporations may be said to have interlocking directorates when one or more individuals are members of the board of directors, managers or trustees of both corporations. The practise of interlocking directorates has become increasingly widespread with the multiplication and growing complexity of corporate enterprise. At present few directors of important corporations are not directors in other concerns. The link between corporations formed by the interlocking of directors may be an important aid to management. At the same time it raises serious social problems with respect to the responsibility of directors and to the maintenance of competition.

From the purely business point of view and in terms of the interests of particular corporations the advantages of interlocking directorates

are threefold: the quality of the directorate may be raised by obtaining men of wider experience and connections or by increasing the experience and connections of the existing directorate; transactions between the two companies may be multiplied and made more profitable; and the rigors of competition between them may be reduced if not altogether eliminated and replaced by a measure of cooperation.

Since a board of directors is concerned primarily with problems of policy and control and a director's activity requires wide experience and judgment combined with extensive channels of information rather than large expenditure of time, a man with the proper qualifications can act effectively in the capacity of director for several corporations. The experience and knowledge gained in handling the problems of one corporation may redound to the benefit of other companies even in the absence of mutual business relations. Within narrow limits therefore a director may be more useful to his company if he is also a director of other important concerns. This is not the case, however, when one person holds membership on the boards of a large number of corporations; it is physically impossible for such a director to attend to his duties in all of the companies and he must perforce remain ignorant of many important activities of some of the companies. Where a director of this type is a person with a national reputation, as is all too often the case, he merely allows the use of his name to enhance the prestige of the company.

Of perhaps greater importance is the advantage which results from interlocking directorates where two or more corporations are in a position to have direct business transactions with each other. The presence of common directors can be used to gain advantage for one or both companies by insuring business on profitable terms and with the minimum of selling costs. It is not uncommon for a corporation to add to its directorate the president or another influential director of a company furnishing an important part of its raw materials or purchasing its product in large quantities. The market or source of supplies can thus be stabilized and the rigors of opposing self-interest somewhat curbed, although the relation may develop abuses in the form of preferential contracts and excessive prices. Interlocking directorates are particularly common between banks and other forms of business enterprise, since here more than in most cases a reciprocal service can

be rendered and new opportunities for profitable business created. A bank attempts to increase the number of its depositors and accredited borrowers, while an industrial or other company seeks a safe depository for its funds and an assured line of credit and banking support in times of stress. Each is a customer of the other and each supplies a service to the other. A similar dual relation may exist between a railroad and an important shipper. Through an interlocking director the railroad can protect its position against a competing carrier, while the shipper can be assured that his shipments will receive the best possible treatment; this type of interlocking has been particularly frequent between railroads and coal operators in the United States.

Finally, the rigors of competition between two companies may be reduced or eliminated through an interlocking director who serves as liaison officer between two companies, insuring that neither acts seriously to the detriment of the other and frequently bringing about a measure of common action. As the proportion of interlocking directors is increased the two concerns may act in common to the point of eliminating all competition.

Where a combination of competitors has been achieved, with the enterprises still retaining their corporate identity, the device of interlocking directors is used to unify policy and administration within the combination. Similarly the interests of a holding company in the subsidiaries under its control are represented by interlocking directors. The same device is used also by financial capitalists or large banking institutions to represent and unify their interests in the various corporations in which they own a substantial block of shares. The interlocking of directors is greatly complicated where the interests of financial capitalists are pooled through affiliation with the same banking institution, which in its turn may have independent interests in the same corporations.

From the social point of view the existence of interlocking directorates introduces two serious problems: the divided loyalty of a director of two companies which enter into business relations with each other, and the reduction or elimination of competition in a community which relies on competition as an instrument for the social control of business enterprise.

In his official capacity a director is a fiduciary and is required by law to act in the inter-

est of the owners of his corporation. A director of two companies which have business dealings with each other or other conflicts of interest is therefore placed in the anomalous position of a fiduciary with respect to both parties. The dangers inherent in this condition of divided loyalty have been recognized by the courts and certain safeguards have been developed out of the common law. In the United States "Transactions between boards having common members are regarded as jealously by the law as are personal dealings between a director and his corporation, and where the fairness of such transactions is challenged the burden is upon those who would maintain them to show their entire fairness" [Geddes v. Anaconda Mining Co., 254 U. S. 590, 599 (1921)]. Where the boards of two corporations are almost identical, some courts have gone so far as to declare that agreements between them "must be deemed presumptively fraudulent unless expressly authorized or ratified by the stockholders" [Pa. Knitting Mills Corp. v. Bayard, 287 Pa. 216, 221 (1926)]. Under common law the burden of proof as to the fairness of intercompany transactions rests directly upon directors who are in a fiduciary relation to both parties. Even in the absence of fraud such transactions are voidable unless proved to be fair, and in some jurisdictions they may be voided at the option of either party regardless of such proof. The efficacy of these safeguards built on the common law has been greatly reduced with respect to many corporations by the so-called immunity clause in their charters; such a clause provides that no contract or transaction entered into by the corporation shall be affected by the fact that a director is connected with any party to such contract, so long as it is ratified either by directors not so connected but constituting a majority of those present at the meeting of the committee authorizing such contract or transaction or by a majority of stockholders having voting power. By these or similar provisions the duty of a director to show the fairness to both sides of a transaction in which he is an interested party would appear to be easily evaded, and the problem raised by the presence of divided loyalty would seem to be placed in much the same status which it held before the common law had been invoked. In European countries this aspect of the problem of the responsibilities of directors has been less serious than in the United States, partly because there is no charter mongering



by their political subdivisions to lower the legal restrictions on the action of directors and partly because in some countries the corporate organization tends to subdivide the functions of directors between a supervisory board with little power of action and a management board which performs the active function. Management boards are seldom interlocked; and while the supervisory boards of separate companies frequently are, the common supervisors have relatively little opportunity to affect relations between the companies.

More serious than the problem of directors' responsibility is that raised by the reduction of competition brought about by interlocking directorates, both when the concerns are doing business with each other and when they are competitors. In the first case competition is reduced indirectly by impairing the opportunity of the competitors of one of the linked companies to transact business with the other party to the arrangement. Less conspicuous and much more prevalent than the reduction of direct competition, this is perhaps the more serious of the two. No extensive investigations have been made or legislation enacted with respect to this form of "regulating" competition; yet it can be said that in a great number of cases where corporations not under common control are linked by interlocking directors, the purpose is in part to give one company (or both) an inside track over competitors in dealings with the other—to "cement their relations." This represents a very real step toward vertical integration in that buying or selling costs may be in part eliminated between the companies involved and the number of truly independent competitors may be reduced, thereby weakening the efficacy of the competitive market as a regulator of enterprise.

It is a debatable question just how far the interlocking of two otherwise competing concerns through their directorates tends to reduce competition between them. In the absence of other devices for maintaining common control a single director common to the boards of two companies is not in a position to impair seriously the competition between them unless he is either a dominant personality in one or both companies or is able to bring about actual agreements in restraint of trade between them, agreements which might have been accomplished as easily in the absence of a common director. When the number of directors in common is sufficiently large to make possible a radical re-

duction or elimination of competition, this usually indicates that two corporations are already under common control through some other device. The interlocking of directors is then a symptom and not the cause of common control and is an aid rather than an essential to the elimination of competition, which is presumably bound to follow the existence of common control.

In the United States an attempt has been made through legislation to limit interlocking directorates and prevent their interference with competition. Prior to 1914 interlocking directorates were apparently never declared illegal, but the courts in several trust dissolution cases prohibited for a period of years the interlocking of officers and directors among the dissolved corporations. The chief agitation, however, was against the use of interlocking directorates among the banks on the ground that they tended to promote a "money trust." In 1913 the congressional investigation by the Pujo committee disclosed extensive interlocking of directorates among the largest corporations, banks and insurance companies. The directors of eighteen major banks or investment banking houses (180 individuals) held 746 directorates in 134 companies with combined capitalization or resources of \$25,000,000,000. Following the popular demand which grew in part out of these disclosures the Clayton Act of 1914 contained provisions directly limiting interlocking directorates. Section 8 provided that no individual should be a director of more than one bank, banking association or trust company organized and operating under federal laws and having resources of more than \$5,000,000. An individual was also prohibited from being a director of such a bank if he were already a director of a state bank with resources of over \$5,000,000. Federal Reserve Banks were excluded from these provisions. The same section also made it unlawful for an individual to be a director of two or more corporations (other than banks and carriers) engaged in interstate commerce if at least one of them had capital and surplus of over \$1,000,000 and if the elimination of competition by agreement between them would constitute a violation of any provision of the anti-trust laws. The law, however, imposed no penalty for the violation of any of its prohibitions.

The great benefits expected to follow from the enactment of these provisions failed to materialize. Some of the larger banking houses did

immediately reduce the number of their interlocking connections. But on the whole the provisions of section 8 have been ineffective, partly because they have not been vigorously enforced and partly because dummy directors and other devices have been used to gain the same ends. Not once has the section been invoked in the courts nor has the Federal Trade Commission issued any orders to "cease and desist" under it. Interlocking directorates among financial institutions increased greatly in the post-war period; thus in 1929 the partners and directors in one investment banking house, two trust companies and three national banks, all in New York City, held over 2400 directorships in corporations with combined net assets of approximately \$74,000,000,000, equal to over 20 percent of the assets of all American corporations. The extent of interlocking among non-financial corporations is illustrated by the fact that in 1930 the directors of ten of the largest non-financial corporations held over 1850 directorships in other corporations. In both cases the large number of directorates reflects in part the increased use of holding and subsidiary companies, the directors of the parent company frequently being also directors of many subsidiaries.

More effective has been similar legislation with respect to the railroads and other carriers. By the Transportation Act of 1920 it was made unlawful for any person to hold the position of officer or director of more than one carrier unless such holdings had been authorized by the Interstate Commerce Commission. Between 1920 and 1928 the commission granted over 2500 applications, many legalizing the situation which existed at the time the act was passed, to hold such position in two or more carriers. The policy of the commission has been to refuse applications when the railroads concerned have clearly conflicting interests.

No legislation limiting the interlocking of directorates appears to have been enacted outside the United States. In other countries the public or political pressure to enforce competition has been far less strong and the problem of interlocking directorates, being one of the less important elements in reducing competition, has received little attention. In countries which have encouraged or at least not resisted the concentration of industry, such as Germany and Japan, there can be no objection to interlocking, which is extensively practised, on the score of suppression of competition. In England, the home of the competitive tradition,

interlocking directorates are frequent and have aroused some criticism but no legislative action. It has become an almost binding convention that the directors of the Bank of England should not be directors of other incorporated banks, although exceptions have been made. The charters of European corporations occasionally contain specific provisions against interlocking. In general, however, there is no opposition to interlocking directorates and they have increased greatly in Europe in recent years; among the causes are the growth of pan-European holding and finance companies and the increase in the affiliations of American and European corporations.

GARDINER C. MEANS

*See:* CORPORATION; COMBINATIONS, INDUSTRIAL; TRUSTS; HOLDING COMPANIES; PUBLIC UTILITIES; INVESTMENT BANKING; COMPETITION.

*Consult:* United States, Congress, House, Committee on Banking and Currency, Money Trust Investigation, *Investigation of Financial and Monetary Conditions in the United States*, 3 vols. (1913); Brandeis, J. D., "The Endless Chain" in *Harper's Weekly*, vol. lviii (1913) 13-17, and *Other People's Money* (New York 1914) ch. iii; Loree, L. F., *Interlocking Directorates* (Washington 1914); Dixon, F. H., "The Economic Significance of Interlocking Directorates in Railway Finance" in *Journal of Political Economy*, vol. xxii (1914) 937-54; Stevens, W. H. S., "The Clayton Act" in *American Economic Review*, vol. v (1915) 38-54; Corey, Lewis, *The House of Morgan* (New York 1930) chs. xxx, xxxv.

INTERMARRIAGE. In every society, primitive or historical, personal choice of a mate from another group is regulated by group sentiments of approval and disapproval defined by the group's vested interests and its desire to perpetuate or enhance its prestige. Current evaluations of the ranking of other groups, cultures, castes, classes, occupations, nationalities, religions and races determine the degree of encouragement or discouragement accorded a prospective marriage. Hostile attitudes toward intermarriage, which are constantly changing in their direction and intensity, range from ridicule and scorn to tabus involving ostracism or death. Correlated with heightened group self-consciousness, fostered by ethnocentric leadership and perpetuated by isolation, these attitudes act as means of insulating the group, of preventing the dissipation of its forces and of preserving its traditions against the disintegrating effect of alien influences. On the other hand, intermarriages looked upon with favor by the group are those that it believes will extend its social, economic and political power and improve its status.

Marriage functions in primitive society as a means of effecting cooperation between small isolated groups in conflict, barter and ritual; and such marriages are arranged as are thought to advance these ends. Distinctions based on property and rank when present, as, for example, on the northwest coast of America, regulate the marriage choice, as do occupational discriminations in east African society, where the blacksmith is held in low esteem. In Roman society political caste and occupational considerations determined the range of intermarriage relations. Romans had *conubium*, or legal intermarriage, with neighboring Latin groups by special grants. *Conubium* was also permitted with some peregrines who were not Roman citizens or Latins but members of political communities which had acknowledged Roman supremacy and which had been absorbed or had been granted a measure of autonomy. No *conubium* with slaves was permissible and intermarriage between patricians and plebeians became legal only after 445 B.C. A freedman could not marry his patroness or the widow or female descendant of his patron, whether the woman was of senatorial rank or not; the extreme penalty for such an offense was condemnation to the mines. Senators and their descendants were forbidden to marry freed women or men and anyone who was or whose father or mother had been engaged in the theatrical profession. Soldiers, imperial officials and tutors lost certain privileges of *conubium* during the period of their employment. When Caracalla in 212 A.D. made full Roman citizenship a common status for free subjects of the empire he increased thereby the range of territorial and racial intermarriage.

In societies where religious ritual and ceremony give significant sanction to marriage and where the interest of the group is oriented around sectarian beliefs religious differences interfere with free intermarriage. Religious sects demand unserved loyalty and their emotional appeals for group cohesion develop attitudes of zealous exclusion in the marriage relation with members of other sects. The antagonisms against intermarriage are intensified if the religious leaders are seeking to counteract the assimilation process concomitant with religious tolerance or if there has been a tradition of embittered conflict between the religious groups involved. Economic and political factors determine and modify religious prohibitions to intermarriage, which are likewise tied up with provincialisms and national and racial consciousness.

Christianity has since its inception established impediments to marriage with those outside of the faith. On the authority of passages in the New Testament (*II Corinthians* vi: 14) and the utterances of the church fathers St. Cyprian and Tertullian the Council of Elvira (300-306) forbade Christian girls to marry "infidels, Jews, heretics or priests of the pagan rites." The Christian emperor Constantine in 339 prohibited all intermarriages between Christians and Jews and a statute of Valentinian, Theodosius and Arcadius enacted in 388 regarded such intermarriages as adulterous. The councils of Laodicea (343-381), Hippo (393), Orléans (538), Toledo (589) and Rome (743) reiterated the interdiction against the intermarriage of Christians with Jews, heretics and infidels and these prohibitions were incorporated in the Gratian collection. With the coming of the Reformation councils and synods in various parts of Europe extended these prohibitions to apply to Protestants; and popes, particularly Urban VIII, Clement XI, Benedict XIV, Pius IX and Leo XIII, inveighed against intermarriage with non-Catholics in vigorous language. The secularization of marriage laws and procedures, the increasing power of the civil authority over ecclesiastical authority in the regulation of marriage and the diminishing part played by religion in contemporary life have lessened the force of marriage impediments of the church, but they are still potent in religious communities. The revised code of canon law of 1918 reiterates the prohibition of marriages between individuals of "mixed religion" and "disparity of cult," but as a concession to the increasing laxness in the rigid enforcement of the impediments it permits such marriages if the non-Catholic party promises in writing that he will not interfere with the religious worship of the Catholic and if both parties promise that the children of both sexes will be baptized and reared in the Catholic religion. These conditions were rigidly insisted upon in 1932 in a letter issued by the church authorities who set as punishments for violations the annulment of the marriage, exclusion from participation in church activities, the denial of a church funeral and in extreme cases public excommunication.

After its secession from the church of Rome the Church of England continued to regard difference in religion as an impediment to marriage and annulled mixed marriages when made; it included among prohibited marriages those with Jew, Turk or Saracen. The Westminster Con-

fession of Faith published in 1647 declared that "such as profess the true reformed religion should not marry with infidels, Papists, or other idolaters." Ireland in 1697 passed "An act to prevent Protestants intermarrying with Papists," which provided that no Protestant woman who either possessed or was heir to any form of real property to the value of £500 should marry a Papist under the penalty of losing all her property—the act revealing economic factors underlying prohibitions against intermarriage usually concealed by the overtones of rationalization. An Irish law in 1725 made it a felony for any Papist priest or unfrocked clerk to perform a mixed marriage and a statute in 1745 threatened those who celebrated such marriages with capital punishment. A declaration of the Federal Council of Churches of Christ in America in 1932, subsequent to the statement of the Catholic church on intermarriage, asserted that "where intolerable conditions are imposed . . . persons contemplating a mixed marriage should be advised not to enter it." Some Protestant sects have prohibited intermarriage with members of other creeds on pain of expulsion; all have brought pressure to bear upon their members to marry within their religious group.

The Mohammedan law of marriage according to the Maliki school ordains that the confession of Islam by the husbands is one of the conditions of all marriages. A Moslem may not marry a woman who is an unbeliever; but on the basis of the Koran (v: 7) an exception is made of a marriage to a *kitabiyyah*, a free "scriptural woman," a term which designates Christians and Jews. Such marriages although legally valid are considered "abhorrent" especially in non-Moslem countries.

Jews have also consistently looked with disfavor upon intermarriage with non-Jews. Biblical injunctions against marriage with neighboring tribes and the demand of Ezra that the Jews after their return from the Babylonian exile put aside their foreign wives were used as authority for Talmudic prohibitions against intermarriage and by Maimonides, who incorporated the prohibition in his code. Exception was made by some rabbis if the non-Jew became a proselyte; in the codification of the *Shulchan aruch* the consensus of opinion was that such marriages should be exempt from the prohibition. The Jewish synod convened in Paris by Napoleon in 1807 decided that although intermarriages between Jews and Christians in accordance with the civil code could not be solemnized by the

religious rites of Judaism they were valid and not subject to religious anathema. The declaration of the rabbinical conference in Brunswick, Germany, in 1844, that intermarriage between Jews and Christians and with the adherents of other monotheistic faiths was not forbidden if the children were reared as Jews met much hostile feeling in Jewish circles as being too assimilationist in tone. The large majority of Reform Jewish rabbis have supported the traditional orthodox opposition to intermarriage as a threat to the survival of Judaism. The food customs and ritualistic observances of orthodox Jewry concentrated in enforced or voluntary ghettos, the barriers of antisemitism and nationalistic loyalties evoked by the Zionist movement have served to maintain group cohesion; in spite, however, of the tenacious efforts of a spirited leadership the rate of intermarriage between Jews and non-Jews is increasing. Drachsler's statistics of New York City, where the Jewish population was highly concentrated, showed the ratio of intermarriage of Jews between 1908 and 1912 to be 1.17 percent, among the lowest of the intermarrying groups; the rate varied widely, however, with the country of origin, and Jews of the second generation were found to have intermarried seven times more frequently than those of the first generation.

Extensive intercontinental migration has led to intermixture of races throughout history without biological detriment (*see* RACE MIXTURE). Such intermixture was sometimes unimpeded by social restrictions and at other times took place in the face of discrimination. Because color is especially conspicuous it has served as a primary criterion of race in laws against racial intermarriage, but where differences in color do not reflect historical or contemporary differences in culture, religion or economic status they do not hinder intermarriage. In Mexico and in Central and South America, for example, whites, Negroes and Indians intermarry without restraint. There has been wide variance in the attitudes of the Spanish and Portuguese, themselves mixed groups, and the English conquerors toward intermarriage with native populations. Wherever garrisons of soldiers are stationed in colonial countries large mixed populations result. Racial intermarriage is common in Malaya and in the Hawaiian Islands. The eight hundred castes and subcastes and the approximately five thousand local castes of India are not exclusively racial divisions but have also arisen from occupational and sectarian differentiations. In the United

States and in the Union of South Africa, the chief arenas of race conflict, whites as a means of retaining their economic, political and social domination have legislated against racial intermarriage (see MISCEGENATION). Neither the laws against racial intermarriage, which are found upon the statute books of twenty-nine states, nor the intensity of the caste sentiment against it has prevented the merging of races in the United States, as is shown by Herskovits' findings that 80 percent of Negroes show traces of mixture with whites or with American Indians. The miscegenation laws have, however, prevented Negroes from obtaining the legal and property rights which the marriage contract provides. The prejudice against intermarriage with orientals on the west coast of the United States is a reflection of the prevailing social discrimination against them. Racial intermarriage has increased in Soviet Russia in the wake of full political and economic equality accorded to all racial groups.

Commercial and administrative groups in foreign countries, especially in colonial lands where they are racially distinct from the native population, do not intermarry with the latter. Governing minorities, even when of the same race and with approximately the same cultures as the governed, hold themselves aloof; and when their status is threatened by intermarriage they enact against it—the Statute of Kilkenny (1366) forbidding the English of the Pale to intermarry with the Irish is typical of such legislation. Immigrant national groups transport to their new homes the national loyalties and the Old World customs, which are suffused with heightened appeal because of the immigrants' nostalgia and their impact with a hostile culture. In their segregated ethnic communities a strong sentiment prevails against intermarriage with its disintegrating influences. These are resisted most effectively if the immigrants are massed geographically, if they have effective nationalistic leaders to foster loyalties to the traditions and language of the group through systematic propaganda and education. But even if these factors are at work, intermarriage takes place; Drachsler found an intermarriage ratio of 14 per 100 with an increase of approximately 300 percent in the second generation, an increase which ranged from 100 percent to 1000 percent among the different nationalities. The ratio of intermarriage was highest among the northern, northwestern and some central European peoples and, with the exception of the Jews and Negroes, lowest among

the Italians and the Irish. De Porte, in his study of the marriage statistics of New York state exclusive of New York City between 1916 and 1929, found that the relative number of marriages of immigrants from southern and eastern Europe in which the bride was foreign born and the groom native increased six times in a decade and that the proportion of marriages of this group in which the groom was foreign born and the bride native was in 1929 greater than the proportion among the immigrants from Canada, northwestern Europe and Germany. With the multiplicity of cultural contacts afforded by facility of communication and mobility and with the decline in immigration it has become increasingly difficult for national groups to maintain the separatist attitudes nurtured by isolation in ethnic communities. The propinquity afforded by urban and industrial life develops personal associations that do violence to the traditional stereotypes that inhibit social relations leading to marriage. Class lines which were important in marriage selection within the national and religious groups now function as the chief determining factor—the dominant economic classes seek to maintain their prestige and wealth by looking with disfavor upon marriage with persons from the lower social and economic levels. Intermarriage is also on the increase among foreign born dispersed in rural communities remote from the cohesive pressures of foreign nationalistic agencies. The fact that in the modern world marriage has become increasingly an individual matter, less dominated by parental control, has likewise accelerated intermarriage.

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See: SOCIAL ORGANIZATION; ETHNOCENTRISM; ETHNIC COMMUNITIES; RACE MIXTURE; MISCEGENATION; AMALGAMATION; ASSIMILATION; SOCIAL; CONCUBINAGE; MARRIAGE.

Consult: Corbett, Percy Ellwood, *The Roman Law of Marriage* (Oxford 1930) p. 47-51; Schenk, Francis Joseph, *The Matrimonial Impediments of Mixed Religion and Disparity of Cult*, Catholic University of America, Canon Law Studies, no. 51 (Washington 1929); "Protestants Study Problem of 'Mixed Marriages'" in *Federal Council Bulletin*, vol. xv, no. 4 (1932) 17-18; *A Manual of the Law of Marriage from the Mukhtasar of Sidi Khalil*, tr. by A. D. Russell and A. A. Suhrawardy (London 1913) p. 37-39; Lecky, W. E. H., *Democracy and Liberty*, 2 vols. (new ed. London 1899) vol. ii, p. 177-90; Mielziner, Moses, *The Jewish Law of Marriage and Divorce* (2nd ed. New York 1901); Feldman, Ephraim, "Intermarriage Historically Considered" in Central Conference of American Rabbis, *Year Book*, vol. xix (1910) 271-307; Fishberg, Maurice, *The Jews* (London 1911) chs. viii, ix, and "Intermarriage between Jews and Christians"

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INTERMEDIATE CREDIT BANKS. *See* FARM LOAN SYSTEM, FEDERAL.

INTERNAL REVENUE TAXES. *See* EXCISE.

INTERNATIONAL ADVISERS. The practise of employing foreign advisers and experts seems to have been an outgrowth primarily of the westernizing movement which swept over a number of countries in the Orient and Near East during the nineteenth century. In the period following the establishment of the Capitulations in Turkey and of extraterritoriality in China and Japan, European advisers or controllers came more and more into prominence, being in some cases employed, notably in Japan, to reorganize the administration of justice with a view to terminating extraterritoriality.

Advisers and experts from abroad have also been frequently invited to assist in reforming financial conditions so as to remove cause for foreign intervention or annexation. Because of their inability to meet the charges on foreign loans governments have often been forced, usually under pressure from creditors, to grant aliens certain powers in connection with the collection of customs and the administration of finance. Foreign advisers or debt commissions of this type have been given varying degrees of control over the collection of revenue in Egypt, Turkey, Greece, China, Haiti, Santo Domingo, Nicaragua, Salvador, Bolivia, Liberia and Persia.

In other cases governments have employed

military advisers or missions to aid in developing their military resources and in resisting the encroachments of more powerful neighbors. An early example of this practise was the arrangement whereby Mehemet Ali of Egypt in the period after 1815 took into his service a number of officers who had formerly served with Napoleon. In 1835 the sultan of Turkey, Mahmūd II, obtained the consent of the Prussian government to employ as military adviser Captain Moltke, who later became the famous chief of the Prussian staff. Forty years later Baron von der Goltz went to Turkey, where he spent twelve years in reorganizing the Turkish army. After the Taping rebellion the Chinese government employed several Englishmen and Frenchmen in the supervision of arsenals. Within the past few years military missions have been sent to a number of countries: an Italian military mission to Ecuador and Albania, American naval missions to Brazil and Peru, an American military mission to Guatemala and British military and naval missions to a number of countries. From time to time France has had a number of military missions in Latin America and in the new states of central Europe, while Spain has organized the military and police systems of Salvador.

In addition to judicial, financial and military advisers scientific experts have been frequently engaged within recent years to instal modern methods of sanitation, agriculture, public works construction and engineering. The most extensive use of this type of foreign expert has been made by the Soviet government of Russia, which by 1930 had made contracts with nearly forty American firms and engineers whereby these concerns agreed to provide technical assistance in the construction of new plants, the installation of irrigation projects and the development of new industries. The Soviet government has likewise engaged a large number of individual foreign engineers, foremen and skilled workers.

Foreign advisers or experts have been employed during the past few years for a wide range of purposes. Brazil has employed experts in forestry, agriculture and town planning; Ecuador, in the customs, as advisers to the central bank, superintendents of banks, comptrollers general, experts in rice growing, vegetable and genetic pathologists, engineers in colonial agronomy, veterinary specialists, zoo technical experts and specialists in tropical plants; Chile, in education, health, central banking and finance; China, in the customs administration, salt gabelle coast guard, government printing bureau, legis-

lative yuan, judicial yuan, Ministry of Finance, Ministry of Communications, Ministry of Railways, Ministry of Industry, Ministry of Interior, Ministry of Military Affairs, National Reconstruction Commission and River Conservancy Commission; Persia, as wireless experts, financial advisers, directors of national bank, administrators general of customs, technical health advisers, directors of antiquities, road and highway engineers, tea experts, agricultural and veterinarian experts, directors of printing plant and experts in the foreign office.

International advisers may be classified at present as of two main types. The first is the consultant who visits a country, studies the difficulties concerning which his advice is sought, prescribes a remedy and returns home, the responsibility for carrying into effect his proposals being left to the local government. Largely because debtor countries have often found it impossible to obtain foreign loans without first putting their house in order, consultants of this type have been concerned in the main with financial problems. Within recent years invitations to study the local financial systems have been issued by many countries to a number of well known authorities, such as Charles Rist of France, Sir Otto Niemeyer of England and E. W. Kemmerer of the United States, who has performed the services of a "money doctor" for about twelve governments. Usually the recommendations of the Kemmerer financial missions have related to the establishment of the gold exchange standard, the creation of a central bank of issue, the establishment of budget laws and fiscal control systems and the enactment of new tax measures. More striking examples of this type of financial expert were the members of the Dawes committee of 1924 and of the Young committee of 1929, both of which were composed of a large number of financial and business experts from various countries, who diagnosed the financial troubles of Germany primarily with a view to securing reparation payments.

As a result of the recommendations of consulting advisers a number of countries, particularly in Latin America, have carried out reforms which apparently have led to improvements in administration and made it possible to secure foreign loans. The practise is criticized in many quarters, however, on the ground that governments employ foreign financial advisers merely to obtain loans with no real intention of carrying out the promised reforms. Yet even in

such situations responsibility would seem to fall more logically upon the foreign bankers and the borrowing government than on the adviser who acts in good faith. It is also contended that no government can hope successfully to adopt the intricate financial methods of the leading countries merely as a result of recommendations by visiting advisers and that modern financial methods can be developed only as part of the institutional growth of a country. On the other hand, foreign advice in a difficult financial situation may have considerable psychological and political value, as was evidenced in the work of the Dawes reparations committee of 1924.

The second type of adviser or expert, the one who remains in a foreign country for a period of years either advising in regard to or actively participating in administration, is in many cases appointed as a result of the recommendations of the consulting type of expert. Many of the laws drafted by the Kemmerer missions provide for the appointment of a permanent body of foreign banking or financial experts. The Dawes committee recommended the appointment of three foreign commissioners to supervise the "controlled revenues," the railways and banks of Germany as well as an agent general of reparations and other foreign officials--constituting an organization which was set up by the agreements signed at the London conference of 1924 and which continued in operation until the adoption of the Young plan.

It is difficult to distinguish between those foreigners who serve merely as advisers and those who actually assume responsibility for administration. The tendency generally is for an adviser to become, at least in extremely backward countries, an administrator. Many controversies have arisen between governments and advisers over the scope of the functions of the latter. In those instances where a government employs an adviser merely to secure a foreign loan or to satisfy the political demands of a great power it usually pays little attention to his recommendations unless he is the official representative of an outside government, as in the case of the American financial advisers to Haiti and Liberia. Even where a government genuinely wishes to make progress, the role of an adviser is not easy. As a rule his powers are limited to persuasion, and whether he succeeds in bringing about reforms depends not only upon his technical knowledge but upon his personality and ability as an educator. A successful ad-

viser must be not only an expert but also a teacher and statesman endowed with infinite patience.

Many countries in the process of obtaining independence realize the desirability of foreign advisers. Egypt employs financial and judicial advisers from Great Britain, and it is not unlikely that Iraq after the recognition of its independence and admission into the League will employ a number of British advisers. It is also probable that India and the Philippines upon becoming self-governing or independent will wish for the same reason to make use of outside aid. On the other hand, growing nationalism and self-confidence often lead a country to reduce the authority and number of foreign advisers. The Nanking government of China, for example, has increased the Chinese personnel in the customs, salt gabelle and postal services.

Advisers have often been used by the great powers as a means of establishing control over or even of governing backward areas. Great Britain came to rule Egypt through a system of British advisers responsible to the British consul general at Cairo. Native rulers in Tunis and Morocco are obliged to take the advice of French residents general and other officials. In a number of areas in Africa, such as Uganda and Nigeria, the British government follows a policy of indirect rule in which responsibility is imposed upon native states, which are, however, subject to constant check by British administrators who are in a sense advisers. In the native states of India British advisers are also to be found, although they exercise less authority here than in the native states of Africa.

The extent to which the adviser may become an instrument of imperialism can be illustrated by frequent historical examples. In 1897 Russia and England engaged in a struggle over the question whether an Englishman should be financial adviser to the king of Korea. Neither government won this struggle, for in a protocol of 1904 Korea agreed to accept a Japanese financial and diplomatic adviser, which ultimately led to Korea's absorption by Japan. In the famous twenty-one demands of 1915 Japan asked that China employ Japanese advisers in political, military and economic affairs. Communism also advances its cause by the system of advisers. Thus M. Borodin became extremely influential in the Kuomintang government of China in the three years from 1924 to 1926. Sometimes governments have attempted to compromise these

rivalries over advisers by the sphere of influence system. In the unratified agreement of 1920 France, Great Britain and Italy promised that in their respective Turkish spheres France and Italy should have a "preferential" claim to supply advisers if the Turkish government desired assistance.

In an effort to eliminate the military influence of Germany the Treaty of Versailles (art. 179) provided that Germany should not send to any foreign country any military mission and should take measures to prevent German nationals from leaving her territory to become enrolled in the military forces of any foreign power. The Allied and Associated Powers agreed moreover not to employ any German military experts. Despite these provisions General Hans Kundt, a German military expert, was chief of staff in Bolivia until the 1930 revolution, while German experts have advised the Nanking government of China in military affairs.

There are a number of cases where a government torn between the demands of two rival powers will turn as a measure of protection to a supposedly neutral country for advisers. Thus Siam, which at one time feared the encroachments of Great Britain and France, has employed a number of American advisers since 1903. Fearing absorption by Russia and England the government of Persia in 1910 asked the State Department of the United States to recommend an adviser to assist in the reformation of its finances. The department responded with a list of possible candidates, from which the Persian government selected Morgan Shuster. Russia, however, sent an ultimatum to Persia, as a result of which Shuster resigned. Following an abortive agreement with England in 1919, which apparently would have resulted in a British protectorate, the Persian government again turned to the United States, this time employing A. C. Millsbaugh, who had been a State Department official, as administrator general of finances. In 1927 he resigned and was succeeded by German and Swiss experts, all of whom were made subject to the Persian minister of finance.

Within its own sphere of influence the United States has employed advisers for political purposes perhaps to as great an extent as any other power. As part of the policy of "dollar diplomacy" the United States in 1907 concluded a treaty with the Dominican Republic which provided that the president of the United States should appoint a general receiver of Dominican customs and his assistants, who would receive



from the United States "such protection as it may find to be requisite for the performance of their duties." In 1915 the United States concluded a more far reaching treaty with Haiti which authorized the president of the United States to nominate a general receiver and financial adviser as well as officers to organize a constabulary. By virtue of the authority supposedly derived from this treaty the United States sent about two hundred Americans to take up positions in the Haitian administration, which, nominally at least, continued to be headed by a native president and cabinet. American financial advisers have also been nominated under authority of loan contracts between the foreign government concerned and American bankers. Thus in 1911 the Nicaraguan government signed a contract authorizing the appointment of an American collector of customs. In 1926 the Liberian government entered into a similar contract with the so-called Finance Corporation formed by Harvey S. Firestone whereby the State Department of the United States undertook directly or indirectly to nominate seven Americans to act in an expert or advisory capacity for the Liberian government. Within recent years American financial experts have been employed, often following consultations with the State Department, by the governments of Colombia, Cuba, Guatemala, Honduras, Panama, Peru, Bolivia, China, Ecuador, Hungary, Mexico, Paraguay and Poland. In an act of May 19, 1926, Congress authorized the president of the United States to detail officers and enlisted men to assist Latin American governments in military and naval matters. Today American officers are in command of the Haitian and Nicaraguan constabularies.

Because of the political implications of the national adviser and because his responsibility is often ill defined, there are many theoretical advantages in favor of the international adviser; that is, an expert selected to serve a foreign country by some disinterested international organization, such as the council or technical organizations of the League of Nations. The Provisional Finance Committee of the League has stated these advantages as follows: "Some countries which would be unwilling on grounds of prestige, to apply for advisers to particular governments, may be willing and anxious to utilize the services of an international and impartial body like the League of Nations for this purpose, and in view of the fact that the financial administration of certain States

is at the present very critical time in the hands of relatively inexperienced officers, we venture to think that an experiment in the direction indicated may be fruitful of good results." In 1922 the Albanian government asked the League Council to assist it in selecting a number of advisers, and the Council nominated J. D. Hunger of Holland as financial adviser. The Albanian government, however, largely because the League was unable to provide it with a loan soon repudiated his contract and turned to Italy, which has established a predominant influence over Albania by means of Italian loans and Italian advisers—a form of control which is the object of suspicion in the Balkans and throughout Europe.

As part of the League reconstruction plans for Austria and Hungary the League Council appointed a commissioner general to each country and also certain other foreign experts. The League health and transit organizations as well as the International Labor Office have likewise performed important services in advising governments. If the League of Nations grows in authority, the time may come when all advisers to needy governments will be appointed by and made responsible to international authority.

RAYMOND LESLIE BUELL

*See:* INTERNATIONAL RELATIONS; EUROPEANIZATION; BACKWARD COUNTRIES; IMPERIALISM; PROTECTORATE; SPHERES OF INFLUENCE; EXPERT.

*Consult:* Buell, R. L., *International Relations* (rev. ed. New York 1929); Dennis, L., *Is Capitalism Doomed?* (New York 1932); Deville, François, *Les contrôles financiers internationaux et la souveraineté de l'état* (Paris 1913); Dupuis, Charles, *Le droit des gens et les rapports des grandes puissances avec les autres états avant le pacte de la Société des Nations* (Paris 1921); Stuart, G. H., *Latin America and the United States* (2nd ed. New York 1928); Nearing, Scott, and Freeman, Joseph, *Dollar Diplomacy* (New York 1925); "The United States and Mexico," *International Conciliation*, no. 187 (New York 1923); Galarza, Ernest, "Debts, Dictatorship and Revolution in Bolivia and Peru," *Foreign Policy Reports*, vol. vii (1931-32) no. 5; Willoughby, W. W., *Foreign Rights and Interests in China*, 2 vols. (rev. ed. Baltimore 1927); *The China Year Book* (Shanghai 1931); Buell, R. L., *The Native Problem in Africa*, Bureau of International Research, Harvard University and Radcliffe College series, 2 vols. (New York 1928); Cromer, E. B., *Modern Egypt*, 2 vols. (new ed. New York 1916); Shuster, W. M., *The Strangling of Persia* (New York 1912); Williams, W. L., "Siam," *Foreign Policy Reports*, vol. vii (1931-32) no. 7; Bron, S. G., *Soviet Economic Development and American Business* (New York 1930); "The Financial Reconstruction of Austria" and "The Financial Reconstruction of Hungary" in *League of Nations, Monthly Summary*, vol. ii (1922) supplement for October, and vol. iv

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INTERNATIONAL AGREEMENTS. *See* AGREEMENTS, INTERNATIONAL.

INTERNATIONAL ARBITRATION. *See* ARBITRATION, INTERNATIONAL.

INTERNATIONAL, COMMUNIST. *See* COMMUNIST PARTIES.

INTERNATIONAL FINANCE comprises the network of transactions and institutions connected with the transfer of money or of credit from one country to another. The pecuniary claims of one country against another are settled to a very large extent by bringing into play the obligations of the creditor country to a number of other countries which in their turn have to meet the claims of the debtor country. The balance remaining after such international clearing must, however, be paid by the shipment of money (gold bullion) or postponed through some form of credit.

The transfers of money or of credit by one country to another may be described as tributes in the technical sense of the term and advances. Tributes represent unilateral payments of primarily political origin. They include contributions drawn by a mother country from its colonies; subventions paid by a metropolis to its dependencies; military subsidies paid by one government to another; war indemnities, such as the reparations payments; or obligations arising from a former state of dependency, such as the Egyptian tribute of £720,000 per annum formerly payable to Turkey. Advances represent loans granted by one country to another or investments made by one country in the economic activities of the other. Advances give rise to two international financial movements: at first from the lending and investing country to the borrowing and capital importing country and later, with

the beginning of payment of the service on loans and of the return on investments, in the opposite direction.

Several types of international advances may be distinguished according to the character of the parties to the transaction. In the case of intergovernmental loans the creditor and the debtor are both governments. Such loans played an important part during the World War, when the British government and later the United States government advanced funds to their allies. The guaranty by a government of a loan issued in a money market under its jurisdiction by a foreign government resembles in many ways an intergovernmental loan; the subject of the advance in this case is not money but the credit of the government with private lenders. Examples of this type are the Russian government loan made by English and Dutch bankers in 1820; colonial or quasi-colonial issues, like the Sudan loan of 1919; and the Austrian League of Nations loan of 1922. The most frequent type of international government loan in modern times is the borrowing from private citizens of foreign countries, particularly through the public flotation of government securities in foreign money markets. On the other hand, the most unusual form of international government finance is government ownership of property in foreign lands, such as the ownership of railroad lines in the United States by the Canadian government or the control of Suez Canal shares by the British government, or the grant of government credits to private concerns established abroad; government credits are rarely given to companies domiciled in foreign lands except to those operating in colonies, spheres of interest or regions approaching colonial status. The largest share of the total volume of international financial transactions, however, does not concern governments either as debtors or as creditors. Such transactions involve private citizens or corporations of one country lending to or investing in private enterprises in another country. They include long term loans and permanent investments as well as the great bulk of short term international financing, the total of which is enormous.

International financial relations are meant to be either temporary or permanent. The direct ownership of property in one country by persons or corporations of another country constitutes a permanent financial link. The international relationship created by foreign holdings of stocks, bonds and mortgages may be severed

more easily; when the stock exchanges function regularly and securities have an international market, the lines dividing permanent and temporary investments are rather blurred. Temporary financial relations typically arise in the course of trade between two countries. Acceptances and revolving credit are bound to be self-liquidating and short lived, as are also deposits of funds in foreign banks recallable on demand or at short notice and holdings of foreign bills of exchange. The volume of short term international credit has grown immensely in recent years; thus the net commitments of the London market alone were about £245,000,000 in March, 1931. But this is due not so much to a stupendous growth of international trade or of the need for financing it as to the hesitation of the capital exporters to invest for long terms. Since the World War the owners of capital have consistently preferred the comparatively lower yield that goes with the opportunity of withdrawal at a moment's notice to the risk involved in permanent investments at a time when stock markets do not function properly and governments are not always willing to respect contractual obligations.

Under normal conditions, when the fluctuations of foreign exchange rates are confined to a very narrow range, the international movement of short term funds is governed completely by the relationship obtaining between money rates in the different money markets: if rates in one market decline relatively to the rates prevailing elsewhere, funds will be exported; if rates rise, funds will be imported. The advances made through this mechanism by one market to another may be regarded therefore as equilibrium loans. Another type of short or medium term loan, characteristic of the post-war era, is the currency or stabilization loan advanced by one central bank to another with the object of enabling the latter to maintain or to reestablish the stability of its exchanges. From the point of view of economic function most of the advances made to private citizens or corporations and the advances made to governments for productive purposes must be regarded as development loans: they enable the borrowing country to develop its resources at a much quicker pace and at much smaller capital costs than would be possible were they to rely entirely on their own savings.

Development loans obviously enable the creditor country to draw a higher rate of interest—they raise the income of its rentier class and provide additional profits for its bankers. They

also open up new markets for its industries, at first because the proceeds of such loans are spent in buying industrial equipment from the creditor country and later because development loans provide the inhabitants of the borrowing country with new or enlarged incomes, which can be spent on purchasing imports. The widening of the markets for the industries of the creditor country raises the wages of its laborers and the profits of its entrepreneurs. Again, the development of new countries by means of such loans assures an increased supply of foodstuffs and raw materials, upon which the creditor country is enabled to draw by the return on its capital exports. The benefit to the debtor countries may be much greater. The economic transformation of a stationary non-capitalistic system in countries inhabited by primitive peoples cannot proceed without advances from abroad, while new countries settled by white immigrants need foreign capital to make the nation an efficient economic unit. Debtor countries have often artificially accelerated the process of their industrial development by raising tariff barriers against manufactured goods, thus forcing their creditors to finance not only non-competitive industries, such as railways, but also manufacturing establishments competing with the industries of the creditor country. From a purely economic point of view the result is probably the greatest misdirection of capital in which the modern world has indulged—the output of existing plants in the creditor country shrinks while new plants which represent considerable investments and which have at best a limited market enter an already crowded field.

The acquisition of property or claims to income by aliens has given rise to grave political problems, especially where the social traditions and legal conceptions of the debtor countries differ from those of the western world. The status of alien residents in such countries is regulated by special arrangements, which usually include the right of the foreign trading community to be subject to its own law and its own law courts as far as the transactions among its own members are concerned, while its transactions with the natives are subject to the jurisdiction of special tribunals and special courts. The abolition of these privileges, very objectionable to the native population, occurs only after the establishment of trustworthy native tribunals which can be charged with the application of native codes framed after western patterns.

Alien property is less secure than native even in countries of the same social and economic civilization. While it is fairly easy to make contracts fit into different systems of law, the impartiality of courts toward strangers is by no means everywhere assured. Where the creditor is a foreigner, national prejudice is likely to be aroused in times of stress; this occurred, for example, in 1931 and 1932 when the City of London was denounced by some labor leaders in New South Wales as the embodiment of rapacious capitalism. National prejudice of this sort, sometimes encouraged by special legislation, has often excluded foreigners from buying land or stock of important corporations with full voting privileges. It disregards the obvious fact that it is the creditors rather than the debtors who face serious dangers by placing their capital within the jurisdiction of foreign law courts and the grasp of foreign governments. The wholesale confiscation of foreign property during the World War has shown how serious this risk is.

The political aspects of foreign loans come to the fore when the debtor is unable to pay. The incapacity of individual concerns abroad to fulfil their obligations differs from individual bankruptcies at home only in so far as it may involve a clash of different legal systems; but where the debtors are large concerns of national importance or where numerous corporations break down simultaneously under the stress of an economic crisis, the possibility of their passing into the hands of foreign bondholders and the measures taken by the government of the debtor country to relieve the critical conditions of business raise political problems of international importance. Moreover the fear of bankruptcy may lead to the withdrawal of foreign short term credits and the sale by foreigners of long term investments at sacrifice prices; under such circumstances the currency system of the debtor country may be easily deranged, as very nearly happened in Germany in the summer of 1931. On the other hand, currency disturbances caused by faulty government finance may prevent even solvent debtors from fulfilling obligations contracted in foreign money. In either case resort is sometimes had to wholesale moratoria, which extend to foreign loans and undermine the confidence of the foreign creditor.

Far more serious friction is caused by the bankruptcy of foreign governments. Only in exceptional instances does it take the form of complete repudiation of debts; of this Russia is the classic example. More often a government

withholds for a limited period interest due on its obligations or funds it into another interest bearing obligation; sometimes it resorts to a forced conversion of its debt at a lower interest rate, a reduction of interest which may be achieved almost as effectively by the imposition of a coupon tax. Where government bonds held by foreign investors are in terms of the domestic currency, a generous inflation may materially reduce the public debt without an acknowledged breach of the government's legal obligations. Defaulting governments can rarely be sued in their own courts; and even if judgment were given against them, foreign creditors could hardly make use of it as long as they could not sell government property or attach government revenues. Although governments scarcely ever assume responsibility for the investments of their nationals in foreign countries they are often made to intervene when frictions connected with such investments lead to loss of life or to "denial of justice." In the case of comparatively weak states creditor countries have often employed naval demonstrations, occupation of ports or some form of blockade; even since the general recognition of the Calvo and Drago doctrines governments have used diplomatic pressure and occasionally direct military intervention. In the case of older and stronger states such measures are not available. The foreign creditor is then protected merely by the hesitation of the government to impair its credit standing. While the capital markets of the world are not thoroughly organized and while the various defense associations of foreign bondholders do not cooperate in every case, few governments are able completely to rid themselves of their old obligations; when they need new loans they must settle with their old creditors, although Russia seems to have succeeded in getting camouflaged import credits without compensating its old creditors.

The dominant fact, lost to a superficial view in the mazes of international finance, is that wealth and especially moneyed wealth is not merely a source of income but an embodiment of economic power. In national affairs the money power is under the sway of the national government, although in some cases it openly or secretly controls the government. In international affairs political and financial power are in separate hands; hence the variety of possible combinations, which ranges from sincere cooperation to bitter animosity.

Theoretically the foreign money lenders,

whether as individuals or as a body are interested in obtaining a higher personal income rather than in political domination. While their principal is safe and the promised return on their investment is secure their attitude remains passive; but passivity gives way to panic, which affects adversely general financial and business conditions, whenever either the principal or the return on the foreign investment appears to be in danger. As long as loans to foreign governments were made directly by the owners of the capital, the power which the investor could exercise was very limited; his position was vulnerable because the refusal of the debtor government to pay spelled his own bankruptcy. But under modern conditions the money power is wielded not so much by the owners of the money as by the intermediaries to whom they have entrusted it—the great banks and issue houses. With the development of the modern stock exchanges the amount of money available to the great lending institutions has increased enormously; and their influence has grown correspondingly, particularly since their own financial strength is no longer completely at the mercy of foreign governments. They have been able to evolve and to enforce a technically complete system for safeguarding the interest of the foreign creditors. States whose solvency or whose willingness to pay is doubtful have been forced to pledge certain revenues for the service of a loan; these revenues are paid in a separate account under the control of the creditor and supply sufficient surplus reserves to meet all possible contingencies. In other cases the administration of certain monopolies, as the tobacco monopoly in Turkey or the various safety match monopolies granted to Krueger, are handed over to the creditors, with the double object of increasing the yield by efficient administration and of giving them complete security. The system of creditor protection reached perfection in Turkey before the World War and Egypt under Lord Cromer. The governments of these countries had contracted huge loans and squandered their proceeds with the result that the state budget was permanently unbalanced. The investment of the creditors could be saved only by the creation of a creditors' administration, on which the different creditor countries were represented proportionately to their commitments. It reorganized the country's finances and especially the administration of the revenues which were allotted to the debt service. The native government was outwardly maintained,

but the creditor countries insisted on the introduction of skilled advisers in all of its branches. After the war the principal financial features of these schemes were introduced in Austria and Hungary under the auspices of the League of Nations. In Germany this was done under the Dawes plan and some traces of it were retained even under the Young plan.

While foreign investors are interested mainly in the security of their claims, the governments of creditor countries have often used the financial power vested in their money markets for political purposes. Loans were offered and in some cases even obtained on less organized nations for military or political concessions. Financial control was resorted to not merely for the purpose of rehabilitating the country and securing the creditors' rights but for getting control over its administration without having openly to assume political responsibility. In many cases there has been a quick transition from a loan made to a native ruler, originating in the wasteful splendor of his court and in the greed of an unscrupulous financier, to reorganization by a creditors' council, which in its turn has led to a protectorate that has easily developed into control equivalent to political annexation. In countries where the rivalry of the various nations made direct annexation virtually impossible, a creditors' council sometimes provided a useful form of international financial administration, which guaranteed financial security and a certain amount of economic progress without political control. International finance was thus made to provide a capitalistic substitute for political colonization and territorial imperialism.

In some cases international finance enabled native governments to develop the resources of their countries and greatly to improve their economic status. For the promise of a share of profits foreign financial interests were allowed to form corporations for the exploitation of railways, mines, oil fields, plantations and public utility services. Such corporations were sometimes strong enough to control the native governments. The De Beers company in Cape Colony in South Africa was for a long time in this position; and the connections of foreign finance with the Diaz regime in Mexico were intimate and unbreakable. While the profits of the foreign concession holders were accumulated in many cases at the expense of the native workers, the upper and the middle class of the backward countries participated in this newly created

wealth. Even where these corporations acted wisely, friction was bound to arise with the spread of modern democratic ideas. The friction often assumed the form of a conflict between labor and capital in countries which did not appear sufficiently advanced for such a class struggle; in fact it was a revolt of more or less backward native populations, wedded to old traditions, against industrialism, which was forced upon them by capitalistic development impersonated by foreign financial exploiters. In this case too financial power has been wielded not by the owners of the money but by people to whom it was entrusted, although the connection of the large shareholders with the administration of the companies is naturally closer than that of the bondholders with the issue houses.

The general adoption of the gold standard and since the World War the popularity of the gold exchange standard have given rise to new powerful influences in international finance. The central banks, which in most countries are supposed to be independent of the government although everywhere their connection with their respective treasuries is very close, are in a position to exert considerable influence on the international distribution of gold and thus to contract or to expand the base of the credit pyramid not only in their own country but also abroad. Ultimately of course the international distribution of monetary gold stocks is determined by the distribution of the world's income among the various nations, as effected through the adjustments in the balance of payments; but in the short run central banks can control the volume of short term loans, regulate the financing and the actual flow of commodities and affect thereby the movement of gold in and out of the country. The degree of control over credit which the central bank enjoys in its own country varies; more important in this connection is the fact that the power to affect credit abroad is vested only in central banks of the large creditor countries—at present the United States, France and England. The debtor countries are more or less dependent on them for the financing of their imports as well as for the maintenance or the restoration of the stability of their currencies. It is, however, only in normal times, when traders' decisions are decisively affected by small differences in profits, that the central banks might be considered powerful. In critical times, when confidence is waning and price fluctuations are apt to be large and frequent, the central bank may not be

able to enforce its policy. The declaration of a change in its discount rates no longer works automatically; in fact the raising of rates may be interpreted as a storm sign and may lead to huge withdrawals of foreign short term funds, with the result that an unwanted severe contraction of credit takes place if the gold standard is retained or a complete dislocation of the foreign exchanges sets in if it becomes clear that the reserves are not large enough to withstand the drain. The events of post-war financial history have shown that even strong central banks, like the Bank of England, are at the mercy of their countries' foreign creditors when the crisis is sufficiently acute.

Because central banks are powerless in times of crisis, they have been unable to control the flow of credit and the international distribution of gold by that close cooperation upon which they have embarked since the war. The need for organized and explicit cooperation after the war was created by the lack of recognized international leadership among central banks. It was assumed at the same time that the power of a central bank within its own country could be enhanced by assurance of cooperation from abroad. The cooperation of central banks was expected to provide a type of international financial control which would impose sane, healthy and reasonable international policies on the foolish political passions of nations. Some such hopes were cherished when the project of a "world bank" was being grafted on what was intended originally as a clearing house for reparations payments; it was to be a powerful international financial agency, acting for the best of mankind in a purely rational way and unhampered by political considerations. The actual creation, the Bank for International Settlements, has justified these hopes neither by its constitution nor by its performance. Its charter providing rather limited powers cannot be enlarged without the consent of every government concerned; and its activities, although highly beneficial in a modest way, can scarcely be interpreted as imposing the wisdom of international finance on the folly of national politics.

MORITZ JULIUS BONN

*See:* FOREIGN INVESTMENT; LOANS, INTERGOVERNMENTAL; PUBLIC DEBT; INDEMNITY, MILITARY; REPARATIONS; INTERNATIONAL TRADE; BALANCE OF TRADE; MONEY MARKET; INVESTMENT BANKING; BANKING, COMMERCIAL; CENTRAL BANKING; MONETARY STABILIZATION; IMPERIALISM; INTERNATIONAL ADVISERS; INTERVENTION; MORATORIUM.

*Consult:* Culbertson, W. S., *International Economic*

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**INTERNATIONAL LABOR ORGANIZATION.** The International Labor Organization represents an attempt to integrate under governmental auspices the various aspects of an international labor movement which had been developing for over a century. In the early days of industrialism Robert Owen and other philanthropic employers, having become convinced that protective labor legislation although increasingly urgent could not be effective under the prevailing system of unrestricted national competition, proposed international regulation. Similar ideals and programs continued sporadically throughout the nineteenth century to exert influence in a few quarters; but the movement did not progress beyond the stage of resolutions, such as those drawn up by the Berlin Labor Conference of 1889. The founding of the International Association for Labor Legislation at Paris in 1900 marked, however, the beginning of a more coherent program. Under its auspices the Berne conferences of 1905 and 1906 formulated the first multilateral labor conventions, which

prohibited night work for women and the use of white phosphorus in match manufacture. In the years preceding the outbreak of the World War the association gained in prestige, coordinating and expanding its program of standardization and reform of labor legislation.

The war, which frustrated the preliminary work of the Berne Conference of 1913, acted as an unprecedented stimulus to the international labor movement; as a result of conferences between trade union organizations of the various countries it emerged from the war with a clearly formulated program of demands. Impelled by motives of gratitude for labor's wartime sacrifices as well as by an enlightened sense of precaution against the threat of Bolshevism, the peace conference of 1919 shortly after assembling in Paris appointed a Commission on International Labor Legislation, to which was delegated the task of outlining an international labor organization and a world labor charter. The report of the commission, based primarily on a draft submitted by the British delegation and couched in the current idealistic terms of social justice and universal peace, was accepted promptly and with but slight modification. In view of the general labor unrest it was decided to set the organization in motion as quickly as possible, and the first conference was held in Washington, D. C., in October, 1919, before the peace treaties came into effect.

While in 1920 the labor conference was held in Genoa, those in subsequent years have been held in Geneva, where the contacts of the Labor Organization with the League of Nations have been numerous and intimate, although it has constantly maintained its autonomous status. A state which is a member of the League is automatically a member of the affiliated organization; a state may, however, withdraw from the League and still maintain its standing in the more specialized body, as did Brazil; Germany and Austria, on the other hand, were admitted in 1919 prior to their admission to the League. In order that the decisions of the annual conference may conform to a reasonable degree with the anticipated attitudes of the various governments which will be asked to ratify and incorporate them into national legislation, and to satisfy the demands of the trade unions, a system of representation is followed whereby two government delegates, one from the most representative association of employers in the country and one from the corresponding association of workers, are appointed by the governments. In contrast

with orthodox international practise each of the four delegates votes individually, and the voting alignments have shown a marked tendency to follow group rather than national loyalties. The final decisions of the conference, which require a two-thirds majority vote and are arrived at in the greater number of cases by a process of compromise, are of two types. The more formal draft convention must be submitted within a limited period to the competent ratifying authority of each member. A state, once it has ratified such a convention and deposited its ratification with the secretary general of the League of Nations, accords the convention treaty status and theoretically exposes itself in case of violation to measures of control, such as investigation by the Governing Body or the Permanent Court of International Justice, and even to concerted economic pressure. The second, less stringent type is the recommendation, which does not require ratification, although information concerning its application must likewise be deposited with the secretary general of the League. In federal states where social legislation falls within the jurisdiction of the smaller units the draft conventions may be treated as recommendations. After trying several unsatisfactory systems of adopting conventions and recommendations the present "double discussion" procedure was evolved and first employed in 1927 and later revised in 1929. Under this system a first conference devotes itself to a discussion of national law and practise and may adopt draft conclusions. During the course of the ensuing year questionnaires covering the points raised in the draft conclusions are forwarded to the governments of all member states. When the conference reassembles the following year it is presented with proposed draft conventions or recommendations which represent an average position based on the replies to the questionnaire. The conference may then finally adopt a draft convention or a recommendation.

The small group of twenty-four representatives, known as the Governing Body, meets at least four times a year. Because of the importance of this body the determination of its membership has been a source of contention since the early years of the organization. As in the conference, the governmental representation is equal to that of employers and workers combined. Eight of these government representatives are permanently apportioned, according to the terms of the peace treaties, to the countries of chief industrial importance. The original selection of criteria for

determining this importance was contested by several excluded states; in 1922 an investigation carried out under the auspices of the Council of the League awarded these seats to Belgium, Canada, France, Germany, Great Britain, Italy, India and Japan. The other four government seats as well as the twelve functional seats, which are divided equally between employers and workers, are held for three years and are filled by the vote of the corresponding groups of representatives in the conference. Efforts of certain outlying states to counteract the predominantly European cast of the Governing Body by the introduction of geographical ratios have so far proved unsuccessful. This group of twenty-four, often working through small committees which contain the three types of representation, controls to a large degree the finances of the organization, draws up the budget, which is passed by the League Assembly, participates in the activities of the League in so far as they involve the conditions of labor and establishes the agenda of the annual conference. Moreover it works in closest cooperation with the director and deputy director of the International Labor Office.

The office collects and publishes information on the problems of industry and labor and conducts exhaustive research in collaboration with permanent or ad hoc committees of specialists and experts in the preparation of conventions and recommendations. Its well known investigations concerning social insurance, wages, production and conditions of work in coal mines are but the more notable examples of research which it is conducting in varied fields of industry, commerce, agriculture and migration. Its library is becoming an outstanding research center for specific labor problems.

While Americans took an active part in framing the labor section of the Versailles Treaty—Samuel Gompers was president of the peace conference Commission for International Labor Legislation—the United States is not a member and the American Federation of Labor has shown only moderate interest in the organization. Failing direct collaboration with the "most representative" American employers' and workers' organizations, important unofficial collaboration on industrial relations has developed. Americans have on occasion been connected with the International Labor Office and at various times have participated in the investigations of technical committees and conferences. Although the Soviet Union, the only other outstanding non-member, regards both the organization and the



League as appendages of western capitalism, the Soviets have for several years exchanged documents and scientific information with the office. The attitude of the great trade union organizations, such as the International Federation of Trade Unions with headquarters at Berlin, is friendly, although their representatives in the conference have had some difficulty in cooperating with members of the Christian trade unions. They have moreover because of unwillingness to recognize the Italian Fascist corporations made repeated attempts since 1922 to have the credentials of the Italian workers' delegate rejected by the conference. While the employers are often openly skeptical of the value of the organization, only the shipowners (the employers' representatives at maritime sessions of the conference) have gone so far as occasionally to refuse cooperation or to withdraw from the conference, as they did for a few days during the maritime session of 1929.

The thirty-one draft conventions and thirty-nine recommendations adopted by the conference during the period from 1919 to 1931 represent a definite trend toward the international codification of labor law. A cardinal objective of the Labor Organization is freedom of association as a preliminary to trade unionism and collective agreements. An attempt to frame a convention on this subject in 1927 failed because it did not go far enough to satisfy the workers' group, but the principle has been applied on several occasions in connection with the nomination of the workers' delegates to the conference. An equally dominant objective is the regulation of the hours of labor. The Washington hours convention of 1919 which provides for the eight-hour day and forty-eight-hour week in industry has, however, been ratified with extreme caution. The other conventions and recommendations include protective regulation of the conditions of labor among agricultural and industrial employees, women and children, forced native laborers, foreign workers, seamen, coal miners and others as well as provision for certain kinds of social insurance, industrial hygiene and inspection, the prevention of industrial accidents and the development of measures to combat unemployment.

Most of the constitutional difficulties of the organization have been solved. The procedure of preparation and adoption of conventions has been greatly improved and the technique of revising conventions after their adoption has been formulated and tried. Three broad problems

now face the organization: the elaboration of its code of labor law, the extension of the international network of ratifications and the effective application of conventions when ratified. The annual conferences assure a gradual evolution of international labor legislation which will fill the remaining gaps in the program outlined by the peace treaties and adjust national labor legislation to future economic change.

It is difficult to estimate the actual effect of the organization's work on national legislation. The gradual accumulation of ratifications (454 had been deposited up to March, 1932) will no doubt continue and with a return of normal economic conditions will be greatly accelerated. But the fact that varying degrees of industrialism in the member countries and their already existing standards must be taken into account makes it impossible to gauge progress solely by the number of ratifications. Nor have ratifications in the less industrialized countries always meant elevation in the standard of living of the workers. On the other hand, members refusing to ratify on technical grounds have often maintained a relatively higher level of life for workers than ratifying governments. As ratifications accumulate and take effect, these inequalities may tend to become adjusted and the fear on the part of industrially advanced states of unfair competition from industrially undeveloped countries will probably diminish, thus removing a significant obstacle in the way of more rapid progress.

Perhaps the most important single constitutional development in the organization is the application of expert observation to the annual reports which governments are obligated to submit under article 408 on the enforcement of ratified conventions. For several years this procedure has been bringing to light the failure of certain states clearly to conform their national legislation with ratified conventions, and gradual improvement may be observed.

The International Labor Organization has attained far more than its enemies conceded in its early years; but it has achieved much less than its friends thought possible. From the governmental standpoint there is little doubt of permanent support. Regardless of the conflict of interests sometimes observable in the debates between employers and workers in the conference, Governing Body and committees, their collaboration seems to be a stable factor in modern international life.

FRANCES G. WILSON

See: INTERNATIONAL ORGANIZATION; INTERNATIONAL

## International Labor Organization — International Law 167

LEGISLATION; LABOR MOVEMENT; LABOR LEGISLATION AND LAW; LABOR, GOVERNMENT SERVICES FOR; FUNCTIONAL REPRESENTATION; FASCISM; LEAGUE OF NATIONS.

Consult: Hetherington, H. J. W., *International Labour Legislation* (London 1920); *Labour as an International Problem*, ed. by E. J. Solano (London 1920); Guereau, Maurice, *L'organisation permanente du travail* (Paris 1923); Mahaim, Ernest, *L'organisation permanente du travail* (Paris 1925); Périgord, P., *The International Labor Organization* (New York 1926); National Industrial Conference Board, *The Work of the International Labor Organization* (New York 1928); World Peace Foundation, "Industry, Governments and Labor," *Pamphlets*, vol. xi, nos. iii-iv (Boston 1928); Lorwin, Lewis L. (Levine, Louis), *Labor and Internationalism* (New York 1929); International Labour Organization, *The First Decade* (London 1931).

INTERNATIONAL LAW is a binding body of rules applied by and to states in their international intercourse. The rules rest partly on the assent of the states and partly on generally approved practise, assent to which is either presumed or, in respect of a particular state declining adherence, immaterial. International law is objective law after it has by time and experience acquired general recognition and application by international tribunals. The term international law seems to have first been used by Bentham, and it has almost entirely replaced the older term, law of nations.

The sources or agencies by which the rules of international law are formulated are either usage, giving rise to custom, or positive agreement or treaties. The difficulty with custom is one of proof. It is often determined only after submission of the issue to adjudication. It is always a troublesome matter to decide at what stage custom can be said to have become authoritative.

The evidences of custom are either documents tending to show what the practise of states has been or the writings of publicists to show general opinion or the decisions of international tribunals and national courts. The documents evidencing practise are treaties between particular states, municipal statutes and decrees, instructions issued by governments prescribing rules for diplomatic and consular officers, opinions of attorneys general and law officers on international subjects, diplomatic correspondence, the decisions of prize courts and other municipal courts, the history and record of international transactions, including the proceedings of international conferences. The writings of jurists have weight according to the authority of their authors; among the best evidences are the

resolutions of the Institute of International Law.

The principal treaties which establish international law are the great lawmaking treaties, which in so far as they are not merely a declaration of preexisting law are law only for such states as have ratified. Among important treaties are those embodying territorial settlements, so far as they concern the contracting parties, and treaties establishing administrative unions. Distinctions should be made between (1) treaties governing only two or a limited number of contracting parties, (2) general treaties binding a great majority of states and on matters of custom the others by implication and (3) a more or less universal rule of private law common to all or most civilized countries. The suggestion of an "American" international law as distinct from a universal international law, which attracted attention through the writings of Alvarez, is probably without substantial merit; admittedly certain problems are more important to the American continent than to Europe.

The sources of international law are thus more flexible and diverse than those of any municipal system. The method of its growth resembles that of the common law rather than the civil law, for it invokes as authority practise and precedent. The opinions of arbitral tribunals, now some thousands in number, are regarded as of primary authority; but any practise or opinion deemed to have weight may be legitimately used as persuasive evidence. The rules of evidence are not rigid. International law is therefore quite unhampered in its growth by restrictions of method or juristic technique.

Normally international law governs the relations of states. Not much time need be spent on the debate whether individuals are also subjects of international law. The word international would indicate that the rules govern nations. But individuals, pirates, recognized revolutionists, minorities, shippers of contraband, mandated territories, administrative unions, the League of Nations—all these are also the subjects of rights and duties declared by what is called international law. International law is a developing science. A movement is on foot to permit individual foreigners to sue a state under certain circumstances in an international forum, a privilege which would of course depend upon treaty. Is this relation between the individual and a foreign state still international law? Has the concept expanded so as to take in new topics? Was it too narrow in the first place? Are the "new subjects" merely the indirect objects of inter-

national law or are the new fields branches of public law affecting the relations of states with individuals? The answer depends on one's major premise and since it is definitional only is relatively unimportant.

International law constitutes but one aspect of international relations, in many respects not the most vital. The political competition for national aggrandizement, the acquisition or control of territory advanced or backward and of spheres of influence, the struggle for markets and raw materials, the quest for and grant of trade preferences, the height of tariffs and immigration policies, the size of national armies and navies—these factors, which to a large extent determine the economic and political relations of nations, have escaped up to the present time the control of international law. The scope of the subject is therefore limited to the legal and diplomatic relations between states in their treaty and what may somewhat inaccurately be called non-political aspects.

International law is thus concerned with the classification of states according to their degree of independence; their recognition and admission to the international community; the extent of national territory; the limitations upon national jurisdiction; rights upon the high seas and in international channels of communication and transit; the position of agents of the state, such as consuls and diplomatic officers; international ceremonial; extradition; the international responsibility of states to other states for injuries to aliens; the conflicting laws of citizenship; the conclusion, interpretation and termination of treaties; and means of redress for alleged injury, from pacific measures, such as diplomatic representation, mediation and arbitration, to the forcible prosecution of claims and interests leading up to war and including the vast complex of rules governing the relations of belligerents and neutrals in time of war. Within its limited field both in theory and in practise it is supreme, any municipal law to the contrary notwithstanding. Until many departments of state activity denoting political and commercial rivalry and reprisal are brought within its domain, the conduct of international relations cannot be said to be altogether controlled by law.

Aside from recent qualified experiments prohibiting war international law permits war, regarding it as something like a disease but expressing no moral judgment on the merits of the issue. The recognition of the legal rights of neutrals has indeed been regarded as one of the

crowning achievements of the nineteenth century. International law recognizes the legal validity of treaties imposed by physical force or duress, a type of contract which probably all civilized systems of private law regard at least as voidable. It recognizes the results of conquest. It permits imperialistic extensions of territory in backward areas and to insure temporary peace accepts inescapable facts. But so long as the gains derived by any nation from a successful assertion of physical force can secure legal sanction—and this up to the present time has been unavoidable—the system is necessarily somewhat immature.

Inasmuch as international law has been a growth responding to the need for regularized intercourse of states, it is natural to find that its roots go back to antiquity and that its development was influenced by the current learning of its many periods. Its origins lie in the intercourse of the Jews, the Greeks and the Romans with other peoples and it has early exemplification in the distinctions between friendly and enemy peoples, in the conclusion of treaties, in the conduct of war and the making of peace, in the exchange and protection of ambassadors and even in arbitration as developed among the Greek and later among the Italian city-states.

During the Middle Ages with a unitary church and emperor the rules for external intercourse were applied only among the Italian city-states, the Hanseatic towns and the feudal lords. The institution of chivalry came into vogue, but there was little need for interstate law. The Treaty of Verdun of 843 began the process of division in Europe; after the time of Frederick III (1440-93), the last of the emperors to be crowned by the pope, many Christian states arose. Then came the discovery of a New World, the scramble for possessions, the growth of sea trade, the respective claims to dominion over new land areas and over the sea, the break up of the empire, the Reformation, the system of independent states and the Thirty Years' War, which was ended by the Peace of Westphalia in 1648. Modern international law thus began with the rise of the European states system. Some regularized control of the competition arising from the intercourse of a group of so-called independent states became necessary, and the past was laid under contribution to furnish the materials for its ordered management.

Oppenheim lists seven factors before Grotius as preparing the ground for the growth of principles of international law: (1) the civilians, who

revived the study of Roman law and furnished to external relations the necessary analogies from private law, and the canonists, who furnished moral and ecclesiastical precepts; (2) the collections of maritime codes after the eighth century for the government of maritime commerce, which in turn nurtured the controversy over the freedom of the seas; (3) the leagues of trading towns for the protection of their trade and their citizens; (4) the custom of sending and receiving permanent legations; (5) the custom of standing armies, beginning in the fifteenth century, which hardened the rules of war; (6) the Renaissance, which revived interest in antiquity and in the philosophical and aesthetic ideals of the Greeks, and the Reformation, which promoted the spiritual influence of the Christian religion; (7) the numerous plans for universal peace.

The principal forerunners of Grotius, commonly called the father of international law because of his great work, *De jure belli ac pacis*, are Legnano, Vitoria, Soto, Suarez, Ayala, Bodin and Gentilis, all of whom made contributions of note. The importance of Grotius' work lies in the fact that it exerted so profound an influence not only on theory but on practice. Grotius' aim was to bring the practice of nations, especially in war, into conformity with what he called natural justice. He did not define the term. To the customary law developed by the practice of states he conceded obligatory force unless it contravened natural justice. In the peace settlements after many wars of the seventeenth and eighteenth centuries the opinions and doctrines advanced by Grotius and other jurists often found reflection.

Indeed publicists in the seventeenth and eighteenth centuries particularly exerted considerable influence on the development of the rules of law. Contemporary with Grotius was Zouche, who emphasized the customary or voluntary law of nations. The differences in approach gave rise to three different schools of writers: (1) the naturalists, who denied that there was any positive law of nations and declared that the latter is only a part of the law of nature, leading exponents of this school being Pufendorf, Thomasius, Rutherford, Barbeyrac; (2) the positivists, who rely on practice and deny any ethical or "natural" qualification, including in the main Rachel, Textor, Bynkershoek, Moser and G. F. von Martens; (3) the "Grotians," or "Eclectics," standing midway between the naturalists and the positivists, whose principal votaries were Wolff and Vattel. The idea of natural law as the

basis of a law of nations was fruitful in a period in which international rights and duties had to be deduced primarily from considerations of human reason and natural justice. The idea of natural law, however, also served as a sanction for the voluntary arrangements established by treaty. It thus prepared the way for the positivism which grew from the increasing reliance upon the treaty formulation of international rights that followed upon the many international wars.

International law after 1648 grew largely in the light of the rules adopted among the major powers in their negotiated treaties of peace or through prize courts and other institutions set up to determine international legal relations. The Peace of Westphalia produced the first great secular European conference and breaking down the theory of the unity of the civilized world opened the way to that conflict of nationalities and states which marks the present era. It inaugurated the conception of the European equilibrium through the balance of power, the guaranty of independence and the admission of Protestant states and republics on a par with Catholic states and monarchies. The wars of conquest of Louis XIV, which kept Europe in turmoil for half the seventeenth century, resulted in five important treaties: Pyrenees (1659), Aix-la-Chapelle (1668), Nijmegen (1678), Ryswick (1697) and Utrecht (1713). These with other treaties of peace established principles which find their place in the development of international law, such as the right of visit and search of neutral vessels by belligerents, the rule that free ships make free goods—not universally recognized until 1856—the necessity for blockades to be physically effective as a condition of their recognition by neutrals and a general extension of the freedom of the seas. In 1721 Russia entered the councils of Europe as a great power. The eighteenth century was marked by further wars and treaties of peace, which established political doctrines and not a little law. The peace of Aix-la-Chapelle (1748), Paris (1763) and Versailles (1783) emphasized the principles of the balance of power and rules governing the relations between belligerents and neutrals. The United States now entered the ranks as an independent state and was led by old colonial experiences to espouse vigorously the rights of neutrals, which through the First and Second Armed Neutralities of 1780 and 1800 had already obtained strong support from European powers.

The organization of the Holy Alliance and the

fear of its designs for the restoration to monarchy of the Spanish American republics led in 1823 to the Monroe Doctrine, a political principle of self-preservation, and to the doctrines of the recognition of de facto governments and non-intervention, which may be said to have become legal principles.

The Peace of Vienna aside from the moderation of its political terms made important legal contributions by extending the doctrine of the neutralization of strategic territories, by stipulating the freedom of navigation in international rivers, by establishing the modern scheme of diplomatic representation and by denouncing the slave trade. At the congress of Aix-la-Chapelle the law of nations was formally recognized as the basis of international relations and the maintenance of the status quo on the basis of legitimacy was posited.

The democratic upheavals of 1848 weakened the principle of legitimacy and gave rise to modern nationalism. Napoleon III developed it as a principle in France, from which it extended to Italy and to Germany; both of these nations were consolidated after wars. At the end of the Crimean War, when Turkey although still under the Capitulations was admitted to the family of nations, the epoch making Declaration of Paris (q.v.) of 1856 was promulgated. It abolished privateering and recognized generally that enemy goods on neutral vessels and neutral goods on enemy vessels are free from capture unless contraband and that blockades to be binding must be effective. Even powers that did not sign the Declaration, like the United States, recognized its validity in practise, and it is now generally regarded as universal law. The period that followed was marked by the growth of conventions for the amelioration of the cruelty of war. During the American Civil War in 1863 Lieber's celebrated *Instructions for the Government of Armies of the United States in the Field* (United States Adjutant-General's Office, General Order, no. 100) was issued, and this has since become fundamental for land warfare. In 1864 came the Geneva convention for the amelioration of the condition of the wounded and in 1868 the St. Petersburg convention forbidding the employment in war of explosive shells beyond a certain weight. At Brussels in 1874 came the codification of the rules and usages of land warfare, which although unratified exerted much influence.

The period of political consolidation in Europe was followed after 1874 by the period of

dismemberment based on the so-called rights of nationalities, a movement which reached its apotheosis in the treaties of Versailles, St. Germain, Trianon and Neuilly. After the Russo-Turkish War of 1877 the Balkan states were set up and promptly became a source of conflict among the great powers. At the Berlin Congress of 1884 rules were laid down for the more regularized exploitation of Africa. The freedom of commerce, the neutralization of territory in the Congo district, the prohibition of the slave trade, the notification of occupations and the freedom of navigation of certain African rivers were stipulated. After the Sino-Japanese War (1894) and the gradual abolition of extraterritoriality in Japan the latter was admitted as a great power.

The third quarter of the nineteenth century was marked by the establishment of many international administrative unions, such as the International Telegraph Union (1875), Postal Union (1874), Protection of Industrial Property (1883), Copyright (1886) and innumerable others connected with navigation, health, transportation, commerce and labor.

The Hague conferences (q.v.) of 1899 and 1907 constitute a landmark in international law in that they codified or revised many of its branches. Their greatest contribution, however, was the adoption of rules of procedure for the arbitration of international disputes. The Permanent Court of Arbitration, before which some twenty cases had come by the end of 1930, was established at The Hague in 1899. The Declaration of London (q.v.) of 1909, ratified, however, by only a few powers, confirmed or adopted important rules relating to blockade, contraband, unneutral service, destruction of neutral prizes, transfer from enemy to neutral flag, enemy character, convoy, resistance to visit and search and compensation for breaches. An international prize court proposed at the Hague Conference, 1907, was never established because of inability to agree upon a method of selecting judges.

On the American continent the important Pan-American congresses of 1889, 1901, 1906, 1910, 1923 and 1928 and the Commission of Jurists at Rio de Janeiro of 1925 and 1927 for the codification of law considered or adopted lawmaking conventions on aliens, claims, arbitration, the recognition of new governments, boundaries, jurisdiction, corporations, immigration, diplomatic protection, extradition, freedom of transit, navigation and aviation, treaties, diplomatic agents, consuls, maritime neutrality, the

refusal to recognize the results of conquest and other subjects. A few of these conventions have been ratified by all the states and some by only a few, if any. But they marked a lawmaking trend and are not without importance as evidence of the growth of law. The Inter-American High Commission has fostered the adoption of numerous treaties facilitating trade and commerce. In 1907 a Central American Court of Justice was established, which lasted until 1918.

The twentieth century was moreover marked by four Hague conventions on private international law to facilitate legal recourse between country and country and by a large number of administrative conventions concerning the protection of health, wild life and agriculture and governing various aspects of transportation and communication. An increasing number of treaties embodying the obligation to arbitrate and conciliate disputes, with ever narrowing exceptions, also marked this period. Many of the rights of neutrals were violated by all belligerents during the World War, and a tendency on the part of some of the victors to dispute the validity of well established rules made itself felt.

The war exemplified a new weapon—false propaganda—which poisoned the minds of men and made wise negotiation difficult if not impossible. The Treaty of Versailles and its analogues of 1919 were the result. Through some of the practices sanctioned in that treaty, such as the confiscation of private property and the obligation of the defeated powers to compensate for all damage sustained by civilians regardless of source or wrongfulness, even including pensions, international law has suffered a setback, the extent of which cannot today be measured. But useful new principles were embodied in the treaties providing for the protection of minorities and in the mandates system. To offset the retrogressive tendency there has been a powerful movement in the form of the League of Nations theoretically aiming to make international relations more pacific and systematic and to minimize if not prevent future war.

It is an evidence of realism that in 1923 a conference at The Hague drafted a body of rules governing the use of radio and aircraft in time of war; but these have not been officially adopted as yet by any power. The post-war period has been marked by numerous efforts to consolidate peace, such as the Locarno treaties of 1925 and the Kellogg-Briand Pact of 1928. But they are all based on the preservation of the status quo regardless of its merits. The Kellogg-Briand Pact

is also encumbered by exceptions which render its utility doubtful. This peace movement has, however, made progress in the enlargement of the scope of obligatory arbitration of legal disputes at the behest of one of the interested parties only. The Permanent Court of International Justice established in 1920 has rendered over forty decisions, partly judgments and partly advisory opinions, to the Council of the League.

In 1930 an International Conference for the Codification of International Law was called at The Hague under the auspices of the League of Nations to resolve conflicts of nationality laws and to agree on the rules governing territorial waters and the international responsibility of states arising out of injuries to aliens. The conference drafted a convention dealing with some of the nationality problems but had to record its inability to agree on the other two subjects. Since 1919 there have been numerous financial and political conferences in Europe designed to bring some semblance of order into a disordered world. Many of these have arisen out of the Treaty of Versailles; perhaps the most important has been the series of conferences preparatory to the 1932 disarmament conference called to redeem the pledge of disarmament contained in article 8 of the Covenant. The success of most of these conferences has been limited.

In its juristic theory international law since the days of Grotius has struggled to reconcile its premises with the central realities of the European states system: the tremendous forces of democracy and nationalism. The constant changes in the internal and external organization of states emphasized the difficulties of the basic postulates which had obtained in international law since the Peace of Westphalia. These were contained in the doctrines of the independence and sovereignty of states.

The theory of sovereignty has impinged on international law in the assumptions that as law is the will of the state no rules of international relations have the force of law except by the consent of the state, and that as the state epitomizes moral values international law has only such validity as the state concedes. To explain the obvious fact that particular states have often been held bound without their consent and that the moral value of a rule has not been left to any individual state to determine the theory of auto-limitation was developed, by which the subjection of the state has been explained as voluntary. But a state which is bound only to the extent that it wishes to be bound is not bound at all, and the

experience of a century with international tribunals conclusively negatives any such conclusion. Law must be objective; and once it is recognized as a rule by international tribunals or majority practise, a state can neither refuse obedience nor be the judge of its moral value. A new state entering the community of states is bound immediately by all the rules of the organization. Its consent to any or all the rules is not asked. The assumption of the system is the equality of all states before the law; none can ask exemptions or favors.

If international law is entitled to be characterized as law—a question of definition—it must necessarily limit the omnipotence or sovereignty of the state. Austin was thus more consistent than Jellinek in denying the qualification of “law” to international law; for while both proclaim the ultimate sovereignty of the state as the source of law, Austin considers the law of nations as international morality only, whereas Jellinek explains its controlling character as resting solely on the will of the state, on autolimitation. Inasmuch as Austin demands of law that it be declared by a determinate sovereign, international law by definition could not be law to him but only moral precepts presumably not binding on the state when found inconvenient. The Austinians even assume that rules which rest on consent and agreement cannot be law, for only a sense of moral obligation makes them binding—merely another way of saying that they are not legally binding.

The fault is with the major premise. Only new international law derived from international legislation rests on express consent or agreement, and even then probably only for a comparatively restricted period would the unwilling state be able to deny the force of a rule generally accepted. But in the matter of customary international law, which embodies the bulk of the rules, neither complete consent nor agreement of states is necessary. Even Bodin, while an absolutist in the internal aspect of sovereignty, viewed external sovereignty as subject to the law of nations. Unfortunately many of his successors reversed the process; for they appear to regard sovereignty, viewed as a symbol of the state in international relations, as absolutely free from external restraint.

But no state can posit its freedom from the rules of international law. No state so professes. The mere fact that violations of international law occur and occasionally go unredressed is no evidence that the rules violated are not law, any

more than the no less frequent violation of municipal law is evidence of its non-legal character. International law is often uncertain; so is municipal law. The sanctions are somewhat different, but they are probably none the less effective and the interpreting agencies none the less active. International courts do not “enforce” international law; neither do municipal courts “enforce” municipal law. But the declaratory and binding decisions of international courts are observed and carried out with a uniformity equal to that prevailing in the case of municipal courts. The agencies for the enforcement of international law are not necessarily courts but other constitutional organs, usually the executive. The weakness of the system, which attracts a disproportionate amount of attention, consists in the inability to compel nations to submit their differences to a court and in the physical power of states, exercised on occasion without regard to law, to constitute themselves plaintiff, judge and sheriff in their own cause.

The World War and the resulting treaties punctured many illusions concerning the origin, causes, conduct, aims and accomplishments of the war. As a result there has arisen in some quarters a cynical contempt for international law. While naked force did override international law in many respects, mainly in the violation of neutral rights, the remarkable fact that in hundreds of instances international law was observed receives but little publicity.

The horrors of the World War have induced movements to abolish war, and attempts at its regulation have come to be regarded as an unfortunate admission of war's legality. Thus the jurists who take a functional view of international law, who hold that the provision of arbitral machinery should be the chief aim of international law, have looked with disfavor upon the post-war attempts of League agencies to secure its codification even where this codification means the introduction of not a little new law of a progressive character. But the exceptions to the Kellogg-Briand Pact constitute an almost universal admission of the legality of wars of “defense” and of the other wars excepted in the exchange of notes interpreting the obligations of the contracting parties. Thus there has also come a revival of the abstract distinctions made by Grotius and others between “just” and “unjust” wars, the privileges of normal belligerency to be extended to those who conduct the former but not the latter. How the two are to be distinguished and who is to be the judge are questions either

left open or to be decided by some League body. Those who would abolish war necessarily would abolish neutrality, which although once regarded as the most advanced stage of international law is frowned upon as unworthy, for war is deemed a crime to which no one can legitimately remain indifferent.

The League Covenant in articles 11 to 16 has sought to render war difficult by invoking the Council whenever war threatens and imposing the penalties of non-intercourse upon the nation which conducts war deemed by the Council to be aggressive. The definition of aggressor while apparently simple in the abstract is almost impossible of application, and unanimity of agreement in time of stress may well prove unachievable. It is probably fantastic to suppose that people having only a remote interest in the status quo can be made to endanger their existence in the pursuit of an abstraction, possibly undesirable. International law will have to go on with all its handicaps until the major nations realize that nationalism and the apparatus of nationalism are inconsistent with and destructive of an ordered world. Whether greater co-operation in regulating common interests, for which the machinery of the League is probably adaptable, can produce a deflation in tariffs, trade restrictions, attempted monopoly of markets and raw materials and other instruments of unfair competition and thus lead to a reduction of armaments and of war psychology and technique is still an unsolved question. That such deflation is essential to a more fruitful organization of the world and for the happiness of its people will hardly be denied. So long as each nation can determine the height of its tariff wall and the size of its armies, there is always danger of war. Reliance must be placed upon reciprocal agreements to curb the extreme manifestations of this liberty. The realization of the idea of a superstate—implying a surrender to an international body of control of tariffs, national policies, armaments—which would alter the position of nations to resemble the position of a state in the American union is probably remote. Until that time comes international law must be dealt with as it is; and yet attempts must be made to bring within its range those relations which now escape its control, to close many gaps, to deflate the causes of political competition and war and to persuade the nations to realize that co-operation even at the sacrifice of national self-sufficiency is a wiser and less costly exercise of independence than a recalcitrant insistence upon

one's own ambitions regardless of the common welfare.

EDWIN M. BORCHARD

*See:* INTERNATIONAL RELATIONS; INTERNATIONAL ORGANIZATION; INTERNATIONAL LEGISLATION; INTERNATIONALISM; DIPLOMACY; TREATIES; LEAGUE OF NATIONS; PERMANENT COURT OF INTERNATIONAL JUSTICE; PERMANENT COURT OF ARBITRATION; JUS GENTIUM; NATURAL LAW; JURISPRUDENCE; SANCTION; SOVEREIGNTY; EQUALITY OF STATES; CONFLICT OF LAWS; COMITY; WAR; WARFARE; AGGRESSION, INTERNATIONAL; ARBITRATION, INTERNATIONAL; NEUTRALITY; OUTLAWRY OF WAR; FREEDOM OF THE SEAS. See also articles on other specific questions of international law and biographies of important international jurists.

*Consult:* The general treatises on international law have always been very numerous. Only the leading treatises of which there are recent editions will be given here. The American treatises are: Fenwick, C. G., *International Law* (New York 1924); Hershey, A. S., *The Essentials of International Public Law and Organization* (rev. ed. New York 1927); Hyde, C. C., *International Law, Chiefly as Interpreted and Applied by the United States*, 2 vols. (Boston 1922); Stowell, E. C., *International Law* (New York 1931); Wheaton, Henry, *Elements of International Law*, 2 vols. (6th ed. by A. B. Keith. London 1920); Wilson, G. C., *International Law* (8th ed. New York 1922). The English treatises are: Hall, W. E., *A Treatise on International Law* (8th ed. by A. P. Higgins. Oxford 1924); Lawrence, T. J., *The Principles of International Law*, ed. by P. H. Winfield (7th ed. London 1925); Oppenheim, L. F. L., *International Law*, 2 vols. (4th ed. London 1926-28). In French is available the great treatise of Fauchille, Paul, *Traité de droit international public*, 4 vols. (Paris 1921-26). The most useful German works are those of Liszt, Franz von, *Das Völkerrecht, systematisch dargestellt* (12th ed. Berlin 1925); and Strupp, Karl, *Grundzüge des positiven Völkerrechts* (4th ed. Bonn 1928). Italian: Auzilotti, D., *Corso di diritto internazionale* (3rd ed. Rome 1928). French and German translations (Paris and Berlin 1929). The treatises of Hershey, Oppenheim, Fauchille, and Auzilotti are especially rich in bibliography. An extensive survey of the international law treatises of the various periods is contained in Stier-Somlo, F., "Völkerrechts Literaturgeschichte" in *Wörterbuch des Völkerrechts und der Diplomatie*, ed. by Karl Strupp, 3 vols. (Berlin 1924-29) vol. iii, p. 212-27. The general treatises should be consulted for the more formal aspects of international law, such as its sources and scope, and for the relation of international to municipal law.

For the history of international law see: Viswanātha, S. V., *International Law in Ancient India* (Bombay 1925); Siu Tchoan-Pao, *Le droit des gens et la Chine antique*, vol. i— (Paris 1926—); Phillipson, Coleman, *The International Law and Custom of Ancient Greece and Rome*, 2 vols. (London 1911); König, E., "Zum Völker- und Kriegsrecht im Altertum" in *Zeitschrift für Völkerrecht*, vol. xi (1918-20) 155-89; Ward, R. P., *An Enquiry into the Foundation and History of the Law of Nations in Europe*, 2 vols. (Dublin 1795); Wheaton, H., *History of the Law of Nations in Europe and America* (New York 1845); Laurent, F., *Histoire*



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Some works are devoted primarily to the theoretical development of international law as a science. Still of value are Kaltenborn, Carl von, *Die Vorläufer des Hugo Grotius* (Leipzig 1848), Bulmerincq, A. von, *Die Systematik des Völkerrechts von Hugo Grotius bis auf die Gegenwart* (Dorpat 1858), and Rivier, A., "Literaturhistorische Übersicht der Systeme und Theorien des Völkerrechts seit Hugo Grotius" in *Handbuch des Völkerrechts*, ed. by F. von Holtzendorff, 4 vols. (Berlin 1885-89) vol. i, p. 393-523. The most prolific authority upon the theory of international law has been Ernest Nys, who has published *Le droit de la guerre et les précurseurs de Grotius* (Brussels 1882), *Les origines du droit international* (Brussels 1894), *Études de droit international et de droit politique*, 2 vols. (Brussels 1896-1901), *Les théories politiques et le droit international en France jusqu'au XVIII<sup>e</sup> siècle* (2nd ed. Paris 1899), and *Le droit des gens et les anciens jurisconsultes espagnols* (Brussels 1914). More valuable for current use is Spiropoulos. The Italian writers are discussed in Pierantoni, A., *Storia degli studi del diritto internazionale in Italia* (2nd ed. Florence 1902). *Les fondateurs du droit international*, ed. by A. Pillet (Paris 1904) contains studies of the classic writers. The texts of the classics are being republished with translations and necessary critical apparatus in the *Classics of International Law* under the general editorship of James Brown Scott, vols. i-xii (Washington 1911-27).

In the history of the movement for the codification of international law the important names before the World War are Fiore, Bluntschli, David Dudley Field and Alvarez. The post-war codification movement is represented by many articles: Baker, P. J. N., in *British Year Book of International Law*, vol. v (1924) 38-65; Visscher, C. de, in *Académie de Droit International, Recueil des cours*, vol. vi (1925) 329-455; Hudson, M. O., in *American Journal of International Law*, vol. xx (1926) 655-69; Scott, J. B., in *American Journal of International Law*, vol. xxi (1927) 417-50; Niemeyer, T., in *Zeitschrift für internationale Recht*, vol. xxxvii (1927) 1-10; Urrutia, F. J., in *Revue générale du droit international public*, vol. xxxiv (1927) 619-26, and vol. xxxv (1928) 133-43; Strupp, K., in *Zeitschrift für öffentliches Recht*, vol. vii (1928) 152-210; McNair, A. D., in *Grotius Society, Transactions*, vol. xiii (1928) 129-41; Rauchberg, Heinrich, in *Zeitschrift für öffentliches Recht*, vol. x (1931) 481-526; Alvarez, A., in *Revue de droit international*, vol. viii (1931) 7-55.

For Pan-American particularism in international

law see: Alvarez, A., *Le droit international américain* (Paris 1910); Sá Vianna, Manoel, *De la non existence d'un droit international américain* (Rio de Janeiro 1912); Büchi, R., *Die Geschichte der pan-amerikanischen Bewegung, Völkerrechtliche Monographien*, vol. ii (Breslau 1914); Rauchhaupt, F. W. von, *Völkerrechtliche Eigentümlichkeiten Amerikas, insbesondere Hispano-Amerikas* (Berlin 1924); Moreno Quintana, J. M., *El sistema internacional americano*, 2 vols. (Buenos Aires 1925-26). A post-war phenomenon has been a similar development of a particularist claim for a Soviet international law: Korovin, E., *Mezhdunarodnoe pravo perekhodnogo vremeni* (2nd ed. Moscow 1925), tr. into German by I. Robinson-Katnas as *Das Völkerrecht der Übergangszeit* (Berlin 1929); Mirkine-Guetzevitch, B., *La doctrine soviétique du droit international* (Paris 1926); Alexiev, N. N., and Zaitzeff, I., "Sovjetstaat und Völkerrecht" in *Zeitschrift für Völkerrecht*, vol. xvi (1931) 72-99, 177-225.

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See also the bibliographies of related articles, particularly WAR, NEUTRALITY, PEACE MOVEMENT, INTERNATIONAL RELATIONS, LEAGUE OF NATIONS.

**INTERNATIONAL LEGISLATION.** The term international legislation may be used in two senses: to describe the process by which changes are made in international law through lawmaking treaties or conventions and to refer to the results of that process which have been embodied in the content of international law. The term has not been in very common use in the past and is still somewhat novel. Indeed legislation as a means of developing international law has been much neglected until recent years. Few of the standard treatises deal with it. Many writers repeat that there is no international legislature, and some therefore deny that there is any international legislation. Yet it is now beginning to be appreciated that there is a process by which states can join together to change or add to the

law governing their relations and that the multipartite treaties and conventions concluded during the last hundred years constitute an important part of the prevailing law.

The Congress of Vienna of 1815 may be taken to have inaugurated the process of international legislation. Although that conference was not convoked for any such purpose, advantage was taken of the opportunity afforded by the assembling of representatives of a number of states to formulate certain provisions of international law. The formulation took the shape of instruments binding only on the states parties to them; but these states were so influential and the formulations so desirable that some of them have come to be accepted as applicable to relations between all states. A protocol of March 9, 1815, supplemented at the Congress of Aix-la-Chapelle in 1818, served as the formulated law on the classification of diplomatic agents for a whole century and it still has influence. The Final Act of the Congress of Vienna established the principle of free navigation on the international rivers of Europe by the merchantmen of all states, and until the adoption of a new statute at Barcelona in 1921 it served as the basis of international river law. Similarly the Conference of Paris in 1856 formulated a declaration concerning the abolition of privateering which has since been respected by belligerents not parties and which is firmly embedded in the existing law.

It was not until the middle of the nineteenth century, however, that conferences of state representatives began to be held to deal expressly with current international needs not filled by existing law. The revolution in international society wrought by improvements in methods of communication and transportation then called for international cooperation on a new scale. Problems had arisen for a solution of which traditional conceptions and practices offered no aid. Nothing short of continuous legislative activity would suffice. This was possible only through ad hoc international conferences, at which multipartite international conventions were adopted. Gradually these conferences became more frequent, more and more states sent representatives, forms tended toward some standardization and in time the importance of continuity came to be appreciated, with the result that various series of conferences were established. In some fields conferences continued to be convoked by single governments, which came to regard it as their prerogative to initiate action in those fields. For questions of maritime

law the initiative was that of the Belgian government; for other maritime questions, that of the British government; for questions of private international law, that of the Dutch government. In some fields the responsibility was shared by all the states interested; and where administration during the intervals between conferences necessitated the maintenance of permanent offices, public international unions, such as the Universal Postal Union, were created. These unions established a periodicity in the holding of conferences and made possible cooperative and systematic preparation for international legislation in advance of the conferences themselves.

Such developments led inevitably toward a more general form of permanent international organization. The unions were the precursors of the League of Nations, which was established in 1920 "to promote international cooperation and to achieve international peace and security." The activities of the League of Nations have resulted in a great quickening of the process of international legislation. The sharing of responsibility for conferences has tended to displace the calling of conferences by single governments. Most of the older unions have continued their work, which has been greatly stimulated and in some cases facilitated by the work of organs of the League of Nations. In addition many new fields have been explored, many new forms have been developed and the importance of continuity has been more generally appreciated. The result is that attention is now being given to many subjects which had previously been outside the range of legislative consideration. Conferences have become more frequent, preparation for them has become more thorough, their procedure has produced fewer possibilities of friction, their legislative output has been greatly increased and conventional forms have become standardized. The League of Nations has ushered in a new era of legislative effort. The volume of international legislation produced during the twelve years from 1920 to 1932 exceeded that produced during the entire century which preceded 1914.

It is still true that there is no international parliament with authority to legislate for the world of states. The nearest approach to it is the Assembly of the League of Nations, which seldom adopts acts and which does not purport to legislate except with respect to the organization of the League itself. The International Labor Conference also has some of the characteristics of a legislative assembly. If there is no interna-

tional legislature, it does not follow, however, that there is no international legislation. As long ago as 1907 John Bassett Moore could say that "of all the achievements of the past hundred years, the thing that is most remarkable, in the domain of international relations, has been the modification and improvement of international law by what may be called acts of international legislation." The history of the past quarter century has merely emphasized the truth of his statement.

Legislative progress has been particularly notable in certain fields. Legislation concerning telegraphic relations dates from the Paris Convention of 1865, which has been followed by numerous instruments; the St. Petersburg Convention of 1875 is still in force, but the regulations annexed to it were modified in 1925. The Universal Postal Union, organized under the Berne Convention of 1874, now comprises practically all the states of the world; periodic conferences have endeavored to keep the convention up to date, the latest having been held at Madrid in 1920, at Stockholm in 1924 and at London in 1929. For weights and measures the Paris Convention of 1875, modified in 1921, has served to create a common language for the whole world. Numerous conventions have dealt with the protection of industrial property, the latest general convention, which met in 1925, having been ratified by a large number of states; and with the protection of literary and artistic works, concerning which the Rome Convention of 1928 has recently been brought into force. The conventions drawn up by the peace conferences at The Hague in 1899 and 1907, the various conventions on private international law representing the work of six conferences held at The Hague and the conventions on maritime law resulting from the work of the unofficial Comité Maritime International as completed by the diplomatic conferences held at Brussels are all excellent examples of the fruits of the legislative process. The six international conferences of American states, held between 1889 and 1928, have produced many legislative instruments, not all of which have been brought into force.

Since the World War the greater volume of legislative instruments has come from League of Nations conferences. The legislation effected by the Communications and Transit Organization of the League of Nations is notable. In a few instances legislative instruments have been promulgated for signature and ratification by the Assembly of the League of Nations, e.g. the

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Slavery Convention of 1926, the General Act for the Pacific Settlement of International Disputes of 1928 and the Convention for the Regulation of Whaling of 1931. More frequently, however, special conferences have been held; various conventions on the opium traffic, on traffic in women and children, on traffic in arms, on traffic in obscene publications, on road traffic, on buoyage and the lighting of coasts, on counterfeiting and on unification of laws of bills of exchange have been concluded in this way. In the field of labor legislation only two conventions had resulted from a whole generation of effort before 1914; since 1919 the International Labor conferences have adopted more than thirty labor conventions, which have been brought into force by various groups of states.

The technical problems which arise in international legislation are legion. Most of the work in international conferences is done by technical advisers sent by the various governments. The technical legal problems require close attention, although there is a tendency to follow more or less stock legal forms. The names given to instruments frequently carry little indication of their special character; an instrument may be called a treaty, a convention, a protocol, an act, a statute or by some other name. Signature is usually followed by ratification, and states which do not sign may be permitted to adhere or accede. Definitive acceptance of legislation has been greatly encouraged by the insistence of the Assembly of the League of Nations and by the work of the Secretariat of the League of Nations. The latter publishes periodical lists of signatures, ratifications, adhesions, denunciations and other acts relating to such acceptance. Problems of language, of reservation and of revision do not always receive uniform solution. Yet on the whole standards are developing which are being followed with remarkable regularity.

MANLEY O. HUDSON

See: INTERNATIONAL LAW; INTERNATIONAL ORGANIZATION; LEAGUE OF NATIONS; INTERNATIONAL LABOR ORGANIZATION; INTERNATIONALISM; TREATIES; AGREEMENTS; INTERNATIONAL; CODIFICATION; SANCTION; HAGUE CONFERENCES; DECLARATION OF LONDON; DECLARATION OF PARIS.

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**INTERNATIONAL ORGANIZATION.** International organization is a phase of the relations among the nation states of the world. Individual nations exist in widely dissimilar physical situations and develop different social conditions and national interests, which result in divergent national policies both domestic and foreign. Foreign policies, programs of action in respect to other states, consist of desires or intentions of affirmative action, such as acquisition of territory; of negative action, as the denial of entrance to aliens; or of prevention of action by other nations, as the defense of territory. The satisfaction of national interests and policies requires in some cases only passive toleration from other nations; in other cases active cooperation. Where the latter is true, the development and execution of an international policy—a policy held by two or more nations—become desirable. For these purposes the nations need a system of institutions and procedures whereby national policies may be communicated by one nation to another, socially synthesized (internationalized) and executed. This body of institutions and procedures is referred to by the now fairly familiar phrase international organization.

National policy is internationalized at two stages: at the time of formation and at the time of execution; and in three ways: by international means of expression, by control (restraint and expansion) of such policy and by provision for its execution. International organization provides opportunities and facilities for the expression of programs of national policy and for the statement of national needs, interests and demands, which it endeavors to harmonize. These may be controlled while in process of formation if facilities are available at the time for subjecting the nations concerned to international influence; or their execution by individual nations

may be so controlled. The process of control operates essentially by providing opportunities for possible bargaining or exchanges of concessions among the nations. Such action and hence the process of control may be developed by the nations to such a point that the exchange becomes very indirect and the institutions and procedures employed for the purpose of effecting international control tend to obscure the essential character of that process. The results consist of increased or decreased benefit, including restrictions or expansions of liberty of action, in the case of individual nations, and in unification of policy among several nations, with consequent unity of action. Finally, the application of national policies after they have been harmonized and the expression, development and application of international policy as it has thus emerged become the main task of international organization, overshadowing the earlier action of harmonization.

International organization is thus broader than international government, which consists essentially of control exercised over one or more nations by one or more other nations. Such control may be exercised by an overpowering general preference shared by the controlled nation, for example, for the maintenance of treaty obligation, or by some form of pressure, such as military force. Thus the preference of the coerced nation in some current controversy is overpowered by considerations of value extrinsic to the issue at stake but important to the coerced nation. A certain amount of such coercion, control or government exists today among the nations without violating theories or principles which might seem to render it impossible. In this sense there exists an organized international control community, or international state, although there is no world state or world government. In its origin and even in its further development international government in this strict sense of the term is an outgrowth and expression of voluntary international cooperation, but its ultimate development is far different from its beginning. On the other hand, international organization as a whole remains more extensive than this type of internationalization and includes immediate and completely voluntary cooperation among the nations, just as socialization in the individual state proceeds not only by state control, coercion or government but also by strictly voluntary cooperation among individuals even in matters to which the state turns its attention, such as health and social work.

A complicating factor enters the problem at this first stage of its consideration. Since a nation is a group of individuals, any relation between one nation and another may involve a relation between the two nations as such, between one nation and one or more members or nationals of the other nation or between one or more nationals of one and one or more nationals of the other. The relations, procedures and institutions set up for the purpose of socializing or internationalizing national policies and activities may be cast in such form as to deal with the policies and activities either of the nations as such or of individual nationals of various states. When the latter method is adopted individual nationals are invested with relations, rights and obligations or allegiances to nationals of other states, to other states themselves and to the international community or state directly without the intermediation of their own national state. Under any logical theory of law there could never arise any real although there might be many apparent conflicts of allegiance in this connection; but the situation, inescapable in view of all the circumstances, is undoubtedly complicated both in fact and in principle.

Another difficulty arises here also. The national state developed under conditions in which international relations were few and international antipathies strong. There resulted doctrines of national independence or of sovereignty (*q.v.*) and of the equality of states (*q.v.*) which held that no state could logically, ethically or legally be required by another state or other states acting singly or in common to do anything it did not wish to do. Such doctrines apparently make unanimous consent necessary at every step in international cooperation—a formidable obstacle to effective progress. It seems difficult to reconcile national sovereignty and international authority in such a manner as to make possible international government by majority vote.

Such reconciliation is, however, made possible by the doctrine of the original agreement. The doctrine of national sovereignty does not deny to states the right to consent to any measure—they may even accept the obligation to do in the future something which at that time they may not wish to do. Hence by an original agreement the state may consent to the future operation upon itself by majority vote of international authority and even coercion. It might go so far as voluntarily to surrender its entire sovereignty without violating the doctrine of sovereignty. Numerous examples of this reconciliation occur constantly

in the conclusion and execution of treaty agreements, in the practise of international adjudication and in all forms of international government.

By implication international organization is to be contrasted strongly with simple international relations and with international politics. International relations consist of the geographical, mechanical, social and political relations among nations. International politics is the interplay of the policies of various nations before any process of international harmonization has been initiated. This interplay takes the form of relations of conflict and coincidence, identity, contradiction and competition. International intercourse in trade, travel and communication of various kinds bulks large in international relations and provides indeed the fundamental basis for most international organization; just as international politics with the waste and friction it engenders constitutes one of the principal reasons for the establishment of machinery and methods for synthesizing national policies.

True international organization differs even from what is at times called private international organization or internationalism, which in reality is neither international organization nor indeed international in any proper sense of the term but rather primarily what may most accurately be described as private world living or cosmopolitanism. In trade, travel and communication of various sorts individuals in different nations act without reference to their legal nationality or place of residence, across national boundary lines or not, as their interests dictate. This is true also of the hundreds of so-called private international organizations which spring up to express this unofficial world life. Private individuals and organized groups in different countries join together to form "international," or world, organs, such as the Institute of International Law and the Rotary International. These organizations hold meetings, maintain permanent offices, publish proceedings and literature of all kinds, stimulate world unity and international cooperation and at times lead the way to the establishment of official international organizations. But they are not in themselves entitled to be so regarded, and they pay relatively little attention to official nationalism or internationalism and often challenge the claim of these to respect and loyalty.

International organization is thus not the only possible form of world order. A world state based upon the type of cosmopolitan society which has just been described would provide

one alternative; if official internationalism is encouraged by world living it is also threatened with being superseded if it does not progress swiftly enough, and more radical progressives in this field clamor for the world state today. Imperialism is another form of organization which might conceivably lead to world unity. In times of chaos many men's minds turn in this direction, but the spread of democracy and nationalism tends to limit its field of activity.

The basic motives for the development of international organization seem to be three: the desire of human beings for satisfactions obtainable only from beyond national boundaries, which gives rise to the whole body of international intercourse; the desire of national states and their component citizens and officials for effective international cooperation in the regulation of this intercourse and in connection with all the activities of the individual state, many of which seem strictly national in character but demand such cooperation for their successful conduct; and a similar desire to avoid international friction and violence. Ideal aims of insuring peace and justice among nations are based upon these concrete desires.

Even in the presence of such motives, however, international organization could not develop in the absence of certain prerequisite and favorable conditions. Thus there must be more than one state in the world; in a single empire, which might constitute a world state and a means of securing world order, there would be no room for international organization. Moreover the existence of many states rather than of a few increases the need for organized interstate cooperation, broadens its basis and promotes its development in many ways. Substantial equality among the states is desirable and gross inequality fatal to this cooperation. Similarity of situation, need and policy, at least in order that points of common interest can be found by numbers of states, is requisite; individual states must have breadth of interest and policy in order to enter fruitfully into international cooperation. Stability on the part of the individual states is necessary; where states rise and fall too rapidly the maintenance of a system of international organization is impossible. Obviously too these states must be in contact with one another. Finally, there must exist a science of international organization if these facts and potential causes and consequences are to be adequately realized, interpreted and acted upon.

The functions to be performed by interna-

tional organization may be classified according to two standards: first, the form; and, second, the substance, or subject matter, of the action to be taken. The forms of action in international organization needed by the nations have already been suggested. The irreducible elements in international organizational activity seem to be formulation of law by agreement, administration of the law by international agencies and adjudication of disputes by international courts, which is perhaps a form of administration. The actions of individual states toward one another have no element of true international cooperation unless the states agree among themselves on common lines of action; they are then making law by agreement. The operations of international organization may be essentially analyzed into the making and execution of law; where the carrying out of the law is remitted to individual states, as it often is, there is international action only in so far as that action also is regulated by international law.

Here arises the problem of international coercion, or sanctions, the most critical and the most difficult problem in the entire field. Enforcement of international law is now left to the individual state possessing rights under that law, and international law defines certain modes of action available for that purpose: non-violent measures of litigation in national courts, diplomatic action, litigation in international courts, violent measures short of war (reprisals and intervention) and war. Obviously objectionable features of this situation lead to the suggestion of a system of international enforcement; all sound logic and theory of social organization and the entire history of government among men point irrefutably to this end. Although almost insuperable political and technological difficulties obstruct progress in this direction, this ultimate problem of international organization and international government must eventually be solved.

With regard to subject matter the proper scope of international jurisdiction and action may be stated to include in principle all matters of international interest. These comprehend the entire field of national life, of which no aspect is not of international concern, for many alien nationals and much alien property are present in every state. There are no "purely domestic questions" in international affairs today after the composition and organization of the individual state have been determined, and even here international interest and regulation are beginning to trench upon national discretion. Legally recognition of

this principle and of its exact implications in terms of concrete questions is left to interstate practise and agreement. The states may lag as far behind the factual situation as the sociological pressure for group action against individual liberty allows.

In practise one subject after another passes over from national to international regulation. All of the interests of individuals who are engaged in activity outside their own nations or on the high seas are involved: protection of life, liberty and property; health, morals, transit and communications; industry, trade and finance; and scientific and artistic needs relating to all of these. Many of the same interests of concern to nationals within their own states—especially communications, health, morals and scientific and cultural interests—are served by international cooperation. All matters upon which the individual state develops its own policies, legislates and takes administrative action come up for international treatment of those points at which they are of interest to other states.

Underlying all such subjects are the interests and the demands for peace and security on the part of the individual state as such. Preservation of peace and the protection of territorial integrity and political independence of the state against external aggression are the two most fundamental and important functions to be performed by international organization. The first is attempted both indirectly and directly. The indirect method is to treat by legislation and administration the fundamental causes of international friction. The direct method in case of acute controversy involves the use of diplomacy, including the "good offices" of third states where diplomatic connections are severed; the organization and use of the processes of inquiry, mediation and adjudication, including commissions of inquiry, in reality a species of administrative agent, and councils of conciliation, a form of international conference, and including also of course international courts and tribunals of all kinds; and the development of agreements not to resort to war but to employ the stipulated forms of pacific settlement. The second function of international organization is attempted by encouraging the conclusion of non-aggression and even mutual assistance agreements, but the provision of an effective general international guaranty of security depends upon solution of the problem of sanctions.

It is possible to distinguish six special forms and one general form of international organiza-

tion intended to serve the needs of the nations and the international community. Of the special forms, three: diplomacy, treaty negotiation and international law, may be described as pre-institutional in character; and three: conference, administration and adjudication, as institutional. International federation is the general and final form of international organization.

Diplomacy (*q.v.*), essentially an extremely primitive form of international action, is the communication from one state to another of an item of information or policy. Such action may be taken by any agency entitled to act for the state, as the chief of state or a diplomatic representative; but historically the resident diplomat has become most prominent in the process and the diplomatic corps has approximated the character of an international organ. Treaty negotiation, which grows out of diplomacy, consists of the making of agreements between states; it partakes of the nature of contract although it rises eventually to the level of statute legislation and constitution making (*see* TREATIES). International law (*q.v.*) is the most effective of the primitive devices for international control of national policy and action and for effectuating international policy and action. It consists of rules accepted by the nations as defining with binding authority their rights and obligations toward one another. It logically follows treaty negotiation and diplomacy in that it can hardly grow up without interstate communication, is much aided by treaty agreement and is broader and more stable than either. The customary law is amplified by international legislation (*q.v.*) and systematized by codification. It covers logically all phases of actual interstate relations peaceful or otherwise, including the later forms of international organization, although the descriptive science of international organization is not part of international law.

Conference, logically the primary form of institutionalized or organized international co-operation, consists essentially of diplomacy and treaty negotiation but gains its final character and status by the multiplication of the number of nations taking part. An international conference is a meeting of one or more delegates from each country participating. Participation is determined in the case of the single conference by the invitation of the country initiating the action; in the case of the conference in series, by prior international agreement. Attendance is wholly voluntary. The conference is opened by the chief delegate of the state in whose territory

the conference is held, unless other arrangements have been agreed upon; the conference elects its chairman and other officers, including a secretary, and creates such committees as it sees fit. The agenda of the conference is settled, usually in advance of the meeting, by agreement among the participants under the leadership of the convoking country or in accordance with procedure for that purpose stipulated in advance, as in the drawing up of the agenda by a permanent bureau. The agenda may be altered only with the consent of all participants, unless otherwise stipulated; actually items are rather freely added in the course of the conference and the tendency toward this practise is on the increase. The conference operates through plenary sessions and committee meetings; the real discussions and negotiations take place in the latter. There is little voting even in the plenary sessions, although provisions for majority decisions in matters of procedure are increasingly common today. In principle and for the most part in practise the conference rests upon and respects the principle of equality and especially the rule of unanimity. The conference is thus similar in character to the legislature or constituent assembly. It frames international constitutions, such as the Covenant of the League, and adopts statutes, such as conventions on maritime navigation. But in few cases as yet does the conference operate by debate and majority vote of delegates at discretion; rather for the most part it proceeds by unanimous consent of instructed delegates by way of the conclusion of treaty agreements. Even with these limitations the conference is the most dynamic and creative form of international organization.

Administration and execution in international government are ordinarily entrusted to bureaux or commissions of two or more persons and at times to individual officials. Such agencies, as, for example, the Universal Postal Convention, which define the composition and organization of the agency and the scope and mode of the action to be taken by it, are established by conventions among the interested states. Ordinarily it is the terms of a treaty, rarely general international law and still more rarely an international judicial award which is to be administered. Most international administrative agencies are provided in connection with some specific subject matter, such as river navigation (*see* INTERNATIONAL WATERWAYS); but the creation of a general international administrative service capable of functioning in connection with what-



ever questions arise has already appeared in such bodies as the Pan-American bureau and the League Secretariat. Such agencies consist in principle and to a large extent in practise of persons chosen not as representatives of the nations but as individuals expert in the subject matter to be treated. Professional technicians and administrators rather than political amateurs are needed. On the other hand, the administrative agency is supervised and controlled more or less closely by the constituent governments and the general conference or interim committee of the union of states maintaining the bureau. The action of the bureau impinges upon the participating states as such, upon their nationals and indeed upon other states and their nationals when subject to the jurisdiction of the former states. In this respect international administration approaches true international government more closely than does international conference. It is at this point moreover that the question of compelling national or individual compliance with international authority, the question of "sanctions," arises.

International courts serve to settle international controversies which arise in the course of unorganized international relations or in connection with international administration and which can be settled according to accepted law or treaty agreement. Arbitration is the settlement of such questions by general principles of law and equity, adjudication proper their settlement by positive law; but the difference between the two is not great. International controversies are sometimes submitted by the disputants to an international organ for investigation of the facts (commission of inquiry). Such a commission must be created by agreement defining its composition, procedure and powers; unless specially stipulated it has no power to pronounce upon the legal rights of the parties, but its findings of fact are conclusive. It is believed that authoritative establishment of the facts of a controversial case, together with the lapse of time necessary thereto, will aid peaceful agreement upon the merits. Going further, the parties may submit a dispute to a commission for recommendations as to settlement (mediation, conciliation); this practise is growing as a result of many treaty agreements. But the nations are not generally willing to submit their disputes for binding decision (arbitration, adjudication) unless these disputes can be settled by accepted law; this restricts the discretion of the judges and gives the participants an opportunity to foresee and argue

the fate of their contentions. Cases may be submitted only by agreement between the parties at the time or in advance of the dispute. International arbitration and adjudication are in reality essentially administrative action and also raise the question of enforcement. Actually international awards are with rare exceptions voluntarily obeyed; although this feature of the situation may change if obligatory submission develops very far. Finally, the future utilization of international adjudication seems clearly to turn not merely upon a desire for pacific settlement and a willingness to lose, if the loss be according to law, but upon development of the law itself and of forms of submission and procedure which shall render international adjudication more dependable and effective (*see* ARBITRATION, INTERNATIONAL; MEDIATION).

International federation follows as a general and synthetic form of international organization. It consists of the union of states for one common purpose or more and varies in membership and purpose from the alliance upward. The union is established by a formal agreement in which the scope and method of federal action are described and any federal agencies set up. Many details concerning the membership and duration of the union, its officers, organs and activities and the revision of its fundamental law must be settled in the original agreement. The treaty or convention establishing the union is in effect an international constitution. Strictly speaking, any union of two states constitutes an interstate federation, although the idea and the term are used chiefly to refer to multipartite unions. What is more significant is the fact that every union of states for the establishment of an international conference, court or commission is in principle a federation. In the creation of conferences and courts such federation is not commonly of long duration and is therefore not of great significance in this connection; on the other hand, administrative bureaus are frequently set up for indefinite periods and the unions of states supporting them provide the most numerous examples of international federation. The federal system seems complete when the union has a recurrent conference acting as constituent assembly or legislature, an interim committee acting as an executive council to supervise the work of the administrative bureau and perhaps even an arbitral board or tribunal to settle disputes in connection with the operations of the bureau. In such administrative unions the scope of action is generally narrow, but from the point

of view of structure and procedure international federation is present in all its essential qualities.

Both the foundations and the phenomena of international organization have varied considerably through the course of history. Certain forms of international organization originated in ancient times. The state system of the ancient world was not conducive to the development of such activity until the rise of the Greek city-state, but in Greece and even in the less favorable circumstances of Asiatic, African and Roman state systems a certain amount of international organization existed. Traces of international law, much diplomacy and treaty negotiation, some international conference and a large amount of international adjudication capped by serious experiments in international federation developed. All these were more or less ended, however, by the establishment of Roman imperial domination.

Certain of these activities—diplomacy, treaty making and international law—persisted into the early Middle Ages. Later arbitration revived somewhat, as did international conference and even a weak sort of interstate federation; for example, in the Hanseatic League. Until the sixteenth century, however, international organization was at low ebb.

The appearance of strong national states in place of the feudal chaos and weak empires of the Middle Ages and the revival of communication led to a reappearance of international organization. The half dozen great powers and their dependencies are surrounded by fifty or sixty more or less independent states; the volume of international trade, travel and intercourse of all sorts has grown tremendously. These developments inevitably stimulated international organization. International law arose and has continued to the present with an ever growing body of scientific literature and of official international treaty legislation and codification. Consular and diplomatic organization and practise have greatly increased; today there exist over twenty-five thousand consular and diplomatic agents. Thousands of treaties have been concluded, more and more frequently and on all sorts of subjects, with a notable increase in the number of multilateral conventions. International conferences in times of peace have become far more frequent, broader in scope and increasingly effective during the course of the past century; today the practise is very common, to some extent because of the use of special conferences instead of a single international assembly of general jurisdiction. Inter-

national administrative agencies, unknown prior to 1800, have multiplied gradually, especially since 1875, while more recent years have seen the creation of the general administrative services of the Pan American Union and the League. Finally, international arbitral tribunals, claims commissions and courts of justice have multiplied and broadened their activity, again since 1875, reaching their climax in the Permanent Court of Arbitration (*q.v.*) set up at The Hague in 1899 and the Permanent Court of International Justice (*q.v.*) established in 1921 under the auspices of the League of Nations. With more or less serious but constantly decreasing interruptions in times of war organized international cooperation has grown at an increasing pace during the past fifty years.

Various experiments in interstate federation were launched during the early modern period from 1500 to 1800 in the form both of alliances and of such national confederations as the Swiss Confederation and the United States of America; these were followed by projects for true international leagues put forward from time to time by Crücié, Kant and others. It was in the attempt to develop the Holy Alliance into a Concert of Europe, however, that contemporary international federation was foreshadowed. The concert led through varying success and failure to the setting up of the League of Nations and its related organizations, the International Labor Organization and the Permanent Court of International Justice. In the meantime the Pan American Union had been developing slowly into a weak rival federation in the western hemisphere.

The League of Nations has grown enormously in membership, structure and activity since its establishment in 1920. Provided with a deliberative if not legislative Assembly, an executive Council and an administrative Secretariat, although without coercive power, the League has also developed a number of auxiliary organizations (Health, Economics and Finance, Transit and Communications, Intellectual Cooperation), each rather pretentious in structure and function. Various commissions and special conferences function in connection with the League on such matters as disarmament, mandates and minority protection. The International Labor Organization is a duplicate league dealing solely with labor questions.

The historic development of international organization in terms of functions is reflected in the record of the development of the organs of

international cooperation. In earlier times conciliation of national policies in international law and diplomacy and treaty agreement was the chief objective, with some application of international law and treaties by arbitration. Not until the nineteenth century were elaboration of international policy in conference and its execution and international service to national needs by international administration established on an extensive scale. Even today the problem of international enforcement, or international sanctions, remains to be solved. In the meantime the other functions continue.

Any estimate of the effectiveness of contemporary international organization, including the League of Nations, turns mainly upon this question of the need for coercion in international organization. An amazing amount of international cooperation has proved obtainable on a purely voluntary basis, while constant discussion and comparison of national policies have led to much voluntary synthesis of them. On the other hand, the nations noticeably resent any verbal suggestion of coercion, although they act constantly under legal compulsion; in the efforts to establish a system of sanctions not the resistance of the potential victims but the reluctance of the prospective enforcers has held up progress. Furthermore cases may always arise in which voluntary compliance is not obtainable; in Manchuria and Nicaragua, for example, where weakness of state authority rather than action by a strong state constitutes the threat to peace and justice, this absence of international police power means that strong national states must be left free to act. In such cases the danger of illegal violence on the part of the intervening nations is always present. This great shortcoming of contemporary international organization and the unwillingness to see it remedied in the only way in which it can be remedied logically and practically lead to dangerous want of confidence and opposition to world order and evoke in one or two cases, such as the United States and Soviet Russia, policies dangerously close to absolute non-participation, non-cooperation, isolation or international anarchism. Such attempts to stay out or to get out of the organized international community prevent the fully effective functioning of that community. Certainly contemporary international organization is both valuable and effective in facilitating, stimulating and inducing voluntary international cooperation and in synthesizing national views and policies to that end; but it cannot be entirely adequate while it is de-

void of organization and procedure for international coercion in case of need. Such organization and such procedure would of course be of no value unless the members of the organization were willing to employ them; on the other hand, they will never be set up until the nations so desire.

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See: INTERNATIONAL RELATIONS; DIPLOMACY; INTERNATIONAL LAW; INTERNATIONAL LEGISLATION; LEAGUE OF NATIONS; INTERNATIONAL LABOR ORGANIZATION; ARBITRATION, INTERNATIONAL; MEDIATION; PERMANENT COURT OF INTERNATIONAL JUSTICE; PERMANENT COURT OF ARBITRATION; INTERNATIONAL WATERWAYS; INTERNATIONALISM; OUTLAWRY OF WAR; PEACE MOVEMENTS; SANCTION; SOVEREIGNTY; EQUALITY OF STATES; NATIONALISM; ISOLATION, DIPLOMATIC; TREATIES, AGREEMENTS, INTERNATIONAL; FEDERALISM; IMPERIALISM; MANDATES; HANSEATIC LEAGUE; HOLY ALLIANCE; GREAT POWERS; CONCERT OF POWERS; CENTRAL AMERICAN FEDERATION.

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**INTERNATIONAL PAYMENTS, BALANCE OF.** *See* BALANCE OF TRADE; INTERNATIONAL FINANCE.

**INTERNATIONAL RELATIONS** is a title that requires definition. It will be dealt with here as concerning, in the first place, the relationship itself, not the precepts and procedure regulating international relations, which constitute international law; nor the principles and procedures for conducting them, which correspond to diplomacy; nor the happenings consequent on that relationship, which is the course of history; nor even the products of the relationship either in new institutions, such as the League of Nations, the Soviet system and the British Empire, or in new ideas, such as pan-Europeanism, pacifism or pluralism.

In the second place, this article is concerned only with the relationship between nations. The social relationships between community units anterior or inferior to the sovereign nations of modern civilization are of interest here only in so far as they may suggest that these national states are but episodes in the present evolutionary epoch of civilized society. It is in this relationship between nations that the process of social evolution can be most clearly seen as one of periodic pendulum swings between centripetal and centrifugal tendencies. Thus the past two centuries exhibited an accelerating action of centrifugal decentralization, the "national movement," whereas the present century is experiencing an even more rapidly accelerating centripetal activity in the internationalism of capitalist and communist collectivities. These internationalisms although fighting on international and internecine fronts are none the less founding a new social synthesis in the international relationship.

The equations of international relations have true significance only as expressed in terms of the political factors and economic forces of a particular period. Thus at the beginning of the Christian era international relations in the orbit of the western social organism were regulated by the administrative and judicial institutions of

the Roman Empire; the "nations" were communities, each of which had a relation to the Roman rule but little or none to one another. It was in this imperial regulation of the rights of non-citizens that international law had its inception. Its emergence from the *jus gentium* and *jus fetiale* is as significant of the flux and reflux in the organization of civilization as the process by which the League of Nations has emerged from an international relationship reproducing in principle that which existed between the Greek city-states. The Roman Empire represents the most recent epoch in which the pendulum swing reached such an extreme point of centralized control over the external relations between communities that practically there was between them no international relationship at all. Since at the accelerated pace of present day change such an extreme point of centralization in a higher phase of the spiral of progress may at no distant date again be reached, it becomes important to reexamine the general course of international relations.

It is impossible to review here in any detail the process by which the pendulum swung back to decentralization; through the degeneracy of the Roman ruling class and its defeat by younger races; through the division regionally between the Western, or Latin, and the Eastern, or Greek, empires; through the dualism between regime and religion that led to the rivalry of empire and papacy; and through the decline of the diarchy exercised by chivalry and the church. But the political conditions under which the modern European nations were created should be noted because of the form they imposed on the modern European international relationship. This relationship can be very briefly and very broadly characterized as distinctively dynastic during the first phase of the sixteenth, seventeenth and eighteenth centuries and as democratic in the Anglo-Saxon definition of the word during the nineteenth and the first half of the twentieth century. For the modern nations emerged from a welter of warfare that during the fifteenth and sixteenth centuries swept away the internationalism of caste and creed by which chivalry and the church had diluted and prolonged Roman imperialism. The center round which the racial, regional and regimental rebellions of nationalism rallied, the new authority to which they appealed, the new rule on which they relied, were those of the crown. Having conferred on itself a divine right to a separatist sovereignty the crown then cut away above itself

the supremacy of emperor and pope; and having converted a social structure of status into a simplified internal relationship of sovereign and subject it then crushed out below itself the clerical, feudal, provincial, municipal and other organisms that claimed to share its sovereignty. Thus it was natural and indeed necessary that such international relationship as remained should be represented solely through the person of the national sovereign. It was also natural, indeed inevitable, that as the authority of the sovereign was based on armed force, so also the international relationship could be expressed through him only in terms of arms. Thus foreign policy and diplomacy in so far as they were not directly movements or menaces of war could be conducted only in a mentality of war. At best they based peace on a precarious balance of power; at worst they barred all progress by the wastage of warfare.

Even when revolts from the moral reaction and material ruin of the wars of religion or of the colonial and continental wars created the Protestant Reformation or the French Revolution and an effort to reconstruct the international relationship, results were nullified by the rivalries of the ruling dynasties and ruling classes and by their resistance to any redistribution of that responsibility for international relations that they had misused. Thus the "great design" of Henry IV and subsequent similar schemes for a world state, although they represented in form a real international idealism, in fact were little more than diplomatic gambits in the dynastic duels of the day. And one of the latest of these reconstructive revolts after an epoch of warfare, the Holy Alliance, soon convicted itself of being not so much an international peace council as a conspiracy against national progress.

In the first period of this dynastic phase of international relations the commonalty still retained some measure of control over the crown. As late as the sixteenth century monarchs depended on voluntary or voted supplies for the man power and money power for warfare. But this regime was more or less rapidly replaced by one based on professional forces and on a permanent fisc, the use of which parliament was in a position to veto only in certain countries and on certain occasions. By the eighteenth century the conduct of foreign affairs and the control of foreign policy had come to be universally accepted as a prerogative of the crown.

Consequently both the maritime competition for colonial supremacy that resulted from the

opening up of the Asiatic, American, Australasian and African continents to European exploitation and the military competition for continental supremacy in Europe that resulted from the collapse of the authority of church and empire were conducted by sovereigns unrestrained by any supernational regime or international regulation. The instruments of their struggle were professional soldiers, privateers and profit seeking subjects unrestricted by any realization of or responsibility for a common civilization. Somewhat later chartered companies holding concessions from the crown or corporations of international importance made a transition to the present principle of governmental responsibility. But just as there was little to choose between pioneers and pirates in the early colonial and commercial relationship so there was small room for choice on the continent of Europe itself, where the permanent representatives of the crown at foreign courts were expected by training and tradition to be as cunning as smugglers in tricking the law and as callous as slave traders in trading with the lives of their fellow countrymen and with the liberties of their fellow Christians. Family connections between the competing princes and common feelings between competing peoples were quite ineffective even to mitigate the evils of such a relationship.

Before the end of the nineteenth century the pendulum had started to swing rapidly back toward a new synthesis of society in respect to the international relationship. For a new civilization based on science was by then establishing itself swiftly throughout the European and American continents and as swiftly extending itself into the international relationship. One of the earliest and most evident economic expressions of this new scientific synthesis was the so-called industrial revolution, while its most prominent political beginnings were the British, American and French revolutions, which established the representative principle of government. And although the control and conduct of international relations remained for nearly a century thereafter a reserve of the ruling king or class, this became more and more a reserve remote from the real international relationship between peoples.

This reintegration of society proceeded from the bottom upward. It began by connecting up the international relations between individual nationals two centuries ago and has ever since been coordinating the international relations of national institutions. It has, for example, ef-

fectively organized international correspondence in telegraphic and postal unions under international regulation and rates. It has provided international security for the persons of individuals by contract and cooperation and for their property by a corpus of so-called private international law that is now better established than the public international law which concerns the relations between states. Thence it is passing from the individual to the institutional region of foreign relations by initiating a policing of civilized society. Inhumane exploitations of subject peoples for profit, such as the slave trade or the arms and drug traffic, and the extermination of valuable animals, as in the fur seal or osprey feather trades, have been regulated by international compact, while extradition has ended the exploitation of frontiers by crime.

By the end of the industrial revolution a century ago an international renaissance had been brought about by such agencies as travel, trade and translation, which had so broken down or bridged over the barriers of national frontiers and fashions that the individual citizens of western civilization were beginning normally to think of one another as akin in certain matters. Europe and America had come to eat, live and learn, to drudge and dream, to reason and be ruled, all on much the same lines and within much the same limits.

Unfortunately these emerging attitudes could be given no solid foundation either in Christian society or in scientific solidarity, as Christianity had gone too far from its original simplicity and sodality into ecclesiasticism and Erastianism, while science has not as yet left its laboratory attic for the arena of life. In economics the new international impetus has made even less progress than in ethics. Mechanism in production and mercantilism in commerce had set up competing and compacted national economic entities. Protection by tariffs, treaties and territorial imperialism became as favored a form of security as armies or alliances. Moreover this system with its support of private interests by public institutions made the interests both dependent on and dominant over the institutions. Thus commercialism like capitalism and clericalism became nationalized to the detriment of its own development and that of civilization. The wars of the nineteenth century were all more or less caused by commercial competition, while tariff walls and trade wars were and still are obstacles to the establishment of an international economic system.

Political union in any form can be effective only as the expression of an economic unification. For this reason the new internationalist ideals have as yet had little effect in the political realm against the national idols of sovereignty, security and self-complacency. A regulation of the reciprocal requirements of different regions in materials, markets and manufactures would by now have reorganized civilization and removed national rivalry but for conservative maintenance of national competition in the name of security. The competition for prestige and territory between the crowned rulers of the eighteenth century was less of a brake on progress than is the competition for production and trade between the ruling classes of the twentieth. In the eighteenth century there was as yet very little international relationship to represent; in the twentieth there is such a relationship both ethical and economic, but its political representation and realization are irreconcilable with the religion of private property and personal profit.

Accelerated reaction toward internationalism resulted from the World War—a reaction ethical in its realization of the evils of warfare and war fever and economic in respect of the material extremity to which the world was reduced by war wastage. The complete consequences of this incipient revolution in the international relationship cannot be dealt with here in detail. They represent a variety of different—and in some cases divergent—lines of advance and it would be hard to say which of these at present offers the best prospect of progress. Whether progress will come by a general reduction of armaments or by the construction of a supernational power and police in the political region or as a confederation of corporative states for reorganizing production and consumption in the economic region; whether it will be reached by the road of diplomatic negotiation or by that of democratic representation, are questions impossible to answer.

But one development must be dealt with, as it has for a century been inherent in the international relationship and seems likely to become imperative. That is the development in the field of capital and labor, the present tendency of property owners and proletariat alike to concentrate into two hostile camps irrespective of national feelings and frontiers. Labor, man power, as the greatest sufferer by the industrial revolution was the first to organize its wage slaves against the owners of wealth. But the money power now through its command of publicity, of

parliaments and of the other instruments of power has formed a fighting front which although less conspicuous has a far greater control of the international relationship. Moreover, whereas money power bases its activities on the national organism and is evolutionary, man power has an international objective and is revolutionary. The international ideologies of socialism and syndicalism, ethical in their propaganda and economic in their procedure, are so revolutionary in principle that they have as yet not succeeded in getting real power by peaceful means. On the other hand, money power exercised by the owners of wealth is so associated with the existing order and with national governmental authority that it has been unable hitherto to give effective expression to its real international interests.

But man power as such has now become effectively organized in communism. Thus there emerges a civilization in which man power and money power are no longer incorporated, as they were in the mediaeval guild, or merely competing for profit, as they were in the national craft union, or even in social conflict within the national state. Civilization is coming to be divided not only into economically conflicting class camps but also into ethically, economically and ethnically competitive continents: Asia and possibly Africa under the communist creed and constitution on the one side and on the other Europe and America under the capitalist creed and confederations. And very significantly both of these systems show a recent and remarkable expansion of the economic entity to the total or partial elimination of national sovereignty and separatism. The communist system was based originally on a concession of constitutional and cultural self-determination to constituent nations but severely subjected to central control of capital and commerce, production and consumption. This system is now well advanced into the second stage toward a new economic entity, that of building up underneath its complex political confederation a unified economic state structure. In the external international relationship the Soviet system is both economically and politically an organic whole and evidently it will eventually be so also in the internal relationships of its component nations. On the other hand, the capitalist system is still feebly feeling its way toward an internal control of private property and profit which will empower each national government to promote and participate in such international controls of capital, currency and commerce as

have become urgently necessary if the whole basis of private capitalism and national competition is not to break up. And although the League Council with its diplomatic and non-democratic constitution has been as yet little more successful than would have been its predecessor, the concert of Europe, and although such economic experiments as the Genoa or Hague conferences became less a cooperation of governments than a competition of big businesses, yet Europe and America are being speedily driven by economic pressure into economic solidarity.

The international relationship of the future seems therefore to be that of a fighting front between a progressive centrally controlled "corporate" state of communist Eurasia and a conservative confederation of more or less corporate commonwealths and countries. The relationship between the nations composing this capitalist confederation may in time become as peaceable as that at present established between the nations within the British Commonwealth or within the Bolshevik commonality. But who can say whether war will then disappear or will only once again be concentrated into outbreaks—at longer intervals, of greater intensiveness and wider extension—in which civilization will itself be re-fused and reformed into a "Parliament of Man, a Federation of the World"?

GEORGE YOUNG

*See:* INTERNATIONAL ORGANIZATION; INTERNATIONAL LAW; DIPLOMACY; CONSULAR SERVICE; LEAGUE OF NATIONS; NATIONALISM; CHAUVINISM; WAR; INSPECTION; IMPERIAL UNITY; FEDERATION; INTERNATIONALISM; PEACE MOVEMENTS; DISARMAMENT; ARBITRATION, INTERNATIONAL; MEDIATION; GUARANTIES, INTERNATIONAL; TREATIES; AGREEMENTS, INTERNATIONAL; ALLIANCE; ISOLATION, DIPLOMATIC; ECONOMIC POLICY; FOREIGN INVESTMENT; INTERNATIONAL TRADE; LOANS, INTERGOVERNMENTAL.

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INTERNATIONAL, SOCIALIST. See SOCIALISM; LABOR MOVEMENT.

## INTERNATIONAL TRADE

INSTITUTIONAL FRAMEWORK. *History and Description*. International trade, or trade between the members of different political units, is the oldest form of commodity exchange. Primitive communities were so organized that trade was conceivable only between members of different tribes; and when the intracommunal exchange of goods developed, even where it did not grow out of intertribal trade it was patterned on the lines of the latter. A similar relation between international and domestic trade obtained at the beginning of the modern era; capitalistic wholesale trading was organized on an international scale before the domestic market expanded sufficiently to afford the requisite opportunity for men of large capital thoroughly imbued with the spirit of business.

It was only when domestic trade became as capitalistic as foreign commerce that writers were struck by the essential similarity of the two and the question was raised as to the fundamental criterion of difference. This was found at the time primarily in the fact that productive forces—labor, capital and entrepreneurial ability, not to speak of natural resources—do not move as readily across national frontiers as within the borders of a country. On the background of differences in the stage of economic development and in the structure of national economic systems, which are traceable in the last resort to differences in the course of history and in the national traditions deriving from it the lower mobility of factors of production provides a more or less permanent basis for the exchange of commodities between different countries. The peculiarities of international trade, however, are not wholly explained there-



by; these are due to the existence of cultural and linguistic barriers, of differences in political structures and legal systems, of different commercial, monetary and financial policies.

For a long time the discussion of international trade was limited to the subject of commodity exchange and with good reason. The interchange of services and capital funds, the so-called invisible imports and exports, always formed a tiny stream alongside the mighty flow of goods; but it was relatively insignificant and could be disregarded. Since the end of the eighteenth century, however, it has come to acquire increasing importance despite the tremendous expansion of the volume of international commodity exchanges. At present there is no longer any justification for limiting the term international trade to the exchange of goods. It is now more nearly coextensive with the entire complex of international economic relations, with the movement across national boundaries of tangible goods, services, capital funds and even of population.

The end of the eighteenth century is generally associated with the beginning of the process of industrialization which originating in England has gradually transformed other countries. The importance of industrialization for international trade cannot be overestimated. Yet it must not be overlooked that the end of the eighteenth century marks also a turning point in the political history of the western world; at that time there were set in motion political forces whose action offers valuable clues to the understanding of the course of international trade. The establishment of an independent union of North American states and scarcely a generation later the emancipation of South American states signaled the downfall of the old colonial system. The unification of Italy and the creation of the German Empire signified an important victory for the principle of the national state and permitted the economic integration of large areas. The era of imperialism was inaugurated in the 1890's with the expansion of European nations to other continents through the acquisition of colonies and the annexation of distant territories. The organization of new states following the World War led of necessity to an expansion in the range of international trading, and the rising tide of nationalism in the east—in the Balkans, Egypt, India and China—brought in its wake a greater demand for foreign capital and signified a further extension of international economic relations.

The change in character and volume of international trade since the end of the eighteenth century was due to the interaction of a number of factors. First among them is the growth of population out of proportion to the increase in the domestic food supply. To provide sustenance for the surplus population industrialization became imperative; another means of relief was emigration to unexploited territories in the New World. Vast masses of people were thus set in motion first in England, then in Germany, later in Italy, the Balkans and Poland; Japan and China have also contributed their share. The stream of emigrants flowed into the United States, the countries of Latin America and to a smaller extent into other areas where the material conditions of existence were less favorable; thus virgin territories were settled and new civilizations created. Almost from the beginning the young countries exercised a demand for a variety of goods which could not be produced there, a demand which increased with the growth of population and the rise in its standard of living and acted as one of the principal stimuli for the further expansion of international trade.

Another important factor has been the development of industrialism impelled by technological invention. Since unit costs have been found to decline with an increase in scale of operations, the competitive pressure for lower cost led eventually to an expansion of manufacture beyond the capacity of the domestic market and a dependence upon foreign outlets for the surplus output. At first English textile manufacturers, later German ironmasters and in the course of time an increasing number of industries in various countries—chemical, electrical manufacturing, machine construction, automobile—found it essential to export a growing share of their output in order to maintain the scale of production. At present there is scarcely a major industry anywhere which is not dependent upon the world market for its sales. Specialization, one of the principal sources of the strength of modern industry, has encouraged this development: since the demand of any single country for a highly specialized product is rapidly met, the plant manufacturing it is capable of maintaining production at an undiminished pace long after the home market has reached the point of saturation. The reports of the experts presented to the International Economic Conference held in Geneva in 1927 show that the highly industrialized countries are the most dependent

upon the world market and that rationalization is likely further to accentuate this dependence.

Industrialization was preceded and accompanied by capital export, which became really important only in the second half of the nineteenth century. Individual capitalists and banks may have invested their capital abroad merely because they were attracted by high interest rates; but from a social point of view the significance of capital export lies in the establishment in the younger countries of new branches of production—the cultivation of cotton and tobacco, certain types of mining—or in the further development of already existing production, such as wheat growing. Foreign capital, which flowed into the countries on the American continent, into European colonies in Asia, Africa and Australia, and which of Germany, Russia and elsewhere in eastern Europe, accelerated the economic development of the debtor nations and enabled them to participate in the international exchange of raw materials and manufactured products.

International trade on a large scale was also connected with the development of transportation facilities. The construction of railways with a consequent large reduction in the cost of freight transport was an essential condition of long distance mass traffic and enabled the development of production in regions which had no direct access to navigable waters. Railroads brought the interior of Europe nearer the ocean and linked the American far west to international commercial routes. A few trunk lines also crossed other continents and brought them within the orbit of the world market. Railroads, which represent a total investment of about \$100,000,000,000 and which at least in the younger countries could not have been built without the aid of foreign capital, thus opened new opportunities for its investment also in agriculture, mining and manufacturing. The utilization of steam power in ocean shipping likewise facilitated international exchanges. Freight charges were so reduced that even bulky goods of low value—Australian wool, Indian jute, ore from Sweden and Spain—could be shipped to distant manufacturing centers.

The movement of population so important during the second half of the nineteenth century has in recent years diminished as a result of immigration restrictions in many countries. On the other hand, the international migration of capital has gained in importance and will probably loom even larger in the future. The early

tempestuous development of transportation facilities was succeeded by a period of moderate expansion; in this field Asia and Africa still offer vast opportunities. The principal effect of the interaction of these forces has been an enormous increase in demand for goods in all types of countries—old and young, “civilized” and “backward”—which in its turn has caused an expansion and intensification of international economic relations. At the same time there occurred a fundamental transformation in the character of international commodity exchanges as the economic systems of the various countries were reorganized and their consumption needs and production requirements radically modified. In this connection three types of international exchanges may be distinguished: between tropical and industrial countries and between industrial countries.

The exchange of tropical products for those of the temperate zone, the earliest variety of international trade, still retains some importance: coffee, rubber, cane sugar, tobacco, rice, spices and tropical fruits play a large role in international trade. The methods of production have of course changed fundamentally: the primitive agriculture of the natives has given way to the modern capitalistic plantation managed by Europeans or Americans. Yet the cultivation of tropical plants, the success of which is bound up with peculiar conditions of climate and soil, is in many cases almost as localized as it was a century ago, while an increasing number of countries have become dependent upon tropical products. Consequently tropical areas have been drawn more and more into the orbit of international exchanges; in fact the products of some tropical regions have entered the world market rather recently and only as a result of an increased demand for plantation wares.

The changes in the trade between agrarian and raw material countries on the one hand and industrial countries on the other are of greater significance. For the past hundred years foodstuffs have constituted an ever larger portion of the total volume of international trade. Industrial countries with a limited arable area, in which agriculture was developed far beyond the point of diminishing returns, have become dependent upon the importation of grain from abroad—from the United States, Canada and Argentina in the western hemisphere and from Russia and the Balkans in Europe. Similarly the domestic production of meat, animal fats and

dairy products in the industrial countries proved insufficient for the growing and prospering urban population; therefore cattle from South America and Australia and dairy products from Denmark and Holland became important items of import. International trade in industrial raw materials has grown even more; its rapid expansion was due to improvements in industrial technique which have led to the substitution of minerals of localized distribution, such as iron, copper, petroleum and potash, for organic substances and to the increased reliance upon certain organic raw materials, such as cotton, silk and jute, which can be grown only under climatic conditions of limited occurrence. Countries exporting foodstuffs and raw materials obtain industrial products in exchange; as a rule they are debtor countries exporting more than they import and using the surplus to pay interest and amortization charges on foreign capital invested in their railroads, public improvements, banks, plantations and the like.

Trade among industrial countries, the volume of which is much greater than is commonly believed, is the direct outgrowth of industrialism. European industrial nations do more trading among themselves than with agrarian countries. Germany, for example, sends three fourths of its industrial exports to European industrial countries, which provide a market also for three fifths of American industrial exports; similarly Great Britain sells a major portion of its exported merchandise in industrial countries. France trades silk and perfumes for machines and electrical appliances; England yarns, fine fabrics and agricultural machinery for coarser fabrics, chemicals and musical instruments; and the United States automobiles, agricultural and industrial machinery for silk and paper goods. Such interindustrial trading is traceable to specialization based on differences in natural resources, technical equipment and industrial tradition and is indicative of a marked degree of interdependence among industrial nations. It is to be observed that a large share of the output of highly industrial countries consists of producers' goods, such as machines, electrical appliances, chemical and metal products adapted to industrial and urban needs rather than to those of agrarian and raw material countries. The production of consumers' manufactures, among which textiles used to bulk very large in international trade, has now become more decentralized, each country relying more upon its domestic plants and less upon imports.

The type of commodities entering world trade determines the routes which it follows. Since the principal commercial countries of Europe and the industrial regions of North America as well as great sections of South America border on the Atlantic Ocean the transatlantic trade has been very important since the beginning of the modern era; at present its share of the total ocean freight movement is estimated at 70 per cent. The transpacific trade is small in comparison, because the west coast of the Americas has not yet reached as high a state of industrial development as the east and the trade of the Asiatic Far East is still carried on mainly by way of the Indian Ocean. The importance of the Pacific as a trade route has risen, however, since the opening of the Panama Canal, which brought the Far East and the west coast of the Americas closer to the industrial areas on both sides of the Atlantic. Moreover transpacific traffic may be expected to grow with the more rapid economic development of the Far East. Similarly the Pan-American traffic is definitely on the increase, the oceanic trade between the two continents having profited greatly by the building of the Panama Canal. Euro-Asiatic trade, which is as old as European civilization, benefited by the opening of the Suez Canal and remains of some importance. The Indian Ocean is still the great trade route linking the British, Dutch and French East Indies to Europe; yet India's share of world trade was only 3.5 per cent in 1900 and 5 per cent in 1930.

In close connection with international commodity movements are the international movements of capital in the form of short term loan funds and long term investment funds. The flow of a considerable part of short term funds, that which represents immediate or deferred payments for commodity imports, parallels the movement of commodities but proceeds in the opposite direction. The movements of long term capital, an increasingly important aspect of international economic relations, are even more significantly if less directly related to international traffic in commodities. Capital exported from older and richer countries to younger countries and colonial areas opens new regions for capitalistic development and creates the conditions for the establishment of international commercial relations; indeed trade follows capital more than it does the flag. Whether as direct or as indirect investment such capital makes possible the capitalistic exploitation, more efficient and rational than the primitive destructive form,

of the natural resources of the younger countries and assures a continuous supply of indispensable raw materials and foodstuffs for the industries and population of the older countries. Foreign capital is also indispensable in the development of transportation facilities which link the distant areas of the younger countries to the central home markets and through them to world markets; the engineering trades of the capital exporting countries benefit directly from such railroad and ship construction. The establishment in younger countries of processing and fabrication plants—meat packing, milling, textile manufacturing—is often dependent upon foreign capital. Many of these industries furnish a desirable supplement to the production of creditor countries, while others tend to compete with the home industries of these countries; thus Indian cotton manufacture competes with that of Lancashire. The international movement of capital, whether to finance trade and industry or for purposes of speculation and government finance, sets in motion a return flow of interest payments. The capital importing countries are compelled to develop an export surplus of commodities, while the creditor countries unless they continue to export capital in excess of return payments of interest and amortization instalments must acquire a passive trade balance.

In addition to goods and capital funds nations also interchange services, of which the oldest is the commercial agency or brokerage service. Greeks, Armenians and Chinese, prominent in this field in the early history of international trade, still play an important part in certain quarters of the world; for the most part, however, modern foreign agents and brokers are English and German. Not infrequently the enterprises serving as intermediaries in international trade cluster about certain markets to which goods are shipped from all parts of the world and from which they are distributed to consumption centers. In England and in the Netherlands profits derived from the existence of such intermediary markets are fairly important in the international balance of payments.

Shipping is another such international service. The shipping companies of certain countries, better equipped, with good connections throughout the world and with the assurance of paying return cargoes, may undertake the transportation of freight for other countries. Before the World War English and German shipping lines were in this favorable position with re-

spect to most other countries, including the United States. Transit rail traffic in some European countries is sometimes similarly exploited to bolster the debit side of the balance of payments.

An international service next in importance to shipping is the short term financing of foreign purchases or sales. Such financing is often done directly or through subsidiaries by the banks of the older of the two trading countries. But it is not unusual for the banking institution of a third country, fortified by sound knowledge of conditions in the two trading countries and by ready access to international money markets, to undertake this type of business. Other services auxiliary to international trade, such as insurance of merchandise in transit, are as often as not in the hands of nationals of a third country which for historical reasons came to occupy an established position in this field.

Tendencies which have recently become manifest in the field of international services may foreshadow a future decline in the volume of international trade. The position of the intermediary country or market is being undermined by direct purchases in the producing country; Egyptian cotton, for example, is now purchased in Egypt instead of at auctions in England. The same result is achieved by international agreements which effect a direct exchange of the commodities of one country for those of the other—a variety of barter subject to the usual difficulties of determining a mutually satisfactory ratio of exchange. Direct purchase and international barter are exemplified to a degree in the Soviet monopoly of foreign trade which determines the quantity of imports and exports and tends to buy and sell in the primary markets. A similar decline in international trade services results from the development of national merchant marines and the establishment of branch plants on foreign territory.

Whatever the future of international trade may be, its volume has grown in the past despite the presence of numerous obstructing factors, as may be seen from the accompanying table. The number of participating countries has gradually increased until international exchanges have come directly or indirectly to comprise the entire world. The quantity and variety of goods entering world trade have experienced a parallel growth. Luxury articles no longer form a major portion of the volume; nor is it merely a question of selling abroad the surplus output. The principal driving force of international ex-

changes is found at present in the demand of advanced industrial countries for imported foodstuffs and raw materials; in other words, modern international trade affects the fundamental components of a nation's economic system. Thus in 1929 of the total volume of international trade 23 percent represented foodstuffs and 33 percent industrial raw materials as compared with 37 percent as the share of finished goods and 7 percent as that of services. Indeed the vitality of the most advanced and from a world point of view most important national economies is nowadays essentially dependent upon the continuation of normal economic intercourse with other nations.

WORLD VOLUME OF INTERNATIONAL TRADE AND THE SHARE OF PRINCIPAL COUNTRIES, 1840-1929

| YEAR | TOTAL IMPORTS AND EXPORTS (IN BILLIONS OF DOLLARS) | PERCENTAGE SHARE OF |               |         |        |
|------|--|---------------------|---------------|---------|--------|
|      |  | UNITED KINGDOM      | UNITED STATES | GERMANY | FRANCE |
| 1840 | 2.8  | 32                  | 8             |         | 10     |
| 1860 | 7.2  | 25                  | 9             |         | 11     |
| 1880 | 14.8   | 23                  | 10            | 9       | 11     |
| 1900 | 20.1   | 21                  | 11            | 12      | 8      |
| 1913 | 40.4   | 17                  | 15            | 12      | 7      |
| 1929 | 66.7   | 14                  | 14            | 10      | 6      |

Source: Figures for total volume for 1840-1913 from United States, Bureau of Foreign and Domestic Commerce, *Statistical Abstract of the United States, 1921* (1922) p. 923. The trade figures used in deriving the percentages for 1840-1913 are taken from France, *Statistique Générale, Annuaire statistique, 1925* (Paris 1925) p. 339<sup>1</sup>-42<sup>2</sup>, and for the United States from the *Statistical Abstract for the United States, 1928* (1928) p. 447 and 450. The figures for 1929 are derived from United States, Bureau of Foreign and Domestic Commerce, *Commerce Yearbook 1931*, (1931) vol. II, p. 746-27.

**Public and Private Regulation.** Ever since it has come into prominence international trade has been considerably affected by the intervention of governments. At the beginning of the modern era mercantilist governments, resolved to augment national power by making the balance of trade as favorable as possible, gave most of their attention to the regulation of foreign trade and of domestic production connected with it; since that time foreign trade policy has remained an important element in the economic programs of governments. Direct regulation—through protective or liberal tariffs, commercial treaties and most-favored-nation agreements, reciprocity arrangements and import quotas—has always been a vital issue in public discussions. On these points various economic interest groups make themselves loudly heard and violent conflicts of interests arise, while

the interest of the national economy as a whole is not always carefully weighed in the balance. Protection of course is desired much more often than is free trade. Farmers and industrialists fearing foreign competition demand protection for their products and as a rule command sufficient influence with the government to obtain a fair degree of satisfaction. In agrarian countries, however, agricultural producers, who export most of their output and use a great many imported manufactures, insist on free trade. Similarly, merchants, especially in the seacoast cities, and shipping interests advocate free trade, as do those industrialists who are dependent upon export. Consumers also demand that commodities be offered for sale at low prices. Workers as consumers are largely in favor of free trade, but as producers they may be easily influenced by the fear of cheap foreign competition and led to demand industrial protection. Less attention is usually paid to regulation by administrative measures, a form of regulation which governments have developed in the course of time as a supplement to or even as a substitute for regulation by legislation and treaty. Like tariffs, administrative regulation may be free trade or protectionist in spirit and operates effectively and unobtrusively.

Among administrative measures those relating to currency are perhaps of most far reaching importance. Unstable currency means continual price fluctuations, which obstruct domestic and to a much larger extent foreign trade. The gold standard, adopted first in England and later in other countries, provided one of the essential prerequisites for the normal development of foreign trade. More recently central bank policy, which even under the gold standard is a most important instrumentality of currency regulation, has come to be guided to a certain extent by its anticipated influence upon the foreign trade of the country. A deflationist bank policy leads to internal stagnation; but a policy of inflation although it temporarily stimulates exports and discourages imports—a result which may be deliberately attempted, as in the case of England in 1931—injures in the long run both the country resorting to it and other countries maintaining close economic relations with it. Equally undesirable is the regulation of foreign exchanges sometimes attempted as a measure of administrative protectionism; for example, the foreign exchange restrictions employed in a number of European and South American countries in 1931 and 1932

amounted to a most drastic regulation of foreign trade designed to reduce imports to the absolute minimum.

The capital policy of the government is often related to its currency program; thus the maintenance of a stable currency standard is essential to protect the equity of the foreign capitalist in his investment. In addition specific protective measures are ordinarily taken by younger countries: the legal status of the foreigner and the negotiability of his securities are assured, and the interest on his investment is guaranteed even in private enterprises such as railroads. The general taxation policy as well as the promises given with regard to specific loans are also relevant. The governments of capital exporting countries are ordinarily less concerned with international capital movements. Yet even before the World War it was quite customary to discriminate in favor of colonies and certain countries of close political affiliations. Since the war measures of a restrictive character have come to the fore: complete embargoes on foreign loans have been imposed, investment bankers have been advised against loans to certain countries, and central banks have been forbidden to make loans on certain foreign securities.

In the field of transportation administrative regulation of foreign trade employs such devices as shipping and mail subsidies and numerous other forms of grants intended to encourage the development of regular freight shipping at low rates. Important seaports and canals as well as a great many railroad trunk lines have been built with government aid, and if necessary governments have assisted also in their operation. Not infrequently the public authority arranges railroad rates in such a way as to encourage the movement in and out of the country of certain important commodities, such as coal, grain, cotton and wool. Freight rate differentials are likewise used to impede imports and exports or to facilitate the movement toward certain seaports with a view to affecting specific world markets. Manipulation of rates is, however, a rather complicated procedure and often defeats its own purpose.

Under administrative action with regard to foreign trade must be included also: the work of the consular service, which protects, advises and aids national trade in foreign countries; the services of governmental agencies, particularly well developed in the United States and England, which supply information about export

possibilities and in general about business conditions in foreign countries; and the activities of national chambers of commerce in foreign countries, which often collaborate with government agencies in gathering and distributing information. Mention should also be made of the discontinuous but more or less periodically recurring activities, such as government assistance in the organization of international fairs and government action to promote international standardization of trademarks and merchandise nomenclature.

It will be observed that administrative regulation even where it is intended to encourage the development of foreign trade tends to give the trade and traders of one country preferred standing over those of other countries in foreign markets. Where administrative action aims at a reduction of imports it explicitly assumes a protectionist tinge. Such discrimination and protectionism, which have become rather common of late, escape to a large extent the regulative and mitigating influence of international agreements and go far toward nullifying even most-favored-nation arrangements. From a national point of view administrative regulation is therefore much more elastic and adaptable to current needs than regulation provided by legislation or treaty.

Government regulation interacts with regulation attempted by combinations of private interests for their own benefit. The cooperation of private interests, whether intended to facilitate penetration into foreign markets or to resist foreign competition, must of course operate within the framework of government regulation; but where it becomes really important private regulation may call forth a sympathetic or antagonistic modification of government policy. The government is more likely to be favorable if the benefits of such regulation are widely diffused; indeed where the combination of a large number of producers is essential, government assistance becomes well nigh indispensable.

The mildest form of private regulation is the allowance of export rebates on manufactured goods, when the prices of raw materials entering into production are raised by import duties or cartel agreements. Through such rebates prices of the manufactured goods are restored to their free trade level as far as export is concerned; the objections of exporters to protective duties and price fixing are eliminated thereby, and the sale of raw materials to export industries is left unimpaired. Export rebates may easily

lead to dumping, i.e. selling in foreign markets at prices below average production costs. Dumping has become important with the rise of industrial protectionism and the development of monopolistic combinations and has called forth protective measures in the form of antidumping duties. A substitute or a disguise for export rebates is sometimes found in the activities of national export cartels or export associations which aim at joint action on the part of national producers in foreign markets and the suppression of competition between them.

National export associations or cartels may develop into international agreements or cartels which are designed to eliminate competition in outside markets among their participants. Such international combinations attract attention out of proportion to their intrinsic economic importance because of the close connection with international politics. Before the war international cartels functioned in certain branches of the iron and steel industry and in the production of artificial dyes. After the war some of the old combinations were restored and many new ones organized, notably in copper, electrical equipment and international communications. In the field of shipping, agreements between American and German or American and British interests concerning the allocation of lines or freight and passenger rates have by now become traditional. An important prerequisite for the successful operation of international agreements is the existence of strong national cartels or the domination of the domestic industry by a few very large concerns; even so it has proved rather difficult to reconcile conflicting national interests and to maintain international cartels through periods of depression.

For certain commodities monopolistic combinations influencing international trade take the form of producers' pools which attempt to regulate supply; in the case of agricultural commodities pools are often aided by the government. A control of supply similar to the pool is sometimes undertaken by a very large privately owned concern which on account of its size and international connections has risen to a position of dominance. Attempts at control by such devices have been made repeatedly for wheat as well as for oil, rubber, bananas and matches. The success of such organizations hinges upon the command of enormous capital and ability to forestall the growth of competition from unexpected sources; as either of these conditions is very difficult to realize, attempts of

this sort have heretofore involved considerable risk of failure.

The experience of somewhat similar schemes of price regulation through valorization has proved equally hazardous. Valorization is a plan to maintain the world price at a predetermined level by regulating the flow of commodity to the world markets; it may involve the accumulation of large stocks which can be disposed of only very gradually. The best known instances of valorization—Brazilian coffee and Chilean nitrates—were carried on with direct economic and political support of the government. Nevertheless, the success of such schemes was found to depend upon favorable market conditions. Even after prices are stabilized there is present the danger of an expansion in production induced by the achievement of a profitable price; if this risk cannot be met successfully, valorization inevitably fails.

*National Economic Systems and the World Economy.* The importance of international trade for any one nation varies with the economic structure of the country and the magnitude of its productive resources relative to the population which must be maintained. Apart from an economically self-sufficient country, somewhat like Fichte's "closed state," it is possible to conceive several limiting cases in a country's relation to the outside world: the purely agrarian country producing only agricultural and mineral commodities and importing manufactures, the purely industrial country completely dependent upon the outside for foodstuffs and mineral raw materials, the trading and capital exporting nation whose entire stock of consumption goods is imported in payment for international services rendered by the country's merchants and for capital invested abroad. Of course no one country exemplifies perfectly any of these types, but countries do approximate one or the other of them. The importance for a country of economic relations with the outside world is reflected most clearly in its dependence upon imports: the larger the imports relative to the domestic supply and the more essential they are to sustain the smooth functioning of the economic machine, the greater the economic significance of international trade for the country.

The importance of merchandise movement in and out of the country is generally measured by the import-export per capita figure. On this basis it is found that foreign trade is more important for smaller nations and industrial countries than for larger and non-industrial countries

Thus in 1929 the per capita foreign trade turnover in dollars was as follows:

|               |     |
|---------------|-----|
| Denmark       |     |
| Netherlands   | 243 |
| Switzerland   | 228 |
| Great Britain | 219 |
| France        | 103 |
| Germany       | 100 |
| United States | 79  |
| Japan         | 32  |
| British India | 6.5 |
| Russia        | 5.7 |

The enormous preponderance of foreign trade in smaller countries is due to the importance of transit trade and to a greater dependence on foreign supplies because of small natural and man power resources. Industrial countries too are densely settled and contain a population maintaining a high standard of living. A better measure than per capita figures is the ratio of exports or imports to domestic production. Unfortunately total production figures are not available for many countries, and even for the most advanced countries they form a discontinuous and short series. It is estimated that Great Britain exports one fourth of its output and Germany one fifth; the industries and labor of both countries are thus in a very real sense dependent upon foreign markets. Other countries export a much smaller proportion, but with the expansion in their industries and the growth of their population a higher ratio of exports to output may be expected as a matter of course.

To industrial countries an expansion of the market through exportation, which means lower production costs because of a larger scale of operations and the possibility of greater specialization, offers the opportunity of a better utilization of industrial resources and of employment for surplus labor. In fact the Malthusian law of population is rendered ineffective for industrial countries through such enlargement and specialization of their industries, which assure the importation of foodstuffs from less developed areas. It is no accident that in recent years emigration from industrial countries has been smaller than from agrarian countries: the limits upon the productive capacity of the former are much more elastic than for the latter. Industrial countries also profit by the intensification of competition which accompanies expansion of the market. Technological and business inventions originating in one country are transmitted through these channels, and the domestic industries are forced to keep as efficient

as possible. National peculiarities are not necessarily eliminated thereby; on the contrary, they may often be turned to advantage in international competition. Attempts are made of course to eliminate troublesome competition, and the line between invigorating and destructive rivalry is not always properly drawn. Industrial countries are usually also creditor and trading nations. Their national incomes are increased by returns obtained from foreign investments, which are generally greater than would have been earned by investment at home, and by payments for services rendered in international trade.

The benefits derived from international trade by agrarian and raw material countries are the obverse of those enjoyed by industrial countries. The latter not only transmit to the former their industrial arts and their business methods but also supply man power and entrepreneurial ability. Similarly, foreign capital in the younger countries makes possible the exploitation of resources and the development of productive forces which would otherwise have lain dormant. The increased output finds a market in the older countries, which means also that the new countries become vitally dependent upon export, much concerned with the steadiness of the foreign outlets and extremely sensitive to international price changes; this applies with particular force to those countries whose exports consist virtually of one commodity. Nevertheless, the younger countries develop and grow into strong economic entities through their connection with the world market. The standard of living of their population is raised—modern dwellings, finer clothing and the like are demanded—and it becomes possible to accommodate a larger population. Some of the younger countries endowed with certain raw materials and a suitable population may imitate the older countries and attempt to become independent, at least in trades closely connected with agriculture and mining. The United States passed through this stage of economic emancipation in the first half of the nineteenth century and the examples of India, Egypt and the Balkans at present point to such a trend. Many readjustments become necessary in consequence: exports of such countries are reduced and they may be threatened even with a complete loss of their customary markets. The network of international economic relations, however, is not destroyed thereby: as countries become industrialized their inhabitants develop new needs, for the



satisfaction of some of which they must look to other countries.

The influence of international trade extends beyond the individual national economies. As the relations between them grow in scope and importance, there gradually develops an international economic system, with its own markets and auxiliary institutions, which in a certain sense functions apart from and in contrast to national economic units.

The world market is a congeries of supply and demand relations centering about certain commodities and entered into in varying degrees by all countries. As contrasted with national markets, which are influenced by policies of national governments, the world market is free from any restrictions of a non-economic character. World prices therefore reflect the underlying balance of economic forces much more accurately than do national prices. They register the influence of the entire supply of a commodity, including stocks and reserves, regardless of its spatial distribution. For this reason the world price may be lower than is desired by interests operating in national markets, as is attested by the history of grain, sugar, coffee, rubber and oil. It may even fall below the cost of production. In such a case no makeshift measures would help; the only remedy is a reduction of output which is slow and difficult because of the threatened loss of invested capital and which may be offset by the increase of output in another country. That does not imply that world prices may not be manipulated for short periods; more permanent artificial price fixing, however, as attempted through valorization schemes, by pools, international cartels and world wide combinations, fails in the long run.

Another important difference between world and national markets concerns the number and types of commodities which reach the world market. A great many commodities are not traded internationally because the cost of their transportation over long distances is too high as compared with their value, for example, building materials; or because they are adapted to specific demands of one region or country, as is true of most finished goods. The world market is naturally limited to those commodities for which either the demand or the supply is of an international character and which are produced in large quantities, mainly raw materials and food staples. Those which are capable of exact grading are dealt in through commodity exchanges; others, whose quality must be ascer-

tained by the buyer on the spot, are bought and sold at auctions. The location of such exchanges and auctions is determined by proximity to production areas and consumption centers; but once established they cannot easily be moved, because their effective functioning comes to depend upon a complicated network of wholesalers' and brokers' offices, financial institutions, transportation and communication connections and warehousing facilities.

World prices are in a sense not comparable with national prices. There is no world price level because there is no world currency whose purchasing power it would express. Moreover the world trade volume is but a part of national trade volumes; national price levels are affected by the prices of a number of goods which do not enter international exchanges—hence the permanent disparity between the purchasing power of money in the several countries. But for those commodities which are traded in world markets world prices exercise a decisive influence on national prices. Neither import nor export duties can establish a permanent differential between the two. Where the country produces an export surplus, the price of that surplus, which is determined in the world market, must eventually control the domestic price; where the country depends upon imports to satisfy its requirements, protective duties are economically justifiable only if they encourage the expansion of domestic manufacture to the point where it is capable of meeting in full the demand in the home markets.

As international economic relations grow in importance, influences transmitted through the world market come to play an increasingly decisive role in stimulating or depressing business in the various countries and produce a striking if imperfect parallel of prosperity and depression throughout the world. If the purchasing power of one country drops because of a special credit and agricultural crisis, the exports of other countries are more or less affected. Large bankruptcies and suspensions of payments are reflected in a drop of imports; and a stock exchange crash in one country may lead to default in obligations and a drop in security quotations in other countries. These observations apply most aptly to those countries which are organically integrated with the world economy; of course if prices, unemployment, security quotations or interest rates in a country fluctuate in a radically different fashion from corresponding economic indices elsewhere, it is

evident that a close relationship with the outside world has not yet been established. Even within the world economy proper, countries differ in economic structure and are not equally susceptible to international economic fluctuations; prosperity and depression are therefore not exactly simultaneous everywhere. Even in these countries changes in business conditions are still dependent upon purely domestic factors, such as crop conditions, efficient organization and management of the financial system, government policies, political upheavals and the like; and in each country, no matter how closely linked to the world economy, prosperity and depression bear a peculiarly national stamp and differ in many characteristic details.

International economic interdependence is reflected also in short and long term finance. Although the general level of rates in the several money markets is determined by causes peculiar to each market, nevertheless a fall of the rate below normal in one country will cause short term funds to flow out and induce a tendency to weakness in the rate in other money markets. Similarly, high discount rates in one market are inevitably transmitted to other markets and induce a corresponding stringency there. No central bank therefore can manipulate rates in its home market without taking into account the existence of other markets not equally subject to its influence. For long term capital international interdependence is not so pronounced. Still there are securities of high international standing which are traded on all the important exchanges and which pass from one country to another as easily as short term funds. Long term loans are sometimes floated with the participation of the financial institutions of a number of countries which take up the issue in agreed proportions; such loans are issued in terms of several currencies to suit the convenience of the buyers. Nor is mediation for long term investments unknown. Thus Swiss banks receive deposits from many countries and are in a position to finance the industries of various countries. In the post-war period London acted as an intermediary between French and American investors and German borrowers, and to a certain extent New York relented funds obtained from France and Great Britain to South American countries. The more customary type of relation in long term finance is, however, the direct one between the creditor and debtor nation and the interdependence is interregional rather than international in character.

International economic relations give rise to a number of international and interregional organizations of an auxiliary nature which facilitate the exchange of information, expedite communication and transportation and bring about the modification of divergent national practices to conform to international standards. Perhaps the most inclusive of such organizations is the Universal Postal Union. There is nothing corresponding to it in the field of transportation, but there exist a number of conventions between several countries regarding the use of railways. Similarly, there is as yet no international organization for bank clearings, although the Bank for International Settlements may eventually serve as such. The International Chamber of Commerce, the economic and financial section of the League of Nations, the International Labor Organization, the International Institute of Agriculture, the International Statistical Institute, provide facilities for the exchange of economic information among countries, carry out research on economic problems of an international character and serve to crystallize world opinion on economic problems. The work of these organizations becomes the basis of international agreements which when once entered upon limit the freedom of action of individual countries and create in the international field a counterpart to government action in national economic life. The list of international organizations of an official nature would be much extended were it to include also regional organizations such as those linking the United States and Latin America, the countries of South America among themselves, countries of central Europe and of the Balkans and the like. The number of semipublic organizations, congresses and agreements joining special interest groups in various countries is even greater. The post-war period was characterized by a striking growth in the number of such permanent or temporary international and regional organizations and by a remarkable extension in the scope of their activities. This development reflects the increase of economic interdependence among nations and an aspiration for the rationalization and systematization of international economic relations.

As the world economy is constituted at present no country, no matter how distant or how large, can be regarded as standing apart from it. Some countries need food for their population and raw materials for their industry, others need manufactured goods; and the development of many

countries depends upon a plentiful supply of these changes, those due to industrialization being more or less continuous.

independent; in the long run it needs trade with the rest of the world in order to survive, and in the short run it is influenced by the state of business conditions in other countries. There exists thus a broad economic basis for the solidarity of interests among nations.

Dependence upon the outside has its drawbacks as well: the profitable disposal of export commodities is uncertain because of potential foreign competition; the supply of essential imports may be reduced by artificial manipulation or by disturbances in the political balance; capital from abroad may be offered only at the price of concessions which restrict the freedom of political and economic action. These considerations may explain the drive for economic self-sufficiency which was apparent even before the World War and which was very considerably strengthened in the post-war period. The economic readjustments which took place during the war prepared some countries for a greater degree of economic independence than formerly they cared to enjoy, while the new states created by the peace treaties and Russia were eager to place their political independence on an economic basis. Thus old tariff walls were raised and new ones erected, and barriers heretofore unheard of were placed in the way of population movement across national frontiers. In the years 1919 to 1926 currency disorganization added its weight as an obstacle to interchange between countries, and with the beginning of the depression in 1929 restrictions were deliberately made more stringent as the result of a shortsighted policy of national self-preservation.

It does not seem to be open to doubt that the drive for national economic self-sufficiency is inspired by political considerations rather than by economic logic. There is at present no country, not excluding Russia, which commands all the economic factors in sufficient amounts to assure its independence; and even should such independence prove feasible it would not be advantageous from a strictly economic point of view. Technological progress and a rise in the standard of a growing population will in the future be accompanied necessarily by a further extension of international economic relations and an intensification of mutual interdependence. The forms which such relations will assume and the position of each country in the world economy will undoubtedly change. Some

of these changes, those resulting from the progress of technology or from the shifting of the centers of control in various national economies, are at present only a fascinating subject for speculation.

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**THEORY.** The theory of international trade consists in the application of general value and monetary theory to a special case in which the economic universe is divided into two or more partially independent units as the result of obstacles to the free movement of the factors of production or of the existence of distinct currency systems. To bring out sharply the consequence of immobility in the factors of production the classical writers assumed that there was absolutely no international mobility of the factors and that there was sufficient internal mobility to equalize the value productivity of each factor in all its employments. They entertained no illusions, however, as to the reality of these assumptions; they moderated their rigor upon occasion and conceded that the differences between inter- and intra-national mobility of the factors were differences in degree rather than in kind. Hume explicitly stated that his theory of international equilibrium applied equally to trade between different regions of the same country. Cairnes treated international trade as a special case of trade between non-competing productive groups. Bastable suggested that the term interregional trade would be preferable to international trade because the differentiating factor between domestic trade theory and international trade theory was the existence of barriers to movement of the factors, of which distance was the most important.

The special significance of political boundaries in the study of trade should not, however, be overlooked. Political boundaries tend to correspond with physical barriers or to coincide with racial, linguistic, sentimental, legal, monetary and other differences in population and institutions which operate as hindrances to trade. Political frontiers moreover have been made the basis for the deliberate establishment of barriers to trade and to the free movement of the factors in the form of tariffs, administrative restrictions, immigration legislation, discriminatory legislation against foreign capital, business enterprise and the like. For political reasons the interest in foreign trade is greater than in internal trade,

and statistical information in all countries has been more systematically and fully compiled for the former than for the latter.

The theory of international trade has been generally treated in two main divisions: the theory of international values and the theory of the mechanism of international trade. In both divisions systematic exposition of positive doctrine has been largely confined to the English classical school and its modern English and American followers. Continental writers have either ignored the theory or have confined themselves to criticisms of the validity of its specific propositions but have not attempted to construct an alternative theory. An exception should be made for Pareto, who applied his general equilibrium theory to trade between regions as a special case. The old classical theory has been revised and expanded almost without exception by its own adherents rather than by its critics or as a result of their writings.

The classical theory evolved largely as an incidental by-product of current controversies on practical issues; in the selection of problems and the distribution of emphasis it still reflects clearly the special circumstances under which it was developed. It was never adequately integrated with the general theories of value and price and of money and banking, with a distinct loss to both bodies of doctrine. Moreover the theory has suffered from the fact that with Taussig as the outstanding exception its leading exponents have attempted comprehensive and systematic exposition only in the form of overcompact and over-abstract summaries, in which the short run complications, the details of mechanism and the necessary qualifications, to the elucidation of which they had often made important contributions elsewhere, were either wholly ignored or treated too summarily. Much of the criticism which has been directed against the classical theory of international trade is based on these inadequate summaries and would not have been undertaken by the critics if they had examined the lesser writings of its leading exponents.

The theory of international values has been expounded by Ricardo, J. S. Mill, Marshall, Bastable, Edgeworth, Taussig and others largely with reference to its bearing on the perennial tariff controversy. The central proposition of this theory is the doctrine of comparative costs. It was apparently first stated by Torrens in 1815 but was given special emphasis for the first time by Ricardo in 1817. Adam Smith saw only that free trade made available the benefits of what

Torrens later called territorial division of labor; it involved the specialization by each country in the production of those commodities which it could produce at lower real costs than could other countries. Ricardo argued that superiority in comparative rather than absolute real costs should and under free trade would determine what commodities a country produced. A country which could produce all commodities at lower (or at higher) real costs than other countries would nevertheless gain from trade if it specialized in those commodities for which its comparative cost advantage was greatest (or its cost disadvantage was least). Ricardo presented the doctrine in unqualified and highly abstract form. He supported it by an arithmetical illustration for two commodities and two countries in which it was assumed that prices are proportional to real costs, the latter consisting only of days of homogeneous labor and remaining constant with changes in output. He apparently believed that, given differences in comparative costs, each country under free trade would necessarily specialize completely in the production of that commodity in which it had a comparative advantage and that both countries would necessarily profit from the trade. He adopted an arbitrary but not inconsistent ratio of exchange between the export and the import commodities without apparently seeing any necessity for explaining how that ratio would in fact be determined. He failed, however, to bring out adequately the relation between his comparative cost doctrine and his general theory of international equilibrium.

A succession of later writers have attempted to fill in these gaps. Pennington and J. S. Mill showed that the reciprocal demands of two countries for each other's products in terms of their own products, operating within the limits of the comparative costs, determined the ratio of exchange between the two countries' products and that the equivalence in value of exports and imports (the so-called equation of international exchange) was a condition of equilibrium. The sufficiency of Mill's demonstration that there was a determinate ratio of exchange between export and import commodities has been questioned, and in later editions of his *Principles* Mill added some unsatisfactory analysis to take care of some cases in which he conceded that there were multiple points of possible equilibrium. These were cases, however, of foreign trade elasticities less than unity, which are unlikely to be of practical importance in the analysis of

foreign trade, when a country's entire exports and imports are involved and when for many commodities the purchases can readily be shifted from one country to another with a change in relative prices.

J. S. Mill showed that if one country was of much greater economic importance than the other, under constant costs the ratio of exchange of the two commodities might be the same under trade as they would have been in the larger country in the absence of trade, with the result that all the benefit from trade would go to the smaller country. Whewell showed that in such cases the larger country might not find it profitable completely to specialize in the production of the commodity in which it had a comparative advantage. Mangoldt and Edgeworth showed that if there were more than two commodities, reciprocal demand operating within the limits of comparative costs rather than comparative costs alone would determine which commodities each country would export and import; the result, however, would always be that each country would export commodities in the upper range of its scale of comparative advantage and import commodities in the lower range.

All the writers from Ricardo on and probably even in the mercantilist period were aware that the course of trade was determined proximately by comparative differences in prices; and those who presented their analysis in terms of costs expressed in days of labor—including J. S. Mill, who elsewhere rejected the labor cost theory of value—did so only on the assumption that prices and money costs were proportional to real costs and that days of labor were a satisfactory index of comparative real costs. The task of expanding or revising the theory to take account of differences of wages in different occupations and of other cost factors than labor is still far from accomplishment, but some of the writers in the classical tradition, especially Longfield, Cairnes and Taussig, have made important contributions.

If labor costs are the only costs and differences of wages in different occupations are proportional to differences in the attractiveness of the occupations, comparative real costs in terms of disutility of labor still determine comparative prices and therefore the course of trade. Where the differences in wages are due to the existence of non-competing groups, however, and are not identical in order or degree in different countries, specialization will fail to be carried as far as or will be carried farther than comparative real

costs justify; thus if in any country wages are higher in the industries with a comparative advantage in real costs and if the ratio of comparative wages exceeds the ratio of comparative advantage in real costs, that country will under free trade specialize in the production of commodities in which its real costs are comparatively high. In such cases, however, free trade by operating to lessen the volume of employment in the comparatively overpaid occupations would tend to break down the labor monopoly in such occupations, whereas protection of the high wage industry would tend to perpetuate it.

When factors other than labor are taken into account and variability in the proportions in which the different factors are combined in different industries in the same country or for the same industry for different outputs is conceded, it is permissible to adhere to the comparative real cost type of analysis only on the highly questionable assumption that money rates of remuneration are proportional to real costs even as between different factors, or on the less questionable assumption that in the absence of additional information forces operating to create disparities between real costs and money costs are as likely to be in one direction as in another and will therefore tend to offset each other. On this last assumption comparative cost analysis establishes only a presumption rather than a demonstration of the economic desirability of free trade.

The older writers adhered to the assumption of constant costs, under which average and marginal costs are identical. Later writers pointed out that if production is subject to increasing costs, specialization will tend to take place in accordance with comparative marginal rather than average costs. If the cost curves have different degrees or directions of inclination as between different industries in the same country or as between the same industries in different countries, then the scale and possibly even the order of comparative marginal costs of different commodities in two or more countries will not be fixed but will vary with different degrees of specialization.

Several writers have argued that if a country finds itself at a comparative advantage in industries subject to increasing costs and at a comparative disadvantage in industries subject to decreasing costs, it may lose if it specializes in accordance with comparative costs. If decreasing costs are due to net internal economies of large scale production, individual marginal cost and industry marginal cost will tend to be identical;

and even under free trade no resources will be transferred from decreasing to increasing cost industries when they would have greater value productivity in the former. If decreasing costs are due to external economies, there is possibility of loss to a country from specialization in accordance with individual marginal comparative costs, since the increase in cost due to the contraction of the decreasing cost industry will be borne chiefly by others than those responsible for the transfer of productive resources from it to other industries. But if the external economies are a function of the size of the world industry rather than of the national industry, as may well be the case, transfer abroad of a portion of the national industry will not reduce these economies; and specialization in the increasing cost industries will not be carried farther under free trade than is justified by the comparative value productivities of the transferred resources in the two types of industry.

The most commonly used test of the existence of national benefit from trade, originating in the early part of the eighteenth century, was whether or not a unit of import commodities could be got indirectly through trade at a lower real cost than that at which it could be produced at home. This is still the best available measure of benefit from the marginal units of trade, when expressed in terms of the relative costs of direct and indirect acquisition of the marginal unit of a particular commodity. It is unsatisfactory, however, when used to measure the amount of benefit of trade as a whole, since, as Malthus pointed out, when the imported commodities can be produced at home only with great difficulty, the excess of the cost of producing them at home over the cost of obtaining them in exchange for domestic commodities may far exceed the total national income and may approach infinity. Under free trade a country employs a bundle of productive factors different in size and constituents as compared to restricted trade to obtain a bundle of consumable goods also different in size and constituents. J. S. Mill on one occasion claimed for trade that it increases the national supply of all commodities. Where this is the case it is an unambiguous demonstration of the existence of benefit from trade, if one disregard considerations relating to the distribution of national income or to the comparative intrinsic desirability of the different possible modes of employment of the country's productive resources. This result is not inevitable, however, for under free trade the consumers in the aggregate may choose to con-

sume less of some commodities and more of others than under protection. Adhering to the abstractions listed above the national case for trade is still unambiguous, if on the basis both of their relative market values in the absence of trade and of their relative market values under trade the increase in those commodities which become available under trade in increased volume exceeds in value the decrease in those commodities which become available under trade in decreased volume. From the cosmopolitan point of view trade will meet these tests more often than from the national point of view; and, except for the special cases of national external economies or of trade by nationally monopolized industries without foreign competition, long run restrictions on trade will never meet these tests whether from the cosmopolitan or from the national point of view. The classical theory of international trade does not, as many of its exponents have supposed, demonstrate the national profitability of trade under all long run circumstances, but it does establish strong presumptions in its favor under most practically realizable circumstances and leaves the situation ambiguous in most of the other conceivable circumstances.

So far the discussion of the benefits from trade has taken into consideration only costs, quantities of commodities and relative market values. For a complete analysis it would be necessary also to take into account the variable desires for or utilities of commodities, including consumers' surpluses. But all attempts so far made to introduce utility analysis into the theory of international trade have rested on the inadmissible identification of national demand schedules with national utility schedules.

Other concepts have been used to gauge the trend of benefit from trade as distinguished from its absolute measurement. The oldest, going back to the mercantilist period, is the amount of import goods obtained in exchange for a unit of export goods. This might be called the "commodity terms of trade." Given a common base year and base value for both indices, the trend of the ratio of the export price index to the import price index would measure the trend of the commodity terms of trade, with an increase in the export price index relative to the import price index signifying more favorable commodity terms of trade. A more significant although less used concept might be designated as the "factoral terms of trade" and would indicate the number of units of other countries' products which could be obtained in exchange for the

output of one unit of a given country's factors of production. This concept takes into account both the commodity terms of trade and the costs of production of the exported commodities. For some purposes this concept could be modified so as to take into consideration also the factorial costs of production of the other country. T'aussig has introduced a third concept, which he calls the "gross barter terms of trade" to distinguish it from the commodity terms, which he calls the "net barter terms of trade." By the gross barter terms of trade he means the ratio of the physical volume of imports to the physical volume of exports or of their respective money values after correction for changes in the value of the monetary unit. On the ground that imports are what a country gets as a result of its foreign trade and exports what it gives he maintains that the higher the value of imports as compared with exports the more favorable the gross barter terms of trade. This concept is superior to the concept of commodity terms in that it takes into account volume of transactions as well as unit exchange ratios, but it suffers from the defect that it treats credit transactions involving liquidation of previous indebtedness or the incurring of new indebtedness as if, for the time being at least, they were equivalent to the grant or the receipt of free gifts.

Torrens and Longfield appear to have originated analysis of the changes in the terms of trade caused by specific types of disturbances in a preexisting equilibrium. In connection with the controversy as to the relative merits of unilateral and reciprocal free trade during the 1830's Torrens maintained that the unilateral abolition of a tariff would result in an unfavorable shift in a country's commodity terms of trade. Senior and other economists, obviously influenced by their hesitation to make any concessions to the protectionist doctrine, disputed this but it was conceded by J. S. Mill and later writers. Longfield (*Three Lectures on Commerce and One on Absenteeism*, Dublin 1835) replied to the denial by Senior and McCulloch that the Irish suffered economic loss from the absenteeism of their landlords by pointing out the unfavorable effect on the Irish commodity terms of trade which such absenteeism would tend to have.

In the nineteenth century it was generally agreed that the export of capital or the remittance of subsidies or tribute abroad tends to make the commodity terms of trade move against the remitting country while the process of transfer is under way. The post-war discussion of the

transfer phase of reparations and interallied debts has resulted in a fuller analysis of the problem and in serious questioning of the old conclusions. In the traditional mode of dealing with the question it was argued that the preliminary export of gold by the remitting country would lower prices in that country and raise them in the receiving country and that such a relative movement of prices was necessary if the remitting country's exports were to increase and its imports to decrease sufficiently to transfer the payment in the form of goods rather than money. But this can be granted without conceding that the export prices of the paying country need necessarily fall relative to its import prices. The transfer of spendable funds from the paying to the receiving country will lead: (a) to an increased monetary demand in the receiving country for both its export and its import goods; (b) to a decreased monetary demand in the paying country for both its export and its import goods; (c) to an increased monetary supply in the paying country of its export class of commodities; and (d) to a decreased monetary supply in the receiving country of its export class of commodities. Of these changes only (c) and (d) are in character such as to establish a presumption in support of the traditional doctrine. But the net effect of all these changes on the commodity terms of trade will depend on the elasticities and the relationships to the domestic commodity supply and demand functions of all of these elements, and a definite solution would require quantitative analysis in terms of all the significant demand and supply functions. The *a priori* presumption will be stronger, however, in support of the proposition that the factorial terms of trade will shift against the paying country and in favor of the receiving country. There will be even a stronger presumption that the gross barter terms of trade will shift against the remitting country; i.e. that the physical volume of its exports will increase relative to the physical volume of its imports. In order that this should not occur it would be necessary for the commodity terms of trade to shift sufficiently in favor of the remitting country to make possible a relative increase in the aggregate value of its exports as compared to that of its imports, while no change in the aggregate physical volume of its exports as compared to that of its imports takes place.

The theory of international values usually works with comparative real costs and with reciprocal supply and demand functions of one commodity or class of commodities offered or

demand in terms of another commodity or class of commodities received or given in exchange. It abstracts from money, monetary prices and monetary supply and demand schedules. Bastable heralded as Ricardo's greatest contribution to the theory the argument that international trade in a money economy produces the same results as would take place under barter. This abstraction from money was useful as a means of avoiding the complications of a changing value of the standard of measurement itself and of emphasizing the more fundamental factors underlying the monetary phenomena. It has been criticized, however, as leading to the mistaken impression that the monetary mechanism was purely passive and was not itself a factor contributing to the determination of the nature of and the benefit from trade.

In developing the theory of the mechanism of adjustment of international balances the classical economists did, however, take explicit account of money, money prices and the monetary mechanism; and in fact they often expounded it as an integral part of their monetary theory. The classical theory of the mechanism of adjustment of international balances was first clearly formulated in its main outlines by David Hume and was closely approached even by earlier writers; it was used as a refutation of the mercantilist contention that foreign trade can and should be so regulated as permanently to augment the national stock of money. The theory insists upon the existence of a self-regulating mechanism for the international distribution of metallic money, whereby each country gets the amount of money necessary to maintain equilibrium in its international balances. It maintains that if the quantity of money in a country is increased, then, other things remaining the same, prices in the country will rise, exports will consequently decline and imports increase, with the result that the foreign exchanges will move against the country and will tend in some degree to bring about a restoration of equilibrium in the trade balance. If, however, imports continue to exceed exports in value, the exchanges will move to the gold export points; gold will be exported to liquidate the adverse balance of payments; prices will consequently fall at home and rise abroad; imports will fall and exports rise; and equilibrium will be reestablished with the foreign exchanges at or near par, no further gold movements, an even balance of trade and prices higher than before both at home and abroad. This is essentially Hume's account and was reproduced

without substantial change by the classical economists in their general treatises.

For some phases of the mechanism, however, the classical economists introduced in their lesser writings a number of important elaborations and qualifications and in controversy among themselves developed divergent and rival explanations. The first important advance was made during the bullionist controversy in England in the first quarter of the nineteenth century. The results of an expansion of convertible paper currency, circulating alongside and on a parity with standard metallic money and issued freely by a number of banks subject only to the requirement of convertibility, were analyzed by Henry Thornton, Ricardo and other writers. Special attention was paid to the question of the dependence of the amount of note issue by country banks and therefore of the general price level on the amount of note issue by the Bank of England, Ricardo maintaining and others denying the necessity for any such close dependence. Thornton initiated analysis of the mechanism of restoration of international equilibrium when disturbed by other causes than variations in the quantity of money, such as harvest failures or payment of subsidies. He maintained that in such cases equilibrium was restored by the same mechanism as that invoked by Hume to explain the restoration of equilibrium when disturbed by changes in the quantity of money. Wheatley and Ricardo denied this and contended that in the case of non-currency disturbances equilibrium was immediately restored through the automatic adjustment of the demands of the different countries for one another's products, without setting into motion any intermediate mechanism of exchange rate variations, gold flows and price level changes. A number of writers participating in the bullionist controversy made it clear that they saw the distinction between the commodity balance of trade and the balance of immediate indebtedness and that they realized that for the theory of the mechanism of international trade the commodity balance of trade had significance only as the predominant element in the larger balance of immediate indebtedness, which included the invisible as well as the tangible elements in international transactions.

Incidental to the controversy between the currency and banking schools of 1830 to 1860 the theory was further elaborated so as to take account of short run complications and of bank deposits as either constituting currency along with gold and banknotes or as contributing to



the efficiency of currency proper. In the course of this controversy most of the present day doctrines with respect to the part played by the credit policy of the central bank and of the banking system as a whole both in disturbing and in restoring equilibrium in international balances were clearly and frequently although somewhat unsystematically presented. Many of the participants in this controversy, including J. S. Mill and Cairnes (*An Examination into the Principles of Currency Involved in the Bank Charter Act of 1844*, Dublin 1854), dealt with the mechanism not as if it were a purely automatic process, the outcome of the unregulated activities of countless individuals pursuing their private gain, but as managed by the Bank of England and elaborated on the need under a system of credit banking of a central agency which should endeavor to foresee and forestall dangerous gold drains. The increasing importance of central banks and of international short term capital movements later resulted in still greater emphasis in the more recent literature on these phases of the mechanism, especially in discussions of short run disturbances and cyclical variations but, with one important exception, in no radical revision of the general doctrine.

Most of the classical economists followed Thornton and Malthus rather than Ricardo in placing great emphasis on the part played by relative changes in price levels in the adjustment of international balances to disturbances resulting from international capital movements. Taussig following a hint of Cairnes further elaborated the theory by distinguishing between the divergent trends of the sectional price levels, i.e. the price levels of internationally traded commodities on the one hand and of domestic commodities on the other. Cairnes argued that the international transfer of gold associated with such disturbances would of itself constitute a transfer of purchasing power, would therefore operate to increase the purchases of foreign goods in the receiving country and to decrease them in the remitting country even in the absence of price changes and would thus lessen the need for price level changes as a part of the mechanism of adjustment. In recent years Bastable, Wicksell and Ohlin have carried this line of argument still further. Wicksell asserted that a sufficient contribution to adjustment would be made in the absence of price level changes by the increased purchases of exportable goods as well as of imports in the receiving country and by the decreased purchases of exportable goods as well as

of imports in the paying country, which would result in each case from the transfer of purchasing power. Ohlin has emphasized the possibility of the transfer of purchasing power otherwise than through gold movements and especially through international shifts of bank balances. This trend marks essentially a return to the conclusions although not necessarily to the analysis of Wheatley and Ricardo. While these writers correct the predominant overemphasis upon the part played by gold movements and direct attention to a neglected phase of the mechanism, their reluctance to attach any weight to price level changes induced by gold movements as a significant part of the mechanism seems unwarranted on either a priori or empirical grounds. These modern modifications of the classical theory have had practical significance in that they have been used to reinforce the presumption already derived by many economists from the classical theory that the transfer problem in connection with reparations was unlikely to prove a serious one.

The dominant form of classical theory of international trade did not posit any simple relationship between general price levels in different countries, even when these were on a common gold standard. Internationally traded commodities, given a common currency, would have maximum differentials in prices in different countries corresponding to the costs of transferring these commodities from the country of export to the country of import. In the absence of transportation costs and tariffs the scales of relative prices of such commodities would approach identity in all countries, even when the currencies were different. But there would be no simple relationship between the prices of particular domestic commodities or the price levels of domestic commodities as a class in different countries; where these are different commodities, direct price comparison is impossible in any case. If the factors of production employed in one country's export industries have high efficiency measured in the monetary value of output as compared to the factors of production employed in other countries' export industries, money wages and other incomes would be comparatively high in such a country and real incomes would also be high if measured in export or import commodities. But the prices of domestic commodities might be comparatively high and real incomes in terms of domestic commodities comparatively low, if the comparative efficiency in their production was low.

Wheatley, Ricardo and in recent years Cassel and other exponents of the purchasing power parity theory have, however, expounded a simpler theory of international price relationships. According to these writers relative trends of price levels in two countries will be inversely proportional to the trends of the rates of exchange of their respective currencies, so as to maintain constancy in the trend of the ratio of general purchasing power of the two currencies in either country multiplied by their exchange ratio. This theory was applied especially to paper currencies, but Cassel admitted that if valid it should hold also for gold standard currencies. Since under the gold standard variations in exchange rates are limited to the narrow range of the gold points, it would follow from this theory that under the gold standard appreciably divergent price level trends in two countries would be impossible. Wheatley and Ricardo admitted of no exception, but Cassel has conceded that the theory of uniform trends or price levels after adjustment for changes in exchange rates would hold only if no disturbing factors such as changes in transportation costs, tariffs or capital movements occurred. There is an element of truth in the theory. If in one country there is an increase in the volume of currency which affects all prices proportionately within that country and if no other change occurs, then that country's currency should fall in value relative to foreign currencies by exactly the degree in which its price level has risen. But even under the gold standard and even if transportation costs are disregarded, there may be divergences in the trend of the general price levels in two countries, if there are changes in the reciprocal demand of these countries for one another's products due to changes either on the demand or on the cost side. There may even be divergent trends of weighted price indices in the two countries for internationally traded commodities, if the weights used correspond to the relative importance of the different commodities in the respective countries and if these weights differ for the two countries. During a period, however, when the dominant factor in the situation is the variation in the issue of inconvertible paper money, the purchasing power parity theory in the absence of speculative disturbances often gives a fairly satisfactory explanation of the actual course of events. Under the gold standard dependence on a common monetary standard tends to result in a substantial similarity of trend of price levels and especially of prices of internationally traded

commodities in different countries. But there is no simple relationship either between the absolute levels or between the trends of the price levels of domestic commodities in different countries, whether these have paper currencies or different metallic currencies or are all on the gold standard.

The chief difference between the mechanism of adjustment of international balances under the gold standard and under the paper standard is the greater importance under the latter of variations in the exchange rates. The role in the equilibrating mechanism played under the gold standard by exchange rates, gold movements and changes in relative price levels must under the paper standard be carried out by exchange rate changes alone. The contrast, however, is less sharp in this connection between the mechanism under a managed gold standard and that under a paper standard. Under a paper standard price levels are under the control of the paper money and bank credit issuing agencies more completely than under the gold standard. These agencies can keep price levels as a whole substantially free from external influence and can thus throw the main burden of international adjustment on the exchange rates. But the disparity in terms of their own currency which may thus develop between the prices of international and of domestic commodities will ordinarily result in considerable pressure on these agencies to make the price level move much as it would under the gold standard. Even in such a case, however, the movement of prices is the result of deliberate central action and not, as under the pure gold standard, of the automatic response of countless individuals to changes of external origin. No detailed theory of mechanism under the paper standard analogous to that under the pure gold standard can be developed on a priori grounds because of the presence in the former and the absence in the latter of a deliberate and centralized control over the amount of circulating media.

The theory of international trade is almost invariably expounded in terms of free competition within and between countries. The growth of monopolization of industry and the development of government trading, most notably and completely in Soviet Russia but also in other important instances, tend to lessen the applicability of this theory to the actual course of post-war trade. But complete commodity monopolies in world markets are still rare, and trade under partial monopoly conditions is qualitatively little dif-

ferent from trade under perfect competition. Where governments trade as units on behalf of their nationals they can follow other principles than those of buying in the cheapest and selling in the dearest markets and of specialization in accordance with comparative costs, and they may pursue political as well as economic objectives. It is impossible to generalize about such cases, and the only procedure available is to observe the methods and the objectives of the particular policy followed and to compare its results with those which could reasonably have been expected to flow from trade conducted by private enterprise in pursuit of private gain.

JACOB VINER

See: COMMERCE; FOREIGN INVESTMENT; MIGRATION; BALANCE OF TRADE; FOREIGN EXCHANGE; RAW MATERIALS; FOOD SUPPLY; LOCALIZATION OF INDUSTRY; TRANSPORTATION; SHIPPING; COMMODITY EXCHANGES; FAIRS; BANKING; COMMERCIAL; MONEY MARKET; MARINE INSURANCE; CHAMBERS OF COMMERCE; COMMERCIAL LAW.

ECONOMIC POLICY; MERCANTILISM; COLONIAL SYSTEM; FREE TRADE; PROTECTION; IMPERIALISM; COLONIAL ECONOMIC POLICY; COMMERCIAL TREATIES; TARIFF; CUSTOMS DUTIES; DRAWBACK; BOUNTIES; EMBARGO; BUSINESS, GOVERNMENT SERVICES FOR; CONSULAR SERVICE; EXPORT CREDITS; CREDIT INSURANCE.

CARTEL; EXPORT ASSOCIATIONS; DUMPING; AGRICULTURAL MARKETING; FARM RELIEF; VALORIZATION; EXPORT DUTIES.

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**INTERNATIONAL WATERWAYS.** Under Roman law a navigable stream was a public passage way free for the navigation of all citizens of Rome or of its subjects or allies. The public law of the Holy Roman Empire, which applied in central Europe, contained the same principle. In both empires this question was looked upon as one of internal public law, but the wide extent of their territories and the universality of their claims to dominion made for a general acceptance of the rule of freedom of navigation and commerce over great rivers, such as the Danube, the Rhine and the Oder, which persisted after the political situation had been changed by the emergence of national states, like France, and by the increasing independence of the great princes in Germany.

Freedom of commerce and of navigation was frequently recognized in legal documents of the empire and was expressly declared to be an inter-

national right in treaties affecting the Rhine and German rivers, notably the treaties of Westphalia at the close of the 'Thirty Years' War. This legal freedom of commerce and of navigation was limited, however, by the rights of riparian lords, of cities and of boatmen's associations. In theory the right of princes and cities to take tolls rested on ancient custom or grant from the empire, but the existence of many illegal tolls is evidenced by provisions in the early treaties requiring their abolition. The tolls were established theoretically as a grant by the empire to provide a means of protection to boatmen and merchants and for upkeep of towpaths and channels, but they were in fact a heavy burden on the navigation of the river and a source of great profit to the territorial princes. The monopoly of navigation on various stretches of the river by guilds of boatmen, the right of merchants in the riparian cities to demand compulsory unloading of passing cargoes and the heavy passage tolls of the riparian princes, made worse by the delays at the numerous toll stations, continued in effect to the time of the French Revolution. The advantage to the princes and to their subjects which came from attracting traffic to the river was the only check on these obstructions. It led on the Rhine to a sort of joint control by the four great Rhine princes. Recognizing the common interest, they agreed with one another to protect traveling merchants who had paid the tolls and to make the examination of cargoes for toll purposes as prompt as possible. A committee was to meet yearly to discuss navigation questions and to advise on improvements on the river and on police measures. While this ameliorated the situation it did not free the growing commerce of Europe from hampering restrictions.

The rise of independent states and the consequent development of international law does not appear to have changed the situation substantially. Early writers on international law accept the existing tolls and ancient privileges but maintain the right of free passage for boats and goods. Grotius argues that no toll can be taken for the exercise of this common right except as a recompense for the cost of protection of travelers and maintenance of the river. Others, however, developed a theory that the law of nature did not permit free passage of goods and that such passage could be claimed by merchants and boatmen of other countries only as a result of contract.

A striking claim for river freedom was made in the eighteenth century. The 'Treaty of Mün-

ster gave the Dutch the privilege of closing the Scheldt, the estuary which led from the sea to Antwerp, and that closure was strictly maintained. The emperor Joseph II as lord of the Low Countries tried to break the Dutch hold on the river on the ground that the treaty throttled the trade of the city of Antwerp. Through the mediation of France, however, the treaty right was affirmed. Seven years later France, then a republic, took a contrary view. The French army occupied Antwerp and the French Executive Council declared the river open on the ground of natural justice, but only for riparian countries.

After the decree was confirmed by a treaty between France and Holland the French government proceeded to extend by treaty the principle to the Rhine, on which it was a riparian, and proposed that the Holy Roman Empire should agree to apply to the Danube the rule of freedom of navigation for French vessels; but this was not accepted by the empire. As French power was extended on the Rhine, the republic succeeded by the agreement of 1804 in abolishing the guilds and limiting the obstructive rights of the cities to the right of transfer of cargo at Mainz and Cologne. In effect a monopoly of navigation was secured in reorganized government regulated associations on the upper and lower river, into which, however, any qualified boatman might be admitted. Tolls were fixed and could not be increased without the consent of both parties; toll stations were limited in number, but the principle of profit was not abandoned. France and the German princes divided the surplus revenue. The treaty is famous in river history for establishing the first organized system of international river control. It was administered by a director general, appointed jointly by the French government and the archbishop of Cologne, acting for the German Rhine princes. The director general had supervision over the towpaths and the policing of navigation. The cost of maintenance of towpaths was made a charge on the toll revenue. Judicial unity was sought by the establishment of an appeal Board of Jurists, made up of one representative for each party to the treaty and the director general; to this board could be carried rulings of the toll officials involving tolls or infractions of regulations. Such was the situation at the close of the Napoleonic wars. By the Peace of Paris in 1814 the allies went a step beyond the opinions and practise of the French government by declaring the freedom of the Rhine "so that it can be interdicted to no one" and engaged the congress

which was to settle the affairs of Europe to extend the same principle to other rivers.

The Congress of Vienna went on record in favor of freedom of navigation and confided to the riparian states on each stream the duty of organizing its administration as an international system. The principles which were to govern Rhine regulations were laid down in some detail. As a compromise between the general interest in freedom of navigation and the territorial rights of individual states a central commission was set up to make rules and regulations for the navigation of the river and to keep it free of hindrances to navigation, but it was without power to do more than propose the regulations to the states. Compromise again appears in the Rhine courts which were to settle disputes over the tolls and to judge infractions of the regulations. The judges were appointed by the local authorities, but they took an oath to observe the treaty and regulations; and an appeal was allowed from their decisions to the Central Commission itself. As an alternative an appeal could be taken to a higher court of the local state. The number of toll stations and the total tolls were also fixed in the treaty.

It was not until 1831 that the Rhine Treaty was accepted and the commission set up. It functioned well, with certain liberalizing modifications made in 1868 by the Treaty of Mannheim, until the World War. A similar system was applied on the Elbe and on other European rivers and was enacted for the Congo by the Berlin Conference of 1885, but an administrative organ was never set up on the African river. The system was able to deal with the changes resulting from the replacement of boats moved by sail and horse power by steamboats and long fleets of barges towed by powerful tugs. It was adjusted to the commercial transformation by which boats owned by individuals gave way to great fleets of steamers and barges owned by large corporations, which controlled the navigation on the river. It preserved the navigability of the channel in the common interest against threatened interference by bridges and power works. The system of tolls was formally abolished in 1868 and complete freedom of navigation assured to non-riparian boats. Other less important international rivers in Europe were regulated by treaty between the riparian powers, assuring free navigation for riparians and freedom of commerce but without any elaborate machinery for enforcement. Thus freedom of navigation was in principle declared the rule for all

international rivers on the continent, with control over the navigation and detailed regulation vested in the riparian states, which were recognized as having a primary interest.

A notable exception to the principle of riparian control was the European Commission of the Danube created by the Treaty of Paris of 1856 at the end of the Crimean War. The commission was intended at first as a temporary expedient. The permanent control of the river was to be in a riparian commission following the normal European system. There was, however, an urgent need of improvements to deepen the water in the mouth of the river. The powers did not trust Turkey, so the European Commission was set up to do the work and authorized to fix tolls to cover the cost. The commission was composed of members appointed by the great powers, except Russia, and Turkey as sole riparian. It was expected that the commission would have completed its labors in two years, but the weakness and inefficiency of Turkey led to its continuation and to the great increase of its power, so that it finally became the authority which made the rules of navigation on the stretch within its jurisdiction and enforced them through its own administrative officers, who had the power of levying fines. Russia as a great power and Rumania as riparian were later admitted. Guard boats of the great powers represented on the commission were authorized to act against ships flying their flags, as far as the jurisdiction of the commission extended, although it was all on Turkish, subsequently Rumanian, territory. That jurisdiction was extended to the cities on the river to which the seagoing vessels ascended, so that the commission, at first a mere engineering organization on the Danube delta, came to have a very wide authority independent of the riparian state over works and the navigation in the river up to the great ports. On the upper river no plan for a regulating commission proved successful because of political difficulties, but navigation was free to all riparian countries under treaties and in the lower river navigation was free to all flags.

On the European rivers it was evident that there must be control of works interfering with navigation. This was taken care of in the Rhine Treaty by requiring the consent of the Central Commission for the construction of bridges, dams and other works which might hamper shipping. Planning and building works of improvement on the river were left to the riparian states, which defrayed the cost, except in the

notable case of the Danube Commission and in the instance where improvements at the famous Iron Gates, a series of rapids in the same river, were confided to Austria-Hungary, which was permitted to charge tolls to recoup the cost. Normally, however, if the river was improved no extra charge could be made on passing boats. On the Rhine after 1868 all vessels could profit without charge by the expensive works which deepened and rectified the channel.

On the American continents the development followed another course. The great South American rivers were opened to the navigation of all flags by treaties and by unilateral declaration of the individual governments. Notably Brazil proclaimed the freedom of navigation on the Amazon, which is a means of communication from Peru and Bolivia to the Atlantic. There was no necessity on these wide or comparatively little frequented streams for the joint regulation of navigation and for the creation of an organ for quick adaptation of the rules to new conditions arising on the river.

In North America the United States was in the beginning of its history vitally interested in the free navigation of rivers. Both the St. Lawrence and the Mississippi were outlets for great interior American territories. The mouths of both rivers were held by foreign states and the American government was always most insistent on the principle of freedom of navigation for the upper riparians down to the sea and the right to use the port of New Orleans, without which freedom of navigation was of little value. The necessity of freeing the trade of the west had more influence than the acquisition of new territory in leading to the Louisiana Purchase, which put the whole Mississippi valley under the American flag. On the St. Lawrence and other rivers between the two countries the United States and Canada were able to arrive by treaty at a satisfactory arrangement of their disputes over navigation. There has been no necessity for the kind of administration developed in Europe to regulate vessels using the waterway, but the problem of interference with navigation by works in the river caused the creation in 1909 of an international commission, more properly a sort of administrative international court, whose consent is required for the construction of any dams or other obstructions in waterways common to the two countries or for the taking of water from them.

The peace conference after the World War emphasized world wide as against riparian rights

in European rivers, being principally concerned with the great streams flowing in part through the territory of the central empires. Several of the new states created at Versailles—Czechoslovakia, Hungary, Austria—had no seaports but were upper riparians on navigable rivers. France had come back to the Rhine as an upper riparian after having been off the river since 1870. There is also the possibility of the development by the building of connecting canals of an inland water route from the North Sea to the Black Sea much shorter than the sea route and competing with it. There were therefore strong economic and political reasons for the Allies' insistence on the rights of other than riparian states in the control of the rivers. The treaties of peace declared the central European streams international and open to the commerce of all flags. They changed the principle of Vienna which confided the regulation to the riparians, by putting a strong group of non-riparians on the commission which laid down the river statutes and judged river cases. In no instance were the non-riparians given a majority, but no longer was the administration of the Rhine and the Elbe and the Oder looked on as a matter of local concern. International rivers other than those in central Europe were in general left in control of riparians. In the Commission of the Danube which was created as a result of the conference of Paris the non-riparian interest was represented by members of the European Commission, which was continued minus Russia, Germany, Austria-Hungary and Turkey.

Freedom of navigation of international rivers as part of general freedom of communications and transit is fixed as a principle in the Covenant of the League of Nations and has been included in general treaties which assure to all countries signing them free use of international streams passing through the territory of other signatory countries. Machinery has been set up in the League to facilitate the carrying out of the obligation of free transit. The transit and communications organization of the League consists of a permanent secretariat, an advisory and technical committee which meets about twice a year and a general conference meeting every four years. It thus provides a forum for the discussion of difficulties, and it has provided also a method for settling disputes arising on particular river systems under the treaties governing them. Such a difference may be submitted to the organization, which will then investigate through experts and render an opinion which although not binding

may have very persuasive effects. The judicial system of determining the meaning of treaties set up by the League through the Permanent Court applies here also, and a new legal guaranty of order on European rivers and a protection of rights of navigation and use of waters is contained in the clauses put into the post-war river treaties and into the general convention, permitting appeal to the International Court on the part of any one of the states interested.

While there will always be minor disputes between the nations using the rivers, the administration of the Rhine and the smaller central European streams under the post-war order has offered few serious problems and has worked to the general satisfaction of all. The Danube, however, is a more complex problem. While the revived European Commission and the new international commission, which divide the administration between them, have preserved general freedom of navigation, they have been criticized for their failure to perform some of the functions of construction and improvement assigned to them at Versailles and for postponing repeatedly consideration of difficult problems instead of meeting them at once. Nevertheless, many difficulties have been overcome and substantial results achieved.

Freedom of navigation of international rivers is sometimes treated as a principle of international law, and some authors even extend the principle to national rivers; but in practise there have been no cases where navigation even of an international river has been claimed and permitted as a legal right. The United States endeavored to make the point with Great Britain but encountered stout resistance and finally yielded to settling the dispute by a treaty. In Europe the system of treaties covers all the important rivers, and freedom of navigation of international streams has been accepted "as the public law of Europe." The right of navigation is a custom secured by treaty rather than a principle of international law, and perhaps the best proof of its dependence on convention is in the general treaty of 1921 on navigable waters, by which each signatory grants reciprocally freedom of navigation on the portion of international waterways under its jurisdiction. Even, however, if the principle of law were accepted, it would be necessary to have a regulation in detail, which would be possible only through agreement among the states. On crowded rivers there must be a single set of rules and regulations for navigation effective in the territory of all the riparian

states; there must be found some way of regulating the customs formalities and controlling boatmen on the river. Furthermore the right of passage with vessels and goods would be of little importance without the right to use the ports to which the goods are sent, and this must be secured also by reciprocal treaty regulation. Again, many rivers are broken by rapids and falls around which canals have been constructed. If free navigation of a river is to be a reality, the right to use these canals must be permitted. Even if a rule of law authorized joint use of the stream by the riparians, this right would not extend to works constructed by one of the states on its own territory. In practise on the great waterways of the world canals are made free by treaty.

The custom of freedom of navigation, no matter how well guaranteed by treaties, is likely to break down in time of war. Thus during the World War navigation on the Danube was broken up by active naval operations on the river and by the planting of mines, clear breaches of the Treaty of Berlin. It is very difficult in practise to prevent strong belligerent states from using any force at their disposal to defeat the enemy and to keep naval activity off a river which forms a military line.

National rivers are under the control of the national sovereign, who may permit or refuse navigation by foreign vessels. Several South American countries, some by treaty and some by statute, permit free navigation on their streams. Such statutes may of course be repealed at any time, in which case no government whose subjects have been enjoying privileges under the provision has the right to complain. In China the right to navigate Chinese rivers has been given to foreigners by treaty. There is vigorous opposition on the part of many Chinese to this arrangement, but there is not likely to be any change before there has been a considerable development of Chinese navigation. The Chinese object not only to having foreign vessels on their rivers but also to the unfairness of an arrangement which gives to foreigners a privilege on internal Chinese waters which is not granted to Chinese in the territory of the foreign state.

The principle of the first French Republic that a stream is the common property of all the riparians has been fully accepted in Europe and generally applied in other countries, but this recognition has been limited to use for navigation and extended to non-riparians. Only comparatively recently, as the value of streams as a source of electrical power has increased, has the

community of interests theory been suggested as applying to the use of these streams either for this purpose or for taking water for irrigation or other uses. There are many difficulties inherent in the establishment of electrical works so placed that they will involve more than one country. In 1911 the Institute of International Law, representing the best theory on the subject, prepared a draft convention under which the principle of community of interest was to be applied in respect of all the uses of an international river. The institute, however, was ahead of its time, and even in 1921 at the Conference on International Waterways at Barcelona the governments were able to agree only on a general treaty binding signatory states to permit investigation of conditions on their territory by other signatory states, where necessary, to prepare plans for a development and to enter into negotiations for the execution of a project interesting two or more states. Even this mild attempt at securing unity of development has been ratified by few states. The principle of unity of use of streams has been most fully developed in the Treaty of 1909 in respect to boundary streams between the United States and Canada.

Both as doctrine and as practice the question of the right of an upper riparian state to take water from an international stream to the detriment of a lower state has been contested between the United States and Mexico. The United States as an upper riparian has never admitted the right of its neighbor to prevent the construction of dams and the diversion of water from the Rio Grande and Colorado but has admitted that as a matter of equity and comity the rights of the lower riparian should be considered. In the Convention of 1906 the United States government agreed to assure to Mexico a certain flow of water as a result of the Rio Grande irrigation project, although the government declared expressly that this arrangement was not to be considered as a recognition of any right on the part of Mexico. Authors are divided on the question, many maintaining that one country should not be permitted even by works entirely on its territory to make such use of an international stream that injury results to another riparian without the latter's consent. In deciding disputes between the states in the United States the Supreme Court has applied this theory. Other authors agree that the injured state has no legal right to object, but good neighborliness and comity should lead to respect for its necessities. It is probable that the development will

be in this direction. But the principle of community of use has not behind it the long historic development of the principle of community of navigation.

Freedom of navigation of the great canals which join two seas is more far reaching than freedom of rivers. It is the commerce of the world and not the commerce of a group of riparian states that is affected by transportation through the Suez Canal, the Panama Canal and the Kiel Canal, which unites the North Sea with the Baltic. These canals are open by agreement. The Convention of 1888, signed by the great powers and some of the smaller powers of Europe and revived by the Treaty of Lausanne of 1923, requires that the Suez Canal "shall always be free and open in time of war as in time of peace, to every vessel of commerce or of war, without distinction of flag." The treaties between Great Britain and the United States and between the United States and Panama adopt for the Panama Canal the rule that "the canal shall be free and open to the vessels of commerce and of war of all nations . . . on terms of entire equality." The Kiel Canal, by article 380 of the Treaty of Versailles, "shall be maintained free and open to the vessels of commerce and of war of all nations at peace with Germany on terms of entire equality." The right of use by belligerents of the Suez and Panama canals is regulated, and acts of war in their waters are forbidden. The notion of their neutralization is, however, very limited. The United States while at peace will enforce the neutrality of the Panama Canal but is not barred from preventing its use by an enemy. The Suez Convention binds the European powers and has been applied in several wars to assure equality among the belligerents.

After the World War an attempt was made effectively to internationalize the Dardanelles and the Bosphorus by the Convention of 1923. Demilitarized zones have been established on both sides of these waterways and they are controlled by an international commission under the League of Nations. Turkey holds the permanent presidency of this commission. The straits are to be open to merchantmen and war vessels of all powers in peace or war, except to the enemies of Turkey.

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See: INTERNATIONAL ORGANIZATION; MARITIME LAW; NEUTRALIZATION; FREEDOM OF THE SEAS; TERRITORIAL WATERS; WATERWAYS, INLAND; TRANSIT DUTIES; FISHERIES.

Consult: Hershey, A. S., *The Essentials of International*



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INTERNATIONALISM may be defined as the ideal of an organic, supernatural society which would include within itself constituent national societies controlled from above but endowed with independent functions and vitality. Implicit in the ideal is the deeplying presupposition that the process whereby the social unit—within which individuals feel themselves bound by ties of mutual sympathy, common interests and moral obligation—has been gradually enlarged through the course of history is capable of still further expansion. Since the beginning of the modern period the dominant unit of moral and social obligation has been the nation, a grouping bound not only by political allegiance and eco-

nomic interests but also by certain elements of a common culture, usually by a common language and invariably by a common historical background of struggle and achievement. While internationalism aspires to transcend national antagonisms, whether due to geographical or to historical forces, and entails necessarily a genuine limitation of national sovereignty, it assumes the survival of nationality in a modified, regulated form. Essentially institutional in its program and objective in its approach, it is distinguishable from cosmopolitanism, which may be interpreted as a subjective state of mind that grasps the unity of mankind without, however, attempting to solve the relations of the part to the whole.

Despite the violent antagonisms which it has aroused ecclesiastical organization may be said to have been on the whole a powerful influence in the evolution toward internationalism. Although the cosmopolitan tradition inherited by the mediaeval Christian world should be distinguished from internationalism proper, which presupposes the existence of national states, it remains none the less true that the mediaeval church created and conserved in the shadowy structure of the Holy Roman Empire at least the aspiration for an international society. This aspiration, which later European civilization never wholly lost, inspired in the period following the rise of the national state a succession of influential projects which were international in spirit. Sully's project for a federation of Christian princes who would assure peace among themselves and incidentally fight the Turks was followed by William Penn's more sincere version, and by stimulating the more systematic proposals of the abbé de Saint-Pierre and Rousseau for a pacific federation it helped indirectly to form the visionary mind of the czar Alexander and thus to shape the Holy Alliance. These schemes were all confined to Europe and based themselves rather on the fraternity which ought to unite Christian princes than on any democratic conception of human brotherhood.

As an effective force, however, the conception of ties wider than national frontiers was forwarded less by speculation than by the struggles of creeds and classes in the modern world. The wars of religion of the seventeenth century, which divided Europe into a Protestant and a Catholic party, reflected, however broadly, a sense of common interests within the rising mercantile and capitalist class in its struggle with feudalism. The Enlightenment of the eighteenth

century, which freed this new outlook of the middle class from its early theological basis, was cosmopolitan. A lay intelligentsia of writers and scientists was winning for itself in this century a new position of leadership. Experimental science was based from the first on international collaboration and created its own world wide republic of learning. It was an age of cheap and rapid translation; what was written in Paris was printed in English within a few months. The philosophers wrote for mankind. The musicians could defy the legacy of Babel. This cosmopolitan outlook the intellectual and artistic world has never since lost. At a later date German music and philosophy and French painting helped to soften a national feud; while a distinctive national note in art could whet the curiosity and sympathy of the rest of mankind.

Moreover the eighteenth century made the immense intellectual advance of conceiving world history as a single evolutionary process. A generation which had read Volney or Condorcet's stimulating sketch could no longer suppose that nations work out their destiny in isolation. When the Enlightenment became with the French Revolution an "armed doctrine," there resulted at least in the earlier phases of the movement a vast international struggle waged by a class, conscious of a common antagonism to priests and kings and of common interest transcending frontiers. Franklin's epigram, "Where liberty is, there is my country," and Paine's crusading retort, "Where liberty is not, there is mine," sum up its spirit. Theoretical speculations concerning an eventual international federation were in the main hasty improvisations ephemeral in their influence. A striking exception, however, is Kant's *Zum ewigen Frieden*, which still retains its value as a clearly formulated and systematic expression of this early liberal internationalism dedicated to the perpetuation of peace. Although Kant's sketch represented on its formal, constructive side a development of the project of Saint-Pierre, it is significant that in harmony with the rapidly emerging spirit of democracy great emphasis is laid upon the stipulation that every member of the international commonwealth be a republic.

This liberal, revolutionary internationalism giving way for a time to the distorted internationalism imposed by Napoleon produced eventually by way of reaction the Holy Alliance. Not genuinely international, inasmuch as it constituted an extreme repression of nationality, the Holy Alliance was a loose union of Old World

"police" states designed to preserve order on the basis of the dispositions of the Congress of Vienna, to keep the peace and to buttress monarchy, conceived as a divinely appointed institution, against the godless forces of revolution. The just hatred which it aroused among democratic and liberal elements in Europe and America has tended to obscure the immense advance which it represented. After the anarchy of universal war it was the first attempt to base order on the consent of the chief governments of civilization. It conceived of its congresses as quasi-sovereign assemblies entitled to make decisions for the general good; nor was its organized conscience wholly absorbed in combating liberalism and nationalism, for it repressed the slave trade also. Fully recognizing the principle that in any part of the world disturbances, however minor, may become matters of universal concern it represented, albeit with the feudal perversity of an older time, a higher sense of human solidarity than did some of the statesmen who broke away from it. Canning, for example, although in fact he helped the cause of freedom, was in principle looking backward when he invoked the "healthy" rule, "each for himself and the devil take the hindmost." It remains true nevertheless that the identification of world order by the Holy Alliance with the pretensions of "legitimate" dynasties and despotic empires discredited internationalism itself and delayed its advance.

This incarnation of internationalism in a police uniform led to popular reactions in various forms, ranging from nationalist risings to the Monroe Doctrine. One of these, although based on a reading of history as the struggle of classes, was the most uncompromising assertion of an international position yet uttered. Karl Marx through his Hegelian training belonged, as it were under a bar sinister, to Kant's family. The *Communist Manifesto* proclaimed the solidarity in interest and feeling of the toiling masses the world over, regarded national governments and the sentiment of patriotism that they foster as devices of the capitalist ruling class to enslave the proletariat by dividing it and based the modern socialist movement on the watchword "Workers of all lands unite." Victory would mean the abolition of class and therefore the complete unity of mankind. The Socialist International in its first form aimed at this unity through the creation of a world wide party of workers. The fact that it was composed of individual members pledged to a personal allegiance

led, however, to fatal internal dissensions; and therefore when it was later revived as the Second International it was a federation of autonomous national parties, which none the less obeyed the resolutions of its periodical conferences on broad questions of principle and strategy. While recognizing the fact and sentiment of nationality the theorists of the Second International, notably Jean Jaurès, emphasized its cultural aspects, the spiritual heritage which a society based on equality would bring within the grasp of every working citizen. The elites and to a great extent the actual practise of the movement ranged it in opposition to every form of chauvinism, militarism and imperialism. The duty of a good socialist was to combat the aggressive and acquisitive designs of the ruling class of his own country, trusting to his comrades in other lands to do as much. Socialist parties tried within the limits of their influence to extend their protection to the subject populations of the empire to which they belonged. With international organization, save on this class basis, a logical Marxist was not concerned: that would come with the triumph of the revolution. The World War subjected the Second International to a test which revealed how superficial was its faith in this revolutionary creed; but there were distinguished exceptions, notably the Independent Labour party in Great Britain, the Socialist party in the United States and the Independent Socialist minority in Germany.

A working model of an international socialist federation now exists in the Union of Soviet Socialist Republics. Although it is more highly centralized than any other federation in the world, its component republics in theory are sovereign and enjoy the right of secession. Actually its unity is preserved and internal disputes composed by the tightly disciplined Communist party, which exercises in all of them the dictatorship of the proletariat. However open to criticism in other respects, it has solved successfully the specific problems of nationalism. Russians—Great, Little and White—Tartars, Georgians, Jews and many backward Asiatic peoples enjoy within it complete equality, are helped to preserve their languages and their distinctive cultural traditions and find in the Communist party a ladder which may, in fact does, lead members even of the minor races to positions of the highest influence in the federal government. It is possible moreover to reconcile a considerable measure of national and regional

autonomy with an economic structure that plans and coordinates production, consumption and external trade over the whole of this immense continental area. The theory of the Communists is that as the world revolution spreads other socialist republics will enter this union on the same terms. The U. S. S. R. is not a Russian state: it is an international society and a rival to the League of Nations.

After the disappearance of the Holy Alliance its place throughout the latter part of the nineteenth century and the pre-war years of the twentieth was partially filled by the concert of Europe. This loose association of great powers had no permanent organization and functioned only in emergencies—arising chiefly out of the Eastern Question, in which lay through three generations the chief risk of war in the Old World. Preoccupied with the possible break up of the Ottoman Empire, the Concert of Powers alternated between the imposition of inadequate reforms and the repression of nationalist insurgency. It had no rigid legitimist principles, such as those of the Holy Alliance; if its bias was conservative leading it on occasion, as in Crete, to check rebellion by armed force, it was influenced chiefly by the dread that any disturbance of the status quo would precipitate a major war. Although resorting now and then to formal conferences it reached most of its decisions through ordinary diplomatic channels. Its prestige served as a check upon antisocial ambitions and kept alive a certain faith in the authority of international opinion and the possibility of united international action, although its actual constructive achievements, such as the regulation of the Danube as a free waterway and the creation of an international gendarmerie in Macedonia, were few in number. Its work in the Near East served in certain respects as a model in the settlement of the somewhat analogous Moroccan and Chinese questions. Within its limited range of action it constituted a nucleus that might have developed into a kind of oligarchical international authority. It had behind it, however, no body of popular opinion, no proclaimed principles, no prophet who might have done for it what Wilson did for the League of Nations. Essentially an improvisation, it left intact the ultimate right of a great power to do what seemed good in its own eyes. But its main defect was insincerity. Throughout its long career of spasmodic service to the cause of peace the powers that composed it were rendering international cooperation in the long run impossible

by their competitive armaments and the alliances that ranged them in two camps more permanent and better knit for action than the concert itself. The Great War was an outcome of this very Near Eastern question and of the failure of Sir Edward Grey to mobilize the concert to regulate it.

The collapse of the concert in 1914 set the central problem of internationalism which the world has since struggled to solve. The value of the ad hoc conference was still recognized, but it became increasingly apparent that improvisation on the eve of an emergency was not enough and that a permanent organization was necessary. Moreover since any major disturbance might lead to a world war, it was unrealistic to confine the new concert to Europe or to hope that disputants in the hot hour of anger would submit themselves to the judgment of their peers. If confidence was to prevail, if the old competitive armaments were to be avoided, each nation must have from its neighbors a pledge that they would follow some recognized pacific procedure. Finally, if in spite of all an aggressive power should break its bond, the rest of the world must be mobilized to support the innocent victim.

Out of such reasoning grew the League of Nations. Primarily an international organization to enforce peace, the League has exerted an unprecedented stimulus on the development of internationalism. With astonishing suddenness a world which hitherto had organized itself permanently for international ends only in such minor fields as the postal and quarantine services provided itself with an organization which unfriendly critics could describe as a superstate or a world government. The inaccuracy of this description is evident from the fact that member states seem to surrender nothing of their sovereignty, save in so far as every treaty is a voluntary restriction of one's supposed right to do as one pleases. No subject or field of action is abandoned by the members and made over, as in a federation, to the League. It can take no action and impose nothing in the nature of legislation, save with the consent of every member of its Council or Assembly. None the less, if and when its Council acts—as, for example, to impose sanctions—every member of the League is involved in the consequences. A pledge once voluntarily given can be enforced. A disputant moreover loses his vote for the time being in the Council and cannot invoke the rule of unanimity to stop its action. In these respects the League does involve a real restriction of sovereignty. Again, in

theory, if its machinery of conciliation and arbitration worked reliably, the great powers would surrender the advantage of negotiation inherent in the possession of unrestrained force.

It seems probable in retrospect that the founders of the League went at once too far and too fast and yet not far enough. The question arises whether perhaps they conceived their problem too simply as the abolition of war. The ultimate cause of war is the survival of sovereign national states which claim the right to exert their will for their own ends subject to no judge save themselves. But sovereignty can hardly be limited in one particular if it retains Old World nationalist habits of action and thought over the rest of its field. While on paper the League is well equipped with all the powers necessary to prevent or stop the physical act of war, it lacks the means to redress the grievances or meet the needs that may drive a wronged or ambitious nation into war—pressure of population, the need of markets, the lack of raw materials, the suppression of nationality. With none of these can the League deal directly, for all of them belong to the sphere of domestic jurisdiction, which it must not invade. It has the power to stop war, but it lacks the ability to bring about by peaceful means the changes which desperate nations attempt by violence to hasten.

Peace, in other words, is but a single aspect, a function, of internationalism. It cannot be insured without an advance into forbidden fields—above all into the economic field—which seem at first glance only remotely involved. So much indeed the League seemed to realize as soon as it began to function. It has discussed tariffs, the gold standard and the overproduction of coal, but always on the understanding that it has neither the intention nor the right to promote action in the sense of the findings of its commissions and that it contemplates no modification of national sovereignty such as would permit of habitual, organized cooperation in the economic field and no common action capable in the last resort, in case of sufficient gravity, of overriding the will of obstructive states.

And yet the world in the last two generations has become a single economic unit. The annihilation of distance by modern means of communication was the first step in this evolution. The next was the development of machinery incessantly demanding a market for its ever rising flood of products. Money and capital have become as mobile as goods, traveling by cablegram across frontiers with baffling rapidity. In-

vestment knows no patriotism; whole countries or their major industries at least may pass in a few years into foreign ownership. The collapse of a Viennese bank may cause in London first a financial and then a political crisis. In the eighteenth century two magistrates strolled round the market place of each little country town in England and fixed the price of wheat. Today it has a world price, which shifts as a few cosmopolitan dealers study the cablegrams that report on harvests and the movements of ships from Winnipeg to Bombay and from Buenos Aires to Odessa. Gold alters its purchasing power as bullion is shipped from Paris to New York. The level of the gold reserves in the vaults of Wall Street may determine the price at which the Indian peasant can sell his rice and with it his ability to pay taxes, rents and usury, on which again his contentment and political loyalty are contingent. A speculative boom in New York followed by a sharp contraction may start a slump that counts its unemployed victims by twenty-five millions the world over. In a word, our political structure no longer answers the economic realities. National sovereignty with its restricted territory was an obsolescent arrangement in the days of sailing ships; the airplane and wireless telegraphy have made of it a solecism.

The World War drove a large part of the world to the perception that some measure of international political organization was necessary. The question now arises whether the world wide depression will make it apparent that economic anarchy is no less devastating and that tariffs, currency and the price level are matters of vital concern calling urgently for international planning by a permanent international organization. If such controls were instituted, the purely political and military problems which concert and League have sought to solve would be immeasurably eased. Thought and sentiment would adjust themselves to the wider horizon. The League or whatever organization may replace or supplement it would gain a new prestige and power, in proportion as it confers benefits it may dispense with coercion: the establishment of economic stability would obviate the necessity for sanctions, since an offending state could be threatened with exclusion from economic privileges and advantages. Frontiers under such a regime would lose much of their importance, and territorial changes would be easier to effect. Nationality in such a world would retain and might even deepen its cultural significance. The

nation state, ceasing to act beyond its frontiers with fleets and armies and admitting a measure of regulation over its economic policies, would work out the more intensively its distinctive conception of social life.

A realistic thinker, while admitting the trend of economic development toward internationalism, will not underrate the obstacles. It may be that machinery has outpaced intellectuality growth and that obsolete habits of thought and archaic emotional associations will continue to forestall rational attempts to amend overrigid constitutions. More formidable still is the opposition of interests which rely on national diplomacy and armaments for furthering or defending their economic pursuits abroad. Again, one may doubt whether collaboration is feasible among states, some of which are democratic, some Fascist, some communist. Kant admitted to his international federation only republics, Wilson wished to exclude autocracies, Marx and Lenin welcomed only the classless state. But despite the difficulties inherent in the task new organs of international direction and control must somehow be evolved to keep pace with the triumphs of mechanical efficiency.

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*See:* INTERNATIONAL RELATIONS; PEACE MOVEMENTS; INTERNATIONAL ORGANIZATION; LEAGUE OF NATIONS; HOLY ROMAN EMPIRE; HOLY ALLIANCE; CONCEPT OF POWERS; FEDERALISM; SOCIALISM; COMMUNIST PARTIES; COSMOPOLITANISM; NATIONALISM; SOVEREIGNTY; NATIONALITY.

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1929); Brailsford, H. N., *Olives of Endless Age* (New York 1928).

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INTERNMENT. See ENEMY ALIEN; NEUTRALITY.

INTERPELLATION. An interpellation is a demand addressed by a member of parliament to a minister for a public discussion on some definite subject which may relate to the general policy of the government or to some question of detail. Originally designed to elicit information and to serve as the text for a clarifying debate, the interpellation has become one of the most important means by which legislative control of the executive is made effective under the cabinet system of government. While it is not used in England, where the cabinet is interrogated through the written question, which does not of itself lead to debate and a vote, the interpellation has become rather generally accepted on the continent as a necessary accompaniment of ministerial responsibility.

It has been most elaborately developed in French parliamentary procedure and is used much more frequently in France than in other countries. Although a procedure resembling the interpellation was adopted by the Constituent Assembly in 1791, it seems to have been abandoned within a few years. The right of interpellation was definitely established in the French Chamber in 1831 without any change in the written rules of the Chamber but merely as a logical corollary to responsible government. With the coup d'état of 1852 the right was suppressed along with the parliamentary control of the executive and was reestablished partially in 1867 and entirely in 1869 with the return to responsible cabinet government.

The French parliament uses both oral and written questions as well as the interpellation. The former, which are rarely used, can be asked only if the minister consents; they must be asked at the close of a sitting and not more than two questions are permitted at one sitting. The deputy is allowed fifteen minutes in which to present his question and the incident is closed with the reply of the minister, except that the deputy may be given five minutes of rebuttal. No other speakers are permitted. Written questions are

very numerous in the Chamber of Deputies. Within eight days after they are submitted to the assembly they must be printed in the *Journal officiel* together with the answer of the minister, although the latter may consist merely of a statement that for reasons of public policy the minister cannot reply or that he requires more time in which to assemble the material for a reply. Written questions do not have much connection with parliamentary control of the executive but are used primarily to attract attention to a deputy, to his public spirited curiosity and to his concern for certain interests.

Oral and written questions are thus unimportant in France, because interpellations occupy the center of the parliamentary stage. The interpellation is a request for information which the government cannot ignore. The demand is made in writing to the president of the assembly, who reads it to the assembly. A member of the government suggests a date on which the ministry will reply and the assembly then fixes a date without debate, although the author of the interpellation may be allowed five minutes in which to reply to the government. The discussion of the motion to fix a day cannot, at least in theory, go to the merits of the subject; but the vote is politically important, for the government may fall if it puts a question of confidence and is not permitted to have its way in respect of indefinite postponement or the selection of a date satisfactory to it. Interpellations relating to internal affairs cannot be postponed for more than one month, but those relating to foreign affairs may be postponed indefinitely. A strong ministry can force the indefinite postponement of embarrassing interpellations; weak ministries must consent to discussions which they wish to avoid.

On the date set the author is allowed one hour in which to present his interpellation. The minister replies and the author is then allowed priority in answering. After one deputy has spoken, closure may be applied; but usually the debate is permitted to proceed. It is closed by a motion to pass to the order of the day, which may be either *pur et simple* or *motivé*. The former, which may be moved verbally and has priority, expresses neither approval nor disapproval of the government. If such a motion is not made or is defeated, the assembly is usually called upon to choose between several orders which are *motivés*, or qualified by some expression of censure or praise of the government. The various motions are adroitly phrased so that they will isolate particular issues and will serve to catch the greatest

number of deputies. The question of priority between the various motions is determined by the assembly. Where the order of the day *pur et simple* is not proposed or is defeated and where the issue is very complicated, a motion to submit the question to one of the standing committees or to a special commission may be made and has priority over the qualified orders. Where the order finally approved by the assembly is obviously contrary to the tacit or expressed wish of the government or is a serious criticism of its policy, the government may resign.

With a general debate on the various motions, with a vote on which order shall have priority, with a vote on the order selected and with explanations of individual votes under a five-minute rule, the discussion of interpellations can manifestly consume a great deal of time. Complaints of the waste of time are frequent. The ministry presided over by Méline from 1896 to 1898 replied to more than two hundred interpellations. The prime minister told the Chamber of Deputies on July 12, 1909, that there had been 293 interpellations besides 76 questions in three years of that legislature. Nor, save under the Poincaré Ministry of National Union in 1926, have recent chambers been less inquiring. The ordinary session of 1929 (January 9 to July 26) and the extraordinary session of the same year (October 22 to December 20) devoted 28 and 18 percent respectively of their time to interpellations. The extraordinary session is for budget purposes; and since it concentrates on fiscal matters, interpellations are not so frequent. French ministers reply to interpellations in the Senate as well as the Chamber, but the upper house does not demand as many debates as the lower.

Interpellations cover all sorts of subjects. Petty incidents relating to the local police or insignificant functionaries, the sermon of a country curé, municipal activities, lectures of university professors—on such minor matters ministers have had to consent to be interpellated. Even when conditions are most favorable for the cabinet, interpellations put a tremendous drain on ministerial strength and time. On the other hand, it is the business of a parliamentary body to inform itself as to what the executive is doing and to exert control when control is needed. Criticism of the French machinery therefore should be directed to the manner in which the machinery functions and not to the theory which underlies it.

In continental countries, although procedure

in general follows the French model, interpellations are relatively less important. Furthermore, while in France the right to present questions and interpellations belongs to every individual member, in many countries the signature of a certain minimum number of members is required. In France, partly because the legislature exercises a greater supervision over the details of executive action and partly because the highly centralized administrative system broadens the range of subjects which are of interest to the interpellators, the device is more frequently used, more occasionally abused and always more discussed. To this result the amorphous character of French political parties and the instability of cabinets have contributed. It is not without interest, however, that half of the eighty odd cabinets under the Third Republic have resigned because of the general political situation or for other reasons which were unconnected with adverse votes in the Chamber of Deputies. Interpellations, however, hold the executive to accountability even though the *méfiance* of the Chamber may not be formally expressed.

LINDSAY ROGERS

See: PROCEDURE, PARLIAMENTARY; CABINET GOVERNMENT; LEGISLATIVE ASSEMBLIES, section on FRANCE; GOVERNMENT, section on FRANCE.

Consult: Onimus, James, *Questions et interpellations* (Paris 1906); Dubuc, Joseph, *La question et l'interpellation* (Paris 1909); Pierre, Eugène, *Traité de droit politique, électoral et parlementaire*, 2 vols. (5th ed. Paris 1919) p. 687-709; Esmein, A., *Éléments de droit constitutionnel français et comparé*, 2 vols. (8th ed. by H. Nèzard, Paris 1927-28); Duguit, L., *Traité de droit constitutionnel*, 5 vols. (2nd ed. Paris 1921-25) vol. iv, p. 381-96; Sait, E. M., *Government and Politics of France* (New York 1920) p. 236-42; Lowell, A. I., *Governments of France, Italy, and Germany* (Cambridge, Mass. 1914) p. 93-102; Finer, Herman, *The Theory and Practice of Modern Governments*, 2 vols. (London 1932) vol. ii, p. 869-74, 1055; France, *Chambre des Députés, Règlement de la chambre des députés* (Paris 1926) ch. xiv.

## INTERSTATE COMMERCE

UNITED STATES. The relations of government to trade and transportation are sufficiently difficult in a unitary state. The complications of a federal state accentuate the difficulties. In the United States these difficulties are implicit in the concise phraseology of article 1, section 8, paragraph 3 of the constitution: "The Congress shall have Power . . . to regulate Commerce with foreign Nations and among the several States, and with the Indian Tribes." In the beginning, however, were not the words but the warm and lively issues which engendered them.

The clause was conceived as a means of composing the commercial rivalries among the states created by the revolution. Beginning in 1784 protective tariffs were enacted by New England and most of the Middle States, the burden of which fell chiefly on the consuming states with a less flourishing foreign trade. Additional tribute was exacted from the coasting trade, notably by New York, through the imposition of clearance fees. Madison drew a classic picture of "New Jersey, placed between Philadelphia and New York, . . . likened to a cask tapped at both ends; and North Carolina, between Virginia and South Carolina, to a patient bleeding at both arms." Retaliatory measures invited attacks and reprisals, with the inevitable devastating consequences which experience with international trade feuds since the World War has made all too vividly clear. New Jersey and Delaware adopted a contrary expedient, the establishment of free ports, and thereby weakened the resistance of the states as a whole to the discriminatory treatment accorded American shipping by Great Britain, France and Spain. For the fledgling states the constitution and the commerce clause in particular were expected to afford relief and stability.

Continuously from its adoption the commerce clause has been the vehicle for settling dominant issues of national economy as well as of politics. The legal form which these problems have most persistently assumed reflects the historical basis for the grant of power to Congress. With increasing frequency courts have been called upon to determine the scope of authority of the individual states over activities not isolated within the boundaries of a single state.

The question first came before the Supreme Court in *Gibbons v. Ogden* [22 U. S. 1 (1824)]. Speaking for the court Chief Justice Marshall held invalid a New York law granting to Livingston and Fulton the exclusive privilege of navigating the waters of that state by steamboat and sustained the right of competitors to navigate between New York and New Jersey under a coasting license sanctioned by an act of Congress of 1793. The effect upon commerce was immediate and far reaching. In New York as well as in several other states which had granted similar monopolies the number of steamboats in service greatly increased, with an attendant sharp reduction in fares. The legal import of the decision is enveloped in considerable fog. The case is voluminously cited for the broad doctrine that power over interstate commerce is

confided by the constitution "exclusively" to Congress. This interpretation neglects the important ingredient, relied on by counsel and court, of a conflict between state and federal statutes affecting the same subject. Nor did the decision in the absence of control by Congress deter states from granting monopolies of interstate ferriage, of land transportation and later of telegraphic communication. It has been suggested plausibly that at the time the power of Congress over interstate transportation was conceived to embrace only navigation. But this limitation merely expresses evanescent imagination. In 1866 Congress ended the grant of monopoly of railroad and telegraph service between states.

During the quarter of a century following *Gibbons v. Ogden* the meaning of the commerce clause became the sport of confusing debate. The conflict without was reflected within the Supreme Court, and differences among the judges fostered the conflict. Some of the justices rested approval of state action upon subtle distinctions regarding the true aim of contested legislation: a regulation of commerce was invalid, while a regulation of health or safety was permitted, although no practical difference was discernible to an intelligence not steeped in the sophistications of legal dialectic. Other justices, defining powers according to their consequences, insisted that the states regulated commerce when they affected it. But these judicial pragmatists differed among themselves as to the constitutionality of such regulation.

These doctrinal conflicts were composed by events, not by the harmonics of disputation. The development of new modes of transportation provoked increasing exertion of state power and gave rise to new controversies over interstate commerce. The struggle between steamboat and railroad interests for dominance in transportation was brought into focus in the suit by Pennsylvania [Pennsylvania v. Wheeling etc. Bridge Co., 54 U. S. 518 (1851)] to enjoin the maintenance of a bridge across the Ohio River, the construction of which had been authorized by Virginia, on the ground that it would impede navigation to Pittsburgh. During this period also several instances of social legislation were forced to run the gauntlet of the commerce clause. Some were sustained: a New York law requiring masters of incoming vessels to furnish information concerning passengers and laws of three New England states prohibiting the sale without a license of liquor brought in from another state. But a Massachusetts measure impos-



ing a tax on incoming vessels for each passenger, although designated a health law, was held invalid by a sharply divided court. Behind these legal controversies, often sufficiently heated, loomed the burning issue of slavery. A number of southern states had passed laws to exclude free Negro laborers. The relevance of the decision holding the Massachusetts immigration law invalid was apparent to press and public no less than to court and counsel.

Only an awareness of the issues which lay beneath the surface of these cases and of the tenuous and frequently scholastic reasoning by which they were formally decided can reveal the full meaning of *Cooley v. Board of Wardens of Port of Philadelphia* [53 U. S. 299 (1851)]. Succinctly stated the doctrine is that over subjects of commerce which are "in their nature national, or admit only of one uniform system, or plan of regulation" Congress alone may legislate, while over subjects of commerce concerning which there is a "superior fitness and propriety, not to say absolute necessity, of different systems of regulation" state legislation is valid until supplanted by Congress. This decision afforded a candid basis for sustaining state regulations of interstate commerce and as frankly made the determination in each case depend upon judgment and judgment by a majority of the court as to the propriety of the regulation. By making the question of constitutionality turn not upon abstract notions regarding the nature of state powers but upon their concrete and multifarious applications the decision in the *Cooley* case shifted the center of attention to actualities in the disposition of questions under the commerce clause. Thus even in local matters state regulation becomes invalid if unduly burdensome to interstate commerce, while even commerce national in character may be subjected to state regulation if the effect is "remote," "indirect" or "incidental." These are questions of reasonableness and therefore become matters of degree, of more or less, depending for their adjustment not upon tall talk, upon resounding generalities, but upon the relevant facts concerning the necessity or appropriateness of the challenged regulation, the local benefits to be secured and the countervailing cost or inconvenience to interstate commerce. So essential are these specific justifications or handicaps that the same statute which has withstood a blanket charge of "burdening" interstate commerce may succumb before the shrapnel of facts and figures [compare *Southern Ry. Co.*

*v. King*, 217 U. S. 524 (1910) with *Seaboard Airline Ry. v. Blackwell*, 244 U. S. 310 (1917)]. Indeed more recently the Supreme Court has been disinclined to decide at all unless the record adequately discloses the elements of the specific situation. If the pertinent data concerning local needs and the degree of interference with interstate commerce are lacking, it is ill advised to sustain or to invalidate local control. There is available the sensible procedural device of remanding the case to the lower court for the necessary findings of fact [*Hammond v. Schappi Bus Line*, 275 U. S. 164 (1927)].

The process of adjusting the interacting areas of federal and state authority over interstate commerce testifies to the free play left by the framers of the constitution to judicial and political construction of that document. In this field certainly constitutional adjudication is largely borne on the tide of circumstance. Matters which once were within state competence may be withdrawn: the power of a state to prohibit discriminatory interstate rates was not denied until 1886, in *Wabash, St. L. & Pac. Ry. v. Illinois* (118 U. S. 557)—a decision which precipitated the passage of the Interstate Commerce Act in 1887. Yet in the absence of congressional action a large measure of authority reposes in the states to satisfy needs for which a uniform regime is not required. The issue here is not whether federal action would be preferable to state but whether state action or none at all is to be preferred [*Minnesota Rate Cases*, 230 U. S. 352, 402 (1913)]. Even over matters intimately affecting interstate carriers themselves, such as quarantine and inspection, warfare charges, pilotage, the improvement of rivers and harbors, the construction of dams and bridges, the misconduct or defaults of carriers, the states have been allowed to legislate until Congress has moved. Again, states may enforce social policies directed not at the carriers but at articles of commerce which a state considers socially injurious. In enforcing such local policies the states encountered the "original package" doctrine, one of the most beclouded and casuistic conceptions of American constitutional law. Shorn of its qualifications and complexities it means that articles transported from another state are immune from state regulation so long as they remain in their original packages or have not been resold locally. Obviously this doctrine opens up broad avenues of evasion of state policies through the shipment of proscribed articles from out of state sellers to local con-

sumers. The main doctrine therefore brought its confining counterdoctrines. In the first place, noxious articles were deemed outside its sway—state policy in part determining what is to be treated as noxious. Thus articles fraudulently misbranded or unfit for consumption may be excluded upon arrival. In the second place, Congress by its own legislation may complement state action in order to achieve state policy. In practical terms, the allowable range of state power may be merely power on paper unless effectuated by the control of Congress over shipments into the state. The best known instance of this collaborative effort is the Webb-Kenyon Act of 1913 allowing state prohibition laws to apply to liquor upon its arrival in the state. The same expedient has been applied to the undesired introduction into states of such diverse products as food, explosives and plants. The possibilities of the device in the economic field are suggested by the Hawes-Cooper Act of 1929, effective January, 1934, which by applying the same principle to interstate shipments of convict made goods permits the operation of what are in effect state antidumping laws. If frustration of state policy is to be prevented effectively, however, this scheme is always open to two further difficulties, one legal, the other practical. Although the validity of state action under a Webb-Kenyon Act is established, there remains in specific instances the preliminary question of the validity of the congressional act itself as a genuine regulation of commerce. Thus, may Congress protect the industrial standards of a state by authorizing the exclusion of goods manufactured in states maintaining lower standards? By the logic of analogies there should be no doubt. But the odd member of the Supreme Court has from time to time been singularly fertile and effective in the invention of doubts. Moreover enforcement by the states of policies so easily defeated by inroads from other states may require more and better equipped officials.

Legal doctrine has likewise accommodated itself to the demands of the expanding national network of economic forces. If congressional action may invalidate state regulation of interstate commerce it may also invalidate state regulations which had theretofore not been banned by the commerce clause. In its earliest and simplest form this principle derives from *Gibbons v. Ogden* and is merely the rule that a state law must yield to a federal law dealing with interstate commerce if the two are "in conflict."

Frequently, however, there is no explicit conflict between the two. In action they may not move in overlapping spheres. Yet the efficient operation of the federal law may depend upon its supersession of the state enactment. A federal safety appliance law describing requirements for railroads engaged in interstate commerce must apply, if it is to be efficacious, to cars of the railroad even though they are used solely in intrastate commerce. Where Congress has manifested an intention "to occupy the field," so runs the conventional formulation for these adjustments, state authority in that field must give way. This is of course a figurative field, and merely the compendious expression of the court's sense of policy. "The intention of Congress" not infrequently is non-existent or too obscure to be discovered. Here no less than in cases where Congress has not acted the court not only does but must exercise a practical judgment. Its chief applications are evoked by railroad regulation and concern rates, issuance of securities, liability to shippers and passengers and industrial relations. The questions of national authority which these raise tend to become questions of the statutory powers of the Interstate Commerce Commission (*q.v.*).

Flexible as are the bounds of federal and state authority, the newer forms of interstate enterprise transcend the simplicity of the traditional categories of governmental control. The intricate corporate arrangements in the public utility field raise particularly acute problems. The divorce of ownership from operation puts questions not dreamed of in the constitutional philosophy of John Marshall; whether, for example, rates charged to the consumer by an operating company can be regulated effectively without control over the managerial and financial activities of the holding company and if not, what mechanism of control should be adopted. Direct grip by law, state or federal, over holding companies appears inevitable. Indirect control by the states through scrutiny of the intercorporate relations of the local operating units is an alternative which has received impetus through recent Supreme Court approval [*Smith v. Illinois Bell Tel. Co.*, 282 U. S. 133 (1930)]. But technological changes even more basic than financial have begotten new situations for which old instruments of government will no longer suffice. The precedents in the law books are very tenuous aids for the solution of problems which the radio, motor carriers and electric power present to legal statesmanship. And to

look for a single solvent is to seek the philosopher's stone. In the electric power industry, for example, if the processes of law and legal administration are to be effective they must heed the economic interaction of the factors of generation, transmission and distribution, the economic interplay between local and interstate transmission, the relative volumes of intrastate and interstate transmission and the regional or national character of the interstate transmission itself. These and conundrums like them are now being explored by the Federal Trade Commission and will for many years continue to tax all the resources of wisdom of the Federal Power Commission (Federal Power Commission, *Eleventh Annual Report*, 1931). There is a growing realization that these issues cannot be settled in terms of explicit duality of state and nation. That simple dichotomy may be ill adapted to deal with regional forces ministering to regional prejudices. A variety of legal devices has been proposed to take account of these significances. On the administrative side it has been suggested that state boards act jointly as regional commissions or that a federal commission be supplemented by regional boards locally or federally appointed. On the legislative side the constitution offers the device of interstate compacts entered into with the consent of Congress. Legal inventiveness is not restricted to a few fixed legal categories when called upon to subdue the protean forms of interstate commerce to the diverse interests of society which they supposedly serve.

The power of Congress is a limitation not only upon state powers of regulation but upon those of taxation as well. Apart from the commerce clause a tax may be imposed only upon that portion of an enterprise which can fairly be attributed to the taxing state; various apportionment formulae have been attempted to meet the more general problem of double taxation (*q.v.*). To this territorial limitation the commerce clause adds restrictions where the activities in the state are part of a concatenation transcending the state line. The historic purpose of the commerce clause might have confined this limitation to taxes which discriminated against or "unduly burdened" interstate commerce. Thus the commerce clause prevents the imposition of a higher tax on goods coming from without the state than upon similar goods of local origin. Under the influence, however, of Marshall's dictum that the power to tax is the power to destroy—it awaited Justice Holmes a hundred years later to dispose of it: "The power to tax is not the

power to destroy while this Court sits"—the Supreme Court early declared that the ban extended to any tax, however general its incidence, in so far as it was a tax on interstate commerce. If consistently applied this doctrine would have resulted in pervasive discrimination in favor of interstate commerce at the expense of competing local enterprise. New Jersey, for example, would be forced to confer exemption on merchants who supplied New Jersey buyers with goods from New York warehouses in competition with merchants selling New Jersey goods. Even where the perversities of the doctrine are not so flagrant, it would have deprived the states of an important source of revenue from enterprises which burdened the state and received its benefits. Happily the states were not reduced to so unfortunate a predicament. The prohibition against taxes "on" interstate commerce contained a liberating equivocation. Indeed so effectively was the legal rather than the economic connotation seized upon that for a time the protection of interstate commerce from hampering state taxation threatened to become only a pious profession. The states were allowed to lay a tax on a concededly valid subject—property located or privileges exercised within the state—even though the tax was measured by elements, such as gross receipts from interstate commerce, that would not have been tolerated as subjects of taxation. The legislative legerdemain promoted by this distinction reached its climax in 1908 in a tenuous effort by Texas to distinguish between an invalid tax of 1 percent on the gross receipts of railroad companies and a tax on railroad companies "equal to" 1 percent of their gross receipts. The court shrank from carrying its formal doctrine to the ruthless logic of formalism. The first limits upon an old doctrine are apt to mark the beginning of a long retreat: in an opinion which presaged a new approach to the problem Justice Holmes warned that "neither the state courts nor the legislatures, by giving the tax a particular name or by the use of some form of words, can take away our duty to consider its nature and effect" [*Galveston, H. & S. A. Ry. v. Texas*, 210 U. S. 217, 227 (1908)].

The Supreme Court has not found the duty an easy one. If the adjustment of the claims of state and taxpayer cannot be made by any general formula, neither can it be left to unbridled empiricism on the basis of the amount and burden of the tax in each case. The state must have in advance some reasonable assurance of the permissible incidence of the tax. Moreover to

invoke standards of reasonableness with reference to an individual taxpayer presents a logical solecism; and practically a large tax on an interstate business may be less burdensome, where a similar tax is borne by businesses generally, than a small tax the impact of which is particularly upon interstate commerce. This will explain why although a carrier engaged in both interstate and intrastate commerce may successfully resist a tax levied in part on gross receipts from interstate commerce, it may be required to pay the same amount of taxes under a statute increasing the general tax rate but confined in application to gross receipts from intrastate commerce. The distinction between the taxation of a subject and the use of that subject as a measure of taxation has a real economic significance, in that the subject will indicate in the light of experience and analysis whether the tax will fall disproportionately upon interstate commerce. A broad subject is a reasonable guaranty that the incidence of the tax will be equitable. This has been recognized in decisions upholding a tax on property, even though the property is used in interstate commerce or valued by its connection with that commerce, and a gross receipts tax levied in lieu of a property tax. But in dealing with franchise taxes the court has given the subject of the tax a more formal importance. If applied to a corporation doing solely interstate business the tax has been held invalid, although if the corporation does both interstate and intrastate business the tax may be levied in respect of the latter. The court in sustaining a net income tax, even as applied to income from interstate commerce, based itself frankly on economic considerations; in contrast to the gross receipts tax the net income tax is imposed only if and to the extent that the commerce is profitable, and does not vary directly with the amount of the commerce. Particular importance attaches to the permissible scope of the net income tax in view of the increasing extent to which the states are adopting this form of revenue measure. In short, if the state frames its taxing system wisely, even interstate commerce can be made to pay its share for the support of the states wherein it operates.

An epitome of the whole process of legal adjustments under the commerce clause is presented by the original package doctrine. Although first announced in 1827 (*Brown v. Maryland*, 25 U. S. 419) as a prohibition of state taxation of foreign imports while they remained in their original packages and had not been re-

sold locally, the doctrine was in fact the enforcement of a policy which several states had voluntarily adopted and then abandoned. In *Brown v. Maryland* the tax was discriminatory and was laid upon importers; but the doctrine was uncritically carried over to cases of non-discriminatory treatment of goods from a sister state. In its uncongenial soil the doctrine suffered the fate of unfortunate transplantation. In 1923 it was finally uprooted [*Sonneborn Bros. v. Cureton*, 262 U. S. 506 (1923)]. The states may now levy property or sales taxes on all goods in the original packages except those imported from abroad. In its adopted field of state regulation, however, the original package doctrine evinced a more hardy vitality. After having been disregarded in relation to state prohibition laws it was later applied to them and it continues as a limitation on the exercise of state police power subject to the inroads that have already been noted. A corollary to the original package doctrine may be observed. Just as the state taxing power may lay hold of goods in the state of destination before the state regulatory power may be exercised, so there are indications that the taxing power may operate in advance of the regulatory power in the state of origin of the goods. Federal regulation, finally, may persist in the state of destination even after the original packages have been broken, as in the case of the pure food laws; and federal regulation may apply in the state of origin even before movement of the goods, as in the case of the antitrust laws.

The last fifty years have witnessed an efflorescence of federal authority having its roots in the commerce clause. In considering the extent to which the dominant forces of modern economic society have thereby come under federal control certain tendencies and limitations are suggested. The older forms of transportation and communication have been brought under broad national supervision. The Interstate Commerce Act of 1887, applicable in varying degrees to railroads and their water connections, express and sleeping car companies, pipe lines, telephone, telegraph and cable companies, marks the first step. Subsequent enactments have strengthened federal control and regulated the financial activities of the carriers. The Air Commerce Act of 1926 and the Radio Act of 1927 are recent additions to federal power. A second type of federal commercial legislation enacts prohibitions and penalties like those found in state police power enactments. In this group are the Lottery-Tickets Act of 1895, the Food and Drugs Act of

1906, the Mann Act of 1910, the Dyer Act (auto-mobile larcenies) of 1919, the Packers' and Stockyards Act of 1921, the Grain Futures Act of 1922—this class of enactments, it is manifest, deal with activities closely related to the physical movement of persons or things. A third type of federal control takes its origin in the Sherman Anti-trust Act of 1890. These restrictions upon trade agreements of manufacturers and the tactics of organized labor involve perhaps the most permeating impingement of federal authority on business and industry. Yet even here the courts are guided in applying limitations on activities which are not themselves interstate commerce by a feeling for the "dramatic circumstances" of interstate movement, which in 1905 served to bring the so-called Beef Trust within the proscription of the Sherman Act. The extent to which such activities as corporate organization, finance (apart from national banks), insurance, stock exchanges, will yield to constitutional control by the central government, if the pressure of circumstances should make that desirable, may well depend, so far as lawyers' arguments go, on the extent to which they are dramatically linked to the element of distribution in the complex of commerce.

Pressures more powerful than even the most prescient language of constitution framers were bound to weld the loose congeries of the original states into a cohesive centralized nation. To a considerable degree therefore the Supreme Court registers inevitabilities in the political and economic unfolding of the United States. Yet even inevitable development may be eased or retarded by the constitutional channels through which the national life flows. The commerce clause undoubtedly has been utilized as the great centralizing vehicle in the American constitutional scheme. Barring the war power it is the deepest source of the affirmative exertion of national power. The national interest prevails, yet the states are not excluded from dealing with state phases of the nation's commerce. The states may to some extent regulate interstate commerce because they must—always with the power of Congress to gainsay through legislation and the power of the Supreme Court to annul through litigation. And so for a hundred years and more exertions of state authority within the field of interstate commerce have successfully passed the scrutiny of the Supreme Court. Practical necessities and shrewd judgments about practical matters decide the fate of state legislation when challenged by the power or the action of

Congress. State necessities, the fitness of state relief as against nation wide action, the limited manifestations of a given evil or the limited benefits of its correction, the actual interest of the whole country in a phenomenon especially virulent in a particular state, the advantages of local regulation balanced against the cost or inconvenience to interests outside the states—these and like questions are involved in the process by which the Supreme Court in concrete cases has held for or against state and national action in the interacting areas of state and national interests.

Ultimately these are phases of the central problem of the one and the many, which has been the leitmotif of American political and constitutional history. The solution of conflicts in the future as in the past will depend upon the prevailing philosophy of federalism of the Supreme Court justices, reflecting in turn views of American society which judges share with their fellow men. With the growing use of taxation as an instrument of state policy and the development of state schemes for controlled production the questions will become nicer and the adjustments more subtle. If the due process clause does not interdict these "social experiments in the insulated chambers afforded by the several states," the commerce clause remains to admonish that the insulation may have worn too thin. On behalf of the states it will be urged that demands for centralization, although in apparent harmony with the unifying forces of technology, frequently overlook possibilities of cooperative action; that there is a practical limit to effective administrative oversight and judicial control; that in matters not obviously of common national concern the states or at least regions of them have a localized knowledge of details, a concreteness of interest and varieties of social policy which themselves constitute values that it is to the highest interest of the nation to conserve.

FELIX FRANKFURTER

PAUL A. FREUND

**OTHER FEDERAL STATES.** The experience of the United States in adjusting the problems of the distribution of powers between the central government and the member states was widely known and carefully studied by many of the individuals responsible for subsequent federal constitutions, but the guidance offered by this experience was variously interpreted. Only Australia, Brazil and Argentina followed the lead

of the United States in confining to interstate commerce the power of the federal government over commerce. The Swiss constitution of 1874 (art. 31) merely guaranteed freedom of commerce and industry throughout the confederation, with certain exceptions including sanitary police measures and provisions relative to the practise of commercial and industrial pursuits. Other federations gave the central government control of all trade and commerce. The Reich under the constitution of 1871 had general control of commerce and trade where uniformity was essential but the administration and the details of legislation were the province of the *Länder*. Under the constitution of 1919 federal powers over both legislation and administration were increased. The Austrian constitution of 1920 gave powers both of legislation and of administration in respect to commerce and industry to the federal government, declared the federal territory a uniform economic zone and prohibited any hindrances on interstate or internal trade. Mexico in its constitution of 1917 gave the central government power to prevent restrictions on interstate commerce and to regulate for the entire republic in all matters relating to mining, commerce and institutions of credit (art. 73). In these countries the problem was essentially one of determining the limits between these broad powers over commerce and the powers specifically granted or impliedly reserved to the states.

The British North American Act of 1867 establishing the constitution for the Dominion of Canada also gave to the federal government exclusive control over commerce and trade (art. 91, sect. 2) as well as the power to legislate for the peace, order and good government of the dominion and to regulate the railways. The intention was quite evidently to profit by the difficulties of the United States by giving to the central government ample powers over commerce. In *Citizens Insurance Co. v. Parsons* [7 App. Cas. 96 (1881)], however, the Judicial Committee of the Privy Council found it necessary to restrict the literal meaning of the words "regulation of trade and commerce" in order to afford scope for the powers granted exclusively to the provincial legislatures in article 92, among them the powers to legislate on municipal institutions, property and civil rights and matters of a merely local or private nature and to raise provincial revenue by direct taxes and by shop, saloon, auctioneer and other licenses. The committee suggested that the clause might include

political arrangements in regard to trade which require the sanction of Parliament and also the regulation of trade in matters of interprovincial concern and perhaps the general regulation of trade affecting the whole dominion. It could not, it held, extend to the regulation by legislation of the contracts of a particular trade or business, such as fire insurance, in a single province. The court expressly abstained from defining the exact limits of the dominion power, leaving its determination to particular cases. In accordance with this policy of interpreting narrowly and strictly the nature of the powers granted to the dominion the Privy Council has upheld the right of various provinces to require licenses for the sale of liquor, to levy direct taxes on banks and insurance companies and to pass various measures of local police power which affect particular trades. By a process of judicial interpretation exactly the reverse of that adopted in the United States the Privy Council and the Supreme Court of Canada have reduced the power of the central government over trade and commerce to the point where, in view of the increased power over commerce gained by the United States Congress through judicial interpretation, the central powers over commerce in the two countries have become much more alike than seemed possible in 1867.

Next to the United States, Australia is the country in which the regulation of interstate commerce has presented the greatest legal and economic problems. The commerce clause (sect. 51, sub. 1) of the Australian constitution was framed in direct imitation of the American, giving the commonwealth power to make laws with respect to "trade and commerce with other countries and among the states." This section was clarified, extended and modified by certain other sections of the constitution. Federal control was definitely indicated as extending to navigation, shipping and state owned railways (sect. 98). Parliament was given the power to prohibit any undue, unreasonable or unjust preference or discrimination in railway rates as between one state and another (sect. 102). The states were forbidden to levy customs duties (sect. 90) or to impede interstate free trade (sect. 92), but they could levy inspection charges (sect. 112) and legislate with regard to intoxicants (sect. 113). The states were guaranteed against any action by the federal government favoring one state as against another (sect. 99) or abridging the rights either of states or of residents thereof to a reasonable use of the waters of

the rivers for conservation or irrigation (sect. 100). In a measure these detailed provisions represented an attempt to settle by constitutional provisions certain questions which in the United States had been settled by judicial decisions or by subsequent legislation. Of the latter nature was especially the provision (sect. 101) creating an Inter-State Commission "to be appointed by the Federal Parliament with such powers of adjudication and administration as Parliament deems necessary for the execution and maintenance within the Commonwealth of the provisions of this constitution with regard to trade and commerce and all the laws made thereunder." The commission never came to occupy its intended position in the governmental system; it became moribund after the Privy Council denied it the right to exercise the judicial powers granted it under the Inter-State Commission Act of 1912 [*New South Wales v. Commission*, (1915) 20 C. L. R. 54].

In interpreting the scope and meaning of the Australian commerce clause judges and constitutional lawyers have drawn heavily upon American experience. The question of what is commerce has been generally decided along lines following American precedents [*W. and A. McArthur Ltd. v. State of Queensland*, (1920) 28 C. L. R. 530]. The power over commerce granted to the federal government has been held not to apply to matters, such as conditions of employment, of which the effect upon trade and commerce is not "direct, substantial and proximate" [*Federated Amalgamated Government Ry. etc. Assn. v. New South Wales Ry. Traffic Employees' Assn.*, (1906) 4 C. L. R. 488]. The Australian Industries Preservation Act of 1906, intended like the Sherman Act to prevent monopoly and restraint of trade as well as unfair competition, has been held unconstitutional except in so far as it referred to trade or commerce with other countries or among the states [*Huddart Parker & Co., Pty., Ltd. v. Moorehead*, (1908) 8 C. L. R. 330]. The federal power over shipping and navigation has been held applicable only to oversea or interstate shipping, on the principle that the specific constitutional provision does not enlarge the territorial jurisdiction defined in section 51, subsection 1 [*Owners of SS. Kalibia v. Wilson*, (1910) 11 C. L. R. 689]. States have been denied the right to impose discriminatory burdens upon products of other states [*Fox v. Robbins*, (1908) 8 C. L. R. 115]. Until 1920 the doctrine of reserved powers—that the grant of power over interstate commerce

to the commonwealth reserved all regulation of intrastate trade to the states—had been applied in a number of cases to invalidate commonwealth acts. In that year in the *Engineers' Case* (28 C. L. R. 129) the High Court repudiated the doctrine and conceded to the commonwealth the right to regulate intrastate trade if that regulation was essentially involved in the exercise of any federal power. Despite this concession the feeling is strong in Australia that the powers of the commonwealth over commerce are inadequate. Three attempts to transfer to the commonwealth all power over commerce succeeded to the extent of passing both houses of Parliament but failed to secure the necessary vote in the popular referenda.

Argentina (art. 67, sect. 12) and Brazil (art. 34, sect. 5) also copied very closely the commerce clause of the United States constitution. The former by implication also adopted established American jurisprudence on the clause except in so far as peculiar conditions necessitated changes [*in re Lino de la Torre*, (1877) 19 S. C. N. 231]. In both Argentina and Brazil, however, the power of the central government was tremendously increased by certain general grants of power which have rendered more or less academic the question of the exact limits of federal power under the commerce clause. Thus the Argentine constitution (art. 67, sect. 16) gives the Congress power to provide for "all that conduces to the prosperity of the country, to the advancement and welfare of all the provinces"—powers so broad as to give the Congress complete control over the industrial development of the country. Similarly among the concurrent powers of the Brazilian Congress is the power "to encourage in the nation the development of letters, arts and sciences, as well as immigration, agriculture, industry and commerce without privileges that might hinder the action of the local governments" (art. 35, sect. 2). Interstate commercial relations in Brazil are complicated by the right of the individual states to levy export duties (art. 9, sect. 1) and under certain conditions import duties (art. 9, sect. 3). In 1896 the court declared export duties levied on products going to other states unconstitutional but reversed its position the following year in accordance with legislation passed by Congress. Two subsequent reversals by the court have left such export duties constitutional. Since the constitution specifically gives to the central government the right to levy import duties only on foreign goods, the states claimed the right to levy import

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duties on goods from other states but the Supreme Court has repeatedly held such levies unconstitutional. The extent of state powers with respect to the levy of import duties was finally clarified and regulated by federal law in 1904.

The trend toward centralization of control over commerce in the federal state would seem to be clear from the foregoing analysis of the types of arrangements for the regulation of commerce prevailing in the various federal states. Succeeding federations have shown in their constitutions a tendency to accord to the central government more power over commerce than the fathers of the United States constitution were willing to grant in 1787. That grant itself has been tremendously expanded by the Supreme Court in response essentially to the demands of an expanding technique and scale of commercial relations. It is significant that in Australia which followed most closely the original scheme of apportionment set out in the United States constitution the dissatisfaction with this provision in particular and with federalism in general is very strong. Canada alone seems not to conform to this general centralizing trend in control over commerce, but Canada's experience must be interpreted in the light of the constitution's relatively liberal grant of power to the central government. Increasing economic integration within the various federal states has resulted in such increasing central control that the problem of interstate commercial relations has everywhere, except perhaps in the United States and possibly in Australia, become far less important than that of surmounting or somehow eliminating the barriers to international trade.

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See: FEDERATION; CENTRALIZATION; CONSTITUTIONAL LAW; JUDICIAL REVIEW; STATES' RIGHTS; POLICE POWER; SUPREME COURT, UNITED STATES; INTERSTATE COMMERCE COMMISSION; FEDERAL TRADE COMMISSION; RAILROADS; TRUSTS; FOREIGN CORPORATIONS; HOLDING COMPANIES, section on UNITED STATES; LIQUOR TRAFFIC; FOOD AND DRUG REGULATION; LABOR LEGISLATION AND LAW; UNIFORM LEGISLATION; COMPACTS, INTERSTATE.

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INTERSTATE COMMERCE COMMISSION. This federal administrative tribunal is unquestionably the leading governmental agency of economic control in the United States. Through its sweeping authority over the transportation of persons and property, especially by rail, it not only imposes extensive restrictions upon freedom of enterprise but exerts a dominant measure of positive control over both individual transportation agencies and the transportation system as a whole. In the exercise of this authority moreover there is a marked departure from traditional legal processes. Although the commission is a federal tribunal its most significant powers extend in practise to intrastate as well as interstate commerce; although it is an



administrative agency it continually adjusts controversies and prescribes courses of future action; despite the exercise of these judicial and legislative functions it institutes criminal proceedings and penalty suits, and it moves on its own initiative as well as in response to complaints and applications. Its regulatory activity in execution of vast grants of discretionary authority results in a series of governmental acts which, while subject to modification by the administrative tribunal itself, constitute for the most part conclusive determinations. The commission's performance on this basis is exerting an increasingly potent influence upon the status of the railroads and of the other carriers subject to its jurisdiction; and its administrative experience is providing a rich background for fashioning the character of other agencies of control, state as well as federal, particularly in the field of the so-called public service industries.

The commission's prevailing position, as influenced in large measure by the weight of its own informed recommendations, is the outcome of a course of development, legislative and judicial, extending over a period of more than four decades.

The original Act to Regulate Commerce, under which the commission was established in 1887, was a mere beginning. Because the states had been held to be without constitutional authority to regulate interstate railroad rates, even in the absence of congressional action, and in view of the growing predominance of interstate traffic, the federal government entered upon the tasks of control; because continuous supervision, impartial investigation and flexible adjustment of carrier-public relations were deemed to be imperative for effective control, resort was had to administrative regulation. The widespread prevalence of discriminatory adjustments was the most influential cause of the adoption of this federal legislation, just as the outcry against extortionate charges had lent primary impetus to the enactment of the earlier granger legislation by the states. The act of 1887 was designed principally to prevent unreasonable and discriminatory rates and practises; the provisions prohibiting pooling, requiring publicity of operations, dealing with accounts and reports and endowing the commission with investigatory power were calculated to facilitate the achievement of these main purposes. But serious difficulties progressively emerged which rendered this original legislation an inadequate basis for the commission's exercise of control.

Through reliance upon constitutional protection against self-incrimination unwilling witnesses withheld essential testimony from the commission; as a result of the procedure provided for the enforcement of administrative orders—whereby the commission was charged with the burden of securing compliance with its findings through judicial processes and these findings were to serve only as *prima facie* evidence of the facts—the adjustment of controversies was long delayed, and by considering proceedings *de novo* the courts tended to exercise a dominant influence in their disposition; because of restrictive judicial interpretations of some of the basic provisions of the act—those relied upon especially to prescribe future rates and to eliminate alleged long-and-short-haul violations—the commission found itself without adequate substantive power to mold on any positive basis the relationships which should subsist between the railroads and the public.

During much of the first two decades of the commission's existence therefore the need of bolstering up its position in various directions, both procedurally and substantively, was repeatedly brought to the attention of Congress. Part of the response manifested itself in the passage of the Compulsory Testimony Act of 1893 and the Expediting Act of 1903 for the more-effective exercise of existing governmental authority; in the adoption of the Elkins Act of 1903, largely under pressure of the railroads themselves, for the prevention of departures from the published tariffs and the elimination of personal preferences; and as a parallel development, for the protection of persons and property, in the enactment of safety legislation. Not, however, until the passage of the Hepburn Act of 1906 under the vigorous leadership of President Roosevelt was the commission vested with reasonably adequate powers of regulation. By that legislation in recognition of the organic unity of the transportation function the jurisdiction of the commission was extended to a group of carriers other than railroads; the scope of railroad transportation subject to control was expanded to embrace auxiliary services and facilities, such as those provided by private car owners and industrial railroads and tap lines; the commission's authority over accounts and reports was strengthened by the sanction of penalties and by the right of access to and examination of the records of the carriers; above all, power was expressly conferred upon the commission to prescribe rates and practises for the future in lieu

of those found to be unreasonable or discriminatory, and the enforcement procedure was so changed that the commission's orders were made binding by their own terms with the support of heavy penalties, and the burden of testing their validity in the courts was shifted to the carriers. On this basis the commission came to exercise positive control over railroads and other carriers, and with the consequent narrowing of the scope of judicial review the method of administrative regulation came to dominate the field.

But administrative experience disclosed additional difficulties from time to time, necessitating further modification and expansion of the legislative structure. The first group of significant provisions was embodied in the Mann-Elkins Act of 1910. It rehabilitated the long-and-short-haul clause, so that relief from its prohibitions was made dependent upon the discretionary authority of the commission; it conferred power to suspend changes in rates, so that the commission might enter upon the regulatory process before the proposed rates became operative; it established a Commerce Court as a means of securing speedier, more uniform and more expert judicial determinations. Although the Commerce Court was abolished less than three years later, even this aspect of the 1910 legislation exerted a permanent influence upon the commission's status, since the most significant controversies during that short period concerned the lawful scope of judicial review and these controversies were almost uniformly resolved by the Supreme Court in support of the commission. Basically indeed the tendency of the Commerce Court to encroach upon the legitimate sphere of administrative power was responsible for the transfer of its jurisdiction to the district courts. The other important provisions of the Mann-Elkins Act not only resulted in a direct enhancement of the commission's authority but contributed to the enactment of further substantive legislation. While the new fourth section made possible far reaching curtailment of long-and-short-haul violations, particularly in southern and western territory, its application also emphasized the close interrelations between rail and water transport. Accordingly under the Panama Canal Act of 1912 provision was made for the dissociation of competing rail lines and water carriers, the commission to determine the existence or possibility of competition, and the commission's authority over joint rail and water carriage was extended in various directions. Similarly, while the rate suspension power was immediately uti-

lized in comprehensive proceedings as a means of preventing proposed advances in railroad charges, its application also emphasized the absence of reliable data of capital investment and property values. Accordingly under the Valuation Act of 1913 the commission was directed, although with little guidance as to controlling standards, to make valuations of the carriers' properties and to keep these valuations up to date—to initiate a vast research undertaking, which after almost two decades of investigation is not yet completed (*see* VALUATION).

But the commission's authority was to be still further developed in highly significant directions. In the decade after 1910 railroad facilities proved increasingly inadequate to meet growing transportation needs. Impaired railroad credit, which was widely recognized as the immediate cause of difficulty, was generally ascribed on the one hand to financial malpractices by important carriers and on the other to restrictive rate decisions by the commission. Both factors were doubtless operative in some measure, and they were alike grounded in the negative approach which had thus far characterized the development of the Act to Regulate Commerce. Restraint upon specific abuses, principally rate maladjustments, had been the chief objective of legislative policy; no affirmative responsibility had been imposed upon the commission so to utilize the regulatory process as to maintain and develop an adequate transportation system. This was evidenced by the lack of statutory guidance in the matter of fair return and by the absence of federal regulation of security issues; it was reflected too in the insistence upon maintenance of competition, in the statutory silence with regard to conflicts between state and federal authority, in the neglect of direct control over service and facilities. All these legislative defects contributed to the rapidly emerging transportation difficulties, which in turn were dramatically accentuated by the unprecedented traffic demands of the World War. Government operation of the railroad properties became inevitable during the period of this emergency, and the twenty-six months of federal control (January 1, 1918, to March 1, 1920) not only emphasized the fruitfulness of recognizing the unity of the national transportation system but afforded an opportunity for recasting the regulatory scheme in terms of such recognition. The roads were returned to their private owners under a system of regulation broadly reconstituted on an affirmative basis, in which the railroads of the country

were placed under "the fostering guardianship and control" of the commission.

The Transportation Act of 1920 involved many "new departures" from traditional legislative policy. In the field of rates and charges the commission's authority was expressly extended for the first time to matters of financial return, with emphasis upon the support of carrier credit and the maintenance of an adequate transportation system. This is evidenced by the statutory rule of rate making requiring under honest, efficient and economical management and reasonable expenditures for maintenance a fair return on the fair value of the railroad properties as a whole or in groups; by the recapture clause providing for the disposition and use of the earnings of individual carriers in excess of a fair return; by the requirement that joint rates be apportioned among participating carriers in furtherance of the public interest; by the express recognition of federal authority over intrastate rates found to be discriminatory against interstate commerce. With like ends in view the commission's directing powers were extended to the control of service practises, culminating in the extraordinary authority to order acquisition of facilities and extension of lines and under emergency conditions to direct the pooling of equipment, the common use of terminals, the establishment of priorities, the rerouting of traffic. Finally, an important group of enabling powers, to be exercised upon application of the carriers, extended the commission's dominant influence into the sphere of finance and management. New construction and abandonment of lines were made to depend upon its issuance of certificates of public convenience and necessity; the pooling of traffic or of revenue by competing railroads, the acquisition of control of one carrier by another through lease or stock ownership and the actual consolidation of railroad properties were made subject to its approval; the issuance of securities and the assumption of obligations were made dependent upon its authorization. While legislative policy on this basis was deemed to constitute a more intelligent and more constructive adjustment of relationships between the railroads and the public than had theretofore prevailed, the scope of the commission's powers was radically expanded thereby.

The sweep of the commission's control of economic adjustments appears not only in the wide range of substantive powers exercised over the railroads but in the variety of the types of carrier subject to its jurisdiction. While railroad

transportation was from the beginning and still remains the chief field of the commission's regulatory activity, the scope of its control now includes water lines under prescribed conditions as well as express companies, sleeping car companies, pipe lines employed in the transportation of oil or other commodities (except water and gas) and telephone, telegraph and cable companies. The actual assertion of authority over some of these carriers has been rather narrowly restricted; but there has been an increasing recognition of the intimate interrelationships, competitive and otherwise, which prevail between the various transportation agencies and of the need of still further extension of the commission's jurisdiction, particularly over water lines and motor carriers, if the primary tasks of railroad regulation are to be executed wisely and effectively and if necessary coordination in the transportation field as a whole is to be measurably achieved.

Although the commission's authority is expressly declared to be inapplicable to the transportation of passengers and property wholly within one state, its functioning jurisdiction embraces such control of intrastate commerce as is essential to the effective control of interstate commerce. This development is grounded, first, in the fact that identical instrumentalities simultaneously serve both types of commerce and, second, in the controlling circumstance that commercial enterprise does not accommodate itself to the artificial political lines which separate the states. Under these conditions the commission's regulatory activities normally comprehend many matters which are primarily of local concern. The prescribed accounting classifications and the required reports cover all traffic; the service regulations are applicable to the entire supply of facilities and the entire flow of commerce; the certificates of convenience and necessity generally embrace lines located or to be located wholly within one state and intrastate as well as interstate service; the issuance of securities by interstate carriers, even when the proceeds are to be used exclusively for intrastate facilities, is conditioned upon federal authorization and cannot be validated by state action; carrier combinations are generally dependent upon federal approval, and such approval exempts them from the restrictions of state law; state made rates which are found to be discriminatory against interstate commerce, whether because of the prejudicial effect of rate disparities upon specific persons and places or because of the

general financial burden imposed thereby upon the transportation system, are subject to the commission's direct control. Under the influence of congressional enactments, as interpreted by the courts, the powers of the states have become increasingly attenuated in this field.

But despite this centralization of authority the commission has tended to steer a statesmanlike course in dealing with state and federal relations: without subordinating dominant national interests it has largely avoided undue encroachment upon the legitimate sphere of local control. Only in the initial enforcement of the affirmative rate policy introduced by the 1920 legislation did it virtually occupy the entire field, with seemingly unnecessary disregard of the economic and governmental interests of the states. In due course by way of response to judicial dicta and to the lessons of more mature administrative experience a commendable spirit of restraint came to characterize its adjustment of jurisdictional issues. Only substantial disparities in charges which operate "as a real discrimination against, and obstruction to, interstate commerce" are now held to justify the assertion of federal authority; and even in such cases reliance is regularly placed upon the state commissions, in the first instance, for the removal of the maladjustments. A co-operative procedure following express statutory provisions has facilitated these developments. Due notice is given to the state authorities of all proceedings involving matters of intrastate concern, so that local representations may be made and cooperative action arranged; joint hearings and joint conferences are held in most such proceedings, so that on the basis of a common record and free discussion conflicting views may be harmonized and divergent results avoided; the facilities and services of the state commissions are frequently utilized by the federal agency as media of investigation and administration. While ultimate authority resides in the federal tribunal, this system of cooperation, voluntarily fashioned by agreement between the Interstate Commerce Commission and the National Association of Railroad and Utilities Commissioners, is achieving notable practical results--in removing maladjustments, in averting conflicts, in reducing to a minimum the necessity for direct federal action in matters primarily of state concern.

Perhaps the commission's outstanding characteristic as an agency of control lies in the vast scope of its administrative discretion. In the performance of its mixed functions it is not only

virtually unhampered by procedural restrictions but free to mold its substantive determinations in such directions and by such processes as in its informed judgment will best serve public ends. Despite the elaborate character of the legislation under which it operates, the guiding standards prescribed by Congress are usually so general that a continual stream of policy making administrative decisions is necessary to translate these general standards into concrete arrangements. The just and reasonable rates and practises which the commission seeks to maintain and develop are based upon the facts and circumstances of each proceeding, in the light of constantly changing conditions in both industry and transportation; and a like approach characterizes its disposition, in furtherance of the public interest, of the numerous and varied applications for approval of proposed courses of action in the newer field of finance and management. Although a body of controlling principles has been progressively developed in all phases of the commission's tasks, pragmatic considerations tend to dominate the course of administrative performance. Precedent often plays but a minor role; future needs are nicely balanced against the claims of vested interests and the pressure of established relations; typical data are frequently accepted as providing sufficient support for comprehensive findings; provisional orders are issued when calculated to achieve major public ends; experimental adjustments are encouraged; few obstacles are interposed to the rehearing of complaints and the reopening of proceedings; emphasis is directed to the achievement of flexibility of relations through continuity of control.

Furthermore this broad exercise of discretion is virtually free from external limitations imposed by the courts. Through a self-denying interpretation of basic statute the courts have sharply narrowed the scope of judicial review in recognition of the general intent of Congress to constitute the commission the dominant agency of control. In most matters involving alleged violations of the Interstate Commerce Act preliminary resort must be had to the commission in order that uniformity of results molded by expert judgment may be adequately safeguarded; denials by the commission of the relief sought are held to be beyond the reviewing powers of the courts, in order that the discretion of the courts may not be substituted for that of the commission; and upon the commission's assumption of primary jurisdiction and its issuance of affirmative orders the grounds of judicial cen-

sorship tend to be confined essentially to the single issue as to whether the exerted powers could be and were in fact vested in the commission. The commission's acts may be invalidated because they infringe upon constitutional limitations, because they exceed the scope of statutory authority, because as a result of want of evidence or mistake of law they involve arbitrary action or abuse of discretion. Even in these terms there is no extensive judicial interference with the commission's findings and orders. Despite the far reaching expansion of regulatory processes there has been an almost complete absence of proceedings in which either the underlying legislative provisions or the administrative decisions have been invalidated on constitutional grounds. There have been frequent disagreements between the commission and the courts in matters of statutory interpretation, but the gaps left by such judicial curtailment of administrative authority have generally been filled in due course by amendatory or supplementary legislation; and while censorship for mistakes of law broadly conceived has afforded numerous opportunities for judicial encroachment upon administrative judgment, it has almost invariably been restricted in the maturity of the commission's status to the maintenance of basic procedural safeguards and to the enforcement of legal principles of general applicability. The Supreme Court's approach in connection with the valuation controversy—notably in the famous *O'Fallon* case [*St. Louis and O'Fallon Railway Co. v. United States*, 279 U. S. 461 (1929)]—seems to constitute a striking exception to the general doctrine that the commission's determinations when supported by evidence and within the lawful scope of its delegated power are free from judicial interference; but even in this proceeding the adverse decision of the majority of the court was professedly based upon the commission's mistaken construction of the relevant statutory provisions, in the light of principles deemed to have been established in previous valuation cases with regard to the consideration to be given to current reproduction costs. It has been repeatedly affirmed that issues of fact, primary or ultimate, which necessarily involve the exercise of discretion, are subject to conclusive settlement by the primary tribunal. The courts do not pass upon the weight of the evidence, nor do they render independent judgment upon the wisdom or expediency of the policies and practices sought to be enforced. The commission is recognized as the tribunal "appointed by law" and "informed

by experience" to which the tasks of regulation have been committed, the courts merely providing negative safeguards against abuse of power.

The accumulation of regulatory tasks and the expansion of administrative responsibilities have resulted in important developments in organization and procedure. The commission's original membership of five has been increased through successive amendments to eleven, and the commission has been authorized to act through subdivisions of this membership, the decisions of which, subject to ultimate control by the entire body through rehearing, possess the same effect as those of the commission. The staff has grown from less than a dozen to about two thousand, and expenditures from somewhat less than \$100,000 during the first full year of the commission's existence to more than \$8,000,000 for 1930. There have been many reorganizations of the internal mechanism of administration; the bureaus of the commission, which not only perform routine tasks but participate intimately in the processes of regulation, now include those of formal cases, informal cases, traffic, valuation, finance, law, inquiry (prosecutions), service, safety, locomotive inspection, accounts and statistics. Originally the commissioners personally examined complaints, held hearings, conducted investigations, prepared reports, rendered decisions, issued orders. These duties are now largely performed, at least in the first instance, by attorney examiners and other subordinate employees; but by pursuing a liberal practice in permitting oral argument before divisions or the entire body and in authorizing the reopening of proceedings and the rehearing of complaints as well as through a carefully developed system of internal conference and co-operation the commission has encountered no insurmountable obstacles to fashioning harmonious policies, attaining reasonably uniform results, assuming informed responsibility for findings and orders. Nevertheless, the extent and diversity of the commission's tasks have given rise to serious problems of administrative pressure. The commission is probably the most overworked body in the entire governmental establishment, and it is becoming increasingly difficult to maintain its various activities on a measurably current basis. Procedural experiments involving the voluntary elimination or curtailment of formal hearings have tended to afford some relief; further improvement would doubtless result from increased appropriations, especially for additional examiners to handle

format cases, and also perhaps from the delegation of authority under proper safeguards to individual commissioners and specified employees as recommended by the commission. But more drastic expedients—the establishment of independent or subordinate regional commissions, the creation of parallel regulatory tribunals in the sphere of finance broadly conceived, the organization of a cabinet department of transportation to exercise general administrative supervision over the railroad system—have been proposed from time to time. While the organic character of the regulatory process and the high quality of the commission's performance tend to cast doubt upon the wisdom or feasibility of most such proposals, the suggestions direct attention to practical aspects of the increasingly important issue of administrative effectiveness.

The commission is called upon to accommodate such numerous and far reaching conflicts of interest that its decisions frequently elicit criticism and disapproval, but it is a matter of general agreement that its functions are indispensable and the services which it renders highly salutary. Its vast powers are usually exercised with admirable restraint, and it accords dominant influence to the complex realities of the situations with which it deals. Without attempting to reconstitute the railroad industry on any uniform basis of abstract principle, the commission is none the less constantly safeguarding the interests of the public in a great variety of directions; and at the same time it is not unmindful of the legitimate claims of the railroad owners and is protecting the carriers themselves against the excesses of competitive practice and the mistakes of corporate self-seeking. With the increasingly extensive inroads upon railroad traffic by motor trucks, buses, water carriers and pipe lines it has become essential that the commission direct itself to the outstanding task of effecting a proper coordination of the various carrying agencies. The commission's recommendations for added statutory authority in this sphere will doubtless come to fruition in due course; and much may also be gained from its proposals for repeal of the recapture provisions and for modification of the rule of rate making as well as from progress under its supervision in the actual accomplishment of railroad consolidations. In face of these large responsibilities, however, it is of crucial importance that the commission's administrative independence be jealously maintained. Executive or legislative interference tends to substitute political power for informed and disinterested

judgment. In recent years such interference has not been altogether absent. On the executive side there has been some manipulation of the powers of appointment and confirmation under pressure of disgruntled litigants and in general furtherance of political ends; and on the legislative side there has emerged a tendency to resort to direct congressional action, as through the largely futile Hoch-Smith Resolution of 1925 for according relief to agriculture, in similar response to dissatisfaction with the commission's orderly determinations. Such developments have not hitherto involved serious consequences but they tend to undermine administrative responsibility, to distort the closely integrated system of regulation, to drag into the political arena complicated technical questions which can be settled properly only through patient inquiry and expert judgment. Freedom as well as power is essential to the satisfactory performance of the commission's important labors.

I. L. SHARFMAN

*See:* INTERSTATE COMMERCE; COMMISSIONS; COURTS, ADMINISTRATIVE; ADMINISTRATIVE LAW; DELEGATION OF POWERS; GOVERNMENT REGULATION OF INDUSTRY; MONOPOLY; PUBLIC UTILITIES; RAILROADS; RATE REGULATION; VALUATION; FAIR RETURN.

*Consult:* Sharfman, I. L., *The Interstate Commerce Commission, a Study in Administrative Law and Procedure*, vols. i-ii (New York 1931- ); Hines, Walker D., *The Interstate Commerce Commission* (New York 1930); Bernhardt, Joshua, *The Interstate Commerce Commission: Its History, Activities and Organization* (Baltimore 1923); Dickinson, John, *Administrative Justice and the Supremacy of Law in the United States* (Cambridge, Mass. 1927); Freund, Ernst, and others, *The Growth of American Administrative Law* (St. Louis 1923); Ripley, William Z., *Railroads: Rates and Regulation* (New York 1912), and *Railroads: Finance and Organization* (New York 1915); Dixon, Frank H., *Railroads and Government, Their Relations in the United States 1910-21* (New York 1922); Locklin, D. P., *Railroad Regulation since 1920* (New York 1928), and *Supplement* (New York 1931); Vanderblue, Homer B., and Burgess, Kenneth F., *Railroads, Rates—Service—Management* (New York 1923); Hammond, M. B., *Railway Rate Theories of the Interstate Commerce Commission* (Cambridge, Mass. 1911); Locklin, D. P., *Regulation of Security Issues by the Interstate Commerce Commission* (Urbana 1927); Frederick, John H., Hypps, Frank T., and Herring, James M., *Regulation of Railroad Finance* (New York 1930); Simpson, Sidney P., "The Interstate Commerce Commission and Railroad Consolidation" in *Harvard Law Review*, vol. xliii (1929-30) 192-250; Hartman, Harleigh H., *Procedure and Proof before the Interstate Commerce Commission in Rate and Allied Cases* (Washington 1925). See also the following publications of the United States, Interstate Commerce Commission, *Interstate Commerce Acts Annotated*, prepared by and under the direction of Clyde B. Aitchison,

70th Cong., 1st sess., Senate Document, no. 166, 5 vols. (1930), and *Annual Reports*, vols. i-xlv (1887-1931), and *Reports and Decisions*, vols. i-clxxi, including *Finance Reports and Valuation Reports*, the more recent volumes of the latter being in a separately numbered series (1887-1931).

INTERSTATE COMPACTS. *See* COMPACTS, INTERSTATE.

INTERVENTION. Intervention, in international law, occurs where one state interferes by force or the threat of force in the affairs of another state. It may be directed, as was the case during the earlier history of the practise, against a recognized member of the family of nations or, as has happened on numerous occasions during the more recent period of planned colonial expansion, against an outlying state with a less advanced civilization (*see* PROTECTORATE).

As a technical term the word is of comparatively modern origin, but the idea comprised in it may be traced back to E. de Vattel, the Swiss jurist, whose *Droit des gens* was first published in 1758 (2 vols., Leyden). He laid down the general rule of state independence that every state has the right to govern itself as it thinks fit, adding the corollary that no foreign power has a right to interfere with a state apart from friendly help unless it is asked to do so or unless prompted by special reasons. Vattel's frequent repetition of this corollary was no idle tautology. The notion that states were independent was recognized in theory, but in the European practise of that age little attention was paid to it by the more powerful states when it did not suit their purpose. From the Peace of Utrecht in 1713 to the Treaty of Vienna in 1815 there were events which might justify serious speculation as to whether rules of common morality applied as between states. Even while Vattel wrote, Frederick II's plunder of Silesia in direct contravention of his father's guaranty must have been fresh in his memory. The very king in whose diplomatic service Vattel was employed, Augustus III of Saxony, had been forced as a ruler upon the Polish nation by the arms of Russia and Saxony.

The writers on international law who succeeded Vattel forged and welded the materials scattered throughout his book into a more compact form, but it was some time before "interference" was insulated as a substantive branch of international law and longer still before it acquired "intervention" as a technical name. This hardened as a distinctive term during a period extending roughly from 1817 to 1830. The

reason for its swift evolution during this period is paradoxical. The gross infractions of state independence were so numerous that jurists were forced to give the topic of intervention, whether justifiable or otherwise, an increasing amount of attention. Within the brief span of the twelve years between 1820 and 1832 the Holy Alliance exploited its principles of interference in Naples and Spain, Greece and Belgium became independent states by the intervention of foreign states and French and Austrian interventions balanced one another in Italy. English historians have been inclined to regard Castlereagh's circular dispatch of 1821 as the *locus classicus* on non-intervention; yet it was Castlereagh who dispatched a British fleet in 1814 to punish the Norwegians because they refused subjection to a Swedish king.

Even in current international law intervention has a perplexing vagueness of meaning, but three tolerably distinct varieties are noticeable. The commonest type, the type which has been discussed in the above historical sketch, is internal intervention, or interference by one state between disputant sections of the community in another state, the matter of dispute being usually but not invariably some constitutional change. Since state independence is the foundation of modern international law, non-intervention is now the rule and intervention the exception. It took some time to establish this fact, but for the last century it has been generally recognized as prevailing within the family of nations. Internal intervention when it occurs is directed against abnormal conditions resulting from internal strife, and as a general rule the expectant treatment of non-intervention has come to be preferred to the surgery of intervention.

A second type of intervention so-called consists in punitive measures adopted by one state against another to enforce the observance of treaty engagements or the redress of illegal wrongs. Such interventions occurred with considerable frequency throughout the nineteenth century, as, for example, the blockade by France in 1838 of the coast of Argentina on the ground of the alleged ill treatment of French subjects by the local government; the warlike expedition sent jointly by England, France and Spain in 1861 to compel Mexico to make compensation for injuries inflicted upon resident foreigners in Mexico and upon their property; the English embargo on Greek shipping in 1850 as a means of redressing the wrongs suffered by Don Pacifico and other British subjects; the naval expeditions

dispatched against Korea in 1866 by France and the United States to punish in the one case the murder of a French apostolic vicar and in the other the destruction of an American vessel and the massacre of its crew. The plea of protection of nationals and national property in backward areas as well as the collection of debts has often been advanced, especially in more recent times, as justification for forceful interference by an imperialistic power, notably by the United States in the Caribbean and Central American areas. All such proceedings are essentially measures of redress falling short of war and might more properly be referred to that branch of international law under some such subhead as reprisals, embargo or pacific blockade. They would not have been styled interventions but for the capricious application of that term; and confusion ensues from singling out certain pacific blockades as interventions. It is possible for punitive intervention to be closely followed by internal intervention, as happened in the proceedings instituted by England, France and Spain in 1861 to secure redress for injuries inflicted by Mexico; in spite of the protest and withdrawal of the other two powers France proceeded beyond the original aim and attempted to coerce Mexico in its choice of internal governments.

A third type of intervention, usually referred to as external intervention, consists in interference by one state in the relations—usually the hostile relations—of other states without the consent of the latter. The great majority of such interventions have had as their aim the promotion or settlement of a war between the states interfered with. It might be said that until quite recently the cardinal difference between internal and external intervention lies in the fact that while the causes which justify the former are within the province of international law, those which lead to the latter are outside its scope, however appropriate their discussion may be to the sphere of morals. For external intervention usually involves participation by the intervener in a war, and modern international law does not profess to classify the causes of war as just or unjust. But since the institution of the League of Nations in 1919 this doctrine has been seriously modified. Article 11 of the Covenant of the League declares that any war or threat of war, whether immediately affecting any members of the League or not, is a matter of concern to the whole League, which shall take any action that may be deemed wise and effectual to safeguard

the peace of nations; and not only are elaborate provisions made in other articles for the settlement of disputes between member states but certain topics are expressly specified as generally suitable for arbitration. It is true that the Covenant, like other treaties, is binding only on those states which have acceded to it, but these are so numerous and powerful that it is difficult to say that the causes of war are still a matter of indifference to international law. Consequently every war, whether it originates as an external intervention or not, must since 1919 be regarded as a matter of interest to international law, although there is as yet no genuine prospect of a reversion to the attempts of eighteenth century jurists to catalogue the causes of war as just or unjust.

Since all three forms of intervention involve force or the threat of force, the question is raised as to the difference between intervention and war. This is found to lie not in the acts of the parties but in the intention of one of them. The intervening state in spite of the hostile character of its conduct and of its recognition as such by the state affected usually regards pacific relations as uninterrupted. The touchstone is to be found in the circumstances which immediately precede the attack. The claim of the intervener may be reluctantly acquiesced in, in which case the intervention is non-belligerent; or it may be taken up as the gauge of war, and then it becomes belligerent. When it reaches that stage the rules governing the contest differ in no respect from those applicable to any other war, except in those instances of internal intervention which take the form of assisting a mother country to subdue rebels to whom recognition of belligerency has not been accorded.

Discussion as to the theoretical justification for intervention may most profitably be limited to internal intervention, since from the very nature of the other two types exhaustive classification of their grounds is impossible. At one time or another some forty justifications of internal intervention have been advanced, most of which were of the flimsiest description and mere excuses for violent interference by one state in the internal quarrels of another. Out of this number only three are regarded by modern international law as unimpeachable.

"If," writes Hall in the classic statement of the first of these justifications, self-preservation, "a government is too weak to prevent actual attacks upon a neighbour by its subjects, if it foments revolution abroad, or if it threatens hostilities which may be averted by its overthrow, a



menaced state may adopt such measures as are necessary to obtain substantial guarantees for its own security" (*A Treatise on International Law*, 8th ed. by A. P. Higgins, Oxford 1924, p. 339).

Or again intervention is clearly justified as a means of checking unlawful intervention by another state. Such, for example, was the help afforded by Great Britain to Portugal in 1826 in order to secure the Portuguese throne against the attacks of Portuguese subjects stimulated by Spain.

In the third case, where intervention is justified on the grounds of an existing treaty right, a distinction must be drawn. If one of the parties to a struggle which is in actual existence concludes a treaty with a state authorizing its interference and in effect making it an ally, the interference is unlawful in spite of the treaty. Such treaties were common enough in time past; but now the rule of state independence has hardened sufficiently to make them unlawful, since in general a state must settle for itself its own form of government, a right which cannot be alienated by a single disputant section. Where, however, such a treaty has been concluded between two states before any dispute has arisen in one of them, it is impossible to say that it is unlawful. It may turn out to be unwise when occasion arises to put the treaty into operation, but a state is permitted to alienate to another state even its entire sovereign powers. For example, the Treaty of Havana in 1903 and the Treaty of Washington in the same year gave the United States lawful rights of intervention in Cuba and Panama respectively. Another example of such intervention is that provided for by the Treaty of Versailles, according to which the League of Nations may under certain conditions intervene to secure equitable treatment of racial, linguistic and religious minorities.

Beyond these three accepted grounds of justification there are others as to which international practise is uncertain. The most conspicuous of these are humanitarian intervention and collective intervention. The former has been repeatedly put forward to support interference designed to terminate civil discords accompanied by brutalities revolting to the notions of western civilization; such were those repeatedly undertaken by the European powers in Turkey during the nineteenth century. As to the second the only plea in its favor is that it usually excites less disapproval than intervention by one state because it is less likely to be selfish. But it is impossible to dogmatize as to the legality of either, because

most interventions of this or indeed any other kind have been based on a variety of motives, some just, some doubtful, some unjust. It is this fact which makes it so difficult to deal with the grounds of intervention in a generalized fashion instead of taking each case on its own merits. Thus neither nationality nor religion can be now regarded by itself as an adequate reason for intervention, but it has often happened that an intervention on either of these grounds has been confused by a plea based upon several others at the same time.

The social and political consequences of intervention in its varied forms and disguises do not lend themselves to brief summary. During the eighteenth and nineteenth centuries it repeatedly stifled democratic aspirations in the minor European states, as in Italy before its unification, and postponed freedom at the cost of continued oppression. Occasionally it produced beneficial results, as in the intervention which led to the creation of the modern kingdom of Greece in 1830. The recognized pretexts for intervention seemed even more convincing in the eyes of the family of nations when invoked against remote states addicted to civil discord in one form or another and so obviously lacking in the essentials of nineteenth century political and economic stability.

Intervention has been and probably still is inevitable as one means of standardizing the civilization upon which international law is now based. From the point of view of maintaining peace there is something to be said for the suppression of internal discords in another state when it is common knowledge that no revolution can break out in a European state without the likelihood of the balance of power between other states being upset. In many instances this is at best an excuse and not a justification, but it does show clearly that a policy of isolation, if it signifies absolute indifference to what occurs in other states, is at present neither advisable nor practicable. If any change in the trend of ideas about intervention is perceptible it is this. In the future intervention is more likely to be undertaken collectively, and the threat in it will more probably be one of economic outlawry—which is one of the sanctions of the Covenant of the League of Nations—rather than one of actual war.

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See: DIPLOMACY; ISOLATION, DIPLOMATIC; INTERNATIONAL LAW; SOVEREIGNTY; WAR; NEUTRALITY; REVOLUTION AND COUNTER-REVOLUTION; CIVIL WAR;

INSURRECTION; TREATIES; DIPLOMATIC PROTECTION; IMPERIALISM; MONROE DOCTRINE; PROTECTORATE; INTERNATIONAL ADVISERS; CALVO AND DRAGO DOCTRINES.

Consult: Stowell, Ellery C., *Intervention in International Law* (Washington 1921), with exhaustive critical bibliography; Esmein, A., "La théorie de l'intervention internationale chez quelques publicistes français du XVI<sup>e</sup> siècle" in *Nouvelle revue historique de droit français et étranger*, vol. xxiv (1900) 549-74; Winfield, P. H., "The History of Intervention in International Law" and "The Grounds of Intervention in International Law" in *British Year Book of International Law* (1922-23) p. 130-49 and (1924) p. 148-62; Flöckner, A. von, *De l'intervention en droit international* (Paris 1896); Cavagliere, Arrigo, *L'intervento nella sua definizione giuridica* (Bologna 1913); Heller, Karl, *Die Frage der Zulässigkeit der völkerrechtlichen Intervention* (Borna 1915); Hodges, H. C., *Doctrine of Intervention* (Princeton 1915); Kelcey, M. S., *De l'intervention, théorie générale et étude spéciale de la question d'orient* (Paris 1890); Rougier, Antoine, "La théorie de l'intervention d'humanité" in *Revue générale de droit international public*, vol. xvii (1910) 468-526; Robin, R., *Des occupations militaires en dehors des occupations de guerre* (Paris 1913); Snow, A. H., *The Question of Aborigines in the Law and Practice of Nations* (New York 1921) ch. xiv; Lindley, M. F., *The Acquisition and Government of Backward Territory in International Law* (London 1926); Strupp, Karl, *Intervention in Finanzfragen*, Frankfurter Abhandlungen zum Kriessverfassungsrecht, vol. vii (Leipzig 1928); Drago, L. M., *Cobro coercitivo de deudas publicas* (Buenos Aires 1906); Kraus, Herbert, *Die Monroe-doktrin in ihren Beziehungen zur amerikanischen Diplomatie und zum Völkerrecht* (Berlin 1913); Martin, C. E., *The Policy of the United States as Regards Intervention*, Columbia University, Studies in History, Economics and Public Law, vol. xciii, whole no. 211 (New York 1921); Offutt, Milton, *The Protection of Citizens Abroad by the Armed Forces of the United States*, Johns Hopkins University, Studies in Historical and Political Science, ser. xvi, no. 4 (Baltimore 1928); Lucien-Brun, Jean, *Le problème des minorités devant le droit international* (Paris 1923) p. 19-47; Quigley, H. S., "The Far Eastern Republic: a Product of Intervention" in *American Journal of International Law*, vol. xviii (1924) 82-92.

INTESTACY. See INHERITANCE; SUCCESSION, LAWS OF.

INTIMIDATION as a means of achieving desired ends is a feature of behavior where power or authority is based primarily and essentially on force. The less the public feels bound by standardized ethical norms of conduct, the larger are the opportunities of using intimidation. It calls for a technique calculated to evoke fear in the party which is expected to do or not to do certain things, without, however, resorting to direct violence, which would bring the intimidator into conflict with established authority and law. Intimidation is presumed to border on violence,

carefully enough not to cross the line which demarcates the former from the latter yet closely enough to leave no doubt in the mind of the party of the second part that the party of the first part means business.

The distinction between intimidation and violence, on the one hand, and intimidation and persuasion, on the other, is so subtle and elusive that, for example in the field of industrial relations, where intimidation is a part of the workaday procedure, the American courts have found it next to impossible to lay down definite formulations and differentiations between the permissible and the impermissible. While most courts repeatedly have declared peaceful picketing entirely legal provided the picketers abstain from "unlawful intimidation," thus assuming lawful intimidation as a possibility, the Appellate Court in Chicago in 1921 in two separate cases declared emphatically: "There is no such thing as peaceful picketing" (221 Ill. App. 299, 303). "The very fact of establishing a picket line by the appellants is evidence of their intention to annoy, embarrass, and intimidate the employees of the appellee company, whether they resorted to physical violence or not (221 Ill. App. 322, 336). The United States Supreme Court in a decision handed down by Chief Justice Taft in 1921 postulated the right of picketing workers to attempt peaceful communication for the purpose of persuasion but also declared that "if . . . the offer is declined, as it may rightfully be, then persistence, importunity, following and dogging become unjustifiable annoyance and obstruction which is likely soon to savor of intimidation."

Intimidation as a practise is not limited to parties in the opposition who do not share in the privilege of operating, controlling or directly influencing the machinery of government and the administration of law. The resort to intimidation is also practised by persons, groups and institutions of functioning authority as an extralegal means of achieving desired political, economic, fiscal or other pecuniary ends.

Employers seek to intimidate employees by holding out the threat of discharge in order to prevent them from joining trade unions. Enforcement of the so-called yellow dog contracts is one of the means to that end. Potential union organizers among the employees are made to feel that they are risking their jobs by "butting in" on what is "none of their business"; the "agitators" are spied upon and may be directly discharged to instil fear in the hearts of the men at work. Where the employees live in what is

known as a company town, intimidation is achieved by warnings that disloyalty to the employers will result in the cutting off of credits in company stores or in eviction from company owned homes.

Where trade unions are firmly established, employers may seek to intimidate their employees by the prosecution of conspicuous union organizers. The celebrated case of Tom Mooney originated in an attempt of the San Francisco utility companies to intimidate all organized labor in the city. The companies may sometimes have the tacit acquiescence of the standpoint element of the trade union movement in a fight on a radical leader, if the conservatives consider their own position endangered or threatened by the ascendancy to power of the radical element. Or employers may seek to intimidate the unions in order to force them to yield important concessions, to which end they will seek to arouse public sentiment against organized labor as responsible for the high cost of living or for the falling off of foreign trade.

Workers on strike seek to intimidate other workers who wish to take their places in the establishment involved. Intimidation need not necessarily be practised in the vicinity of the workshops. The strikers may attempt to reach their competitors at their homes or on some adjacent thoroughfare. The technique of intimidation varies from massed demonstrations before the workshop, accompanied by loud expressions of opprobrium, to the use of subtle yet persuasive methods of conveying the strikers' views of the situation to those who are consciously or otherwise engaged in breaking the strike. Where professional strike breakers are called in, the strikers seek to frighten and discourage them and to force their withdrawal from the scene. For workers who are engaged in strike breaking activity because they need the jobs for their living a different technique is used; the methods are those of persuasion, of demonstration and of appeal to the obligations of solidarity and brotherhood. This sort of approach often proves effective, especially in countries where labor is traditionally and socially class conscious and presents a largely homogeneous racial entity. In the United States, however, where differences of economic position have not generally evolved into social class divisions, where labor solidarity is tempered more often than not by job consciousness and where race and language lines cross those of economic class, it would seem that methods might tend toward intimidation

and violent expression of disapproval rather than toward peaceable communication and persuasion. But this is only rarely the case, judging by the conclusions arrived at by the United States Commission on Industrial Relations, which held that "the greatest disorders and most acute outbreaks of violence in connection with industrial disputes arise from the violation of what are considered to be fundamental rights, and from the perversion or subversion of Governmental institutions."

The workers in most cases do not view their recourse to intimidation in an industrial dispute as contrary to law. Conservative or radical, workers look upon their right to their jobs as a basic and indisputable condition of their welfare. On the other hand, the organs of public authority in objecting to intimidation of strike breakers assume the abstract individual right of any worker to work whenever, wherever and under whatever conditions he chooses; this was the view of Charles W. Eliot when he declared the strike breaker "a national hero."

Intimidation is used in the struggle of labor factions for supremacy. The labor group organized into one trade union may act as a monolithic collective whole when it faces an attacking outside power but it is very often much divided within. Contests for leadership, while they may be couched in statements of differing opinions on policy and tactics, are more often presented in such a way as to carry a threat to the rank and file that might be misled into following the opposition. The advantages of a material nature dependent upon maintenance of the leadership in power are featured prominently. The opposition to be silenced by intimidation need not be a minority. A majority may be kept in dread of the danger to which the well being of the members will be exposed, should a change of administration take place. The intimidation technique begins with publicity which plays up the governing machine, presenting it as endowed with extraordinary talent and diplomatic skill, as doubly powerful because it is admired by the overwhelming majority of the rank and file and respected and feared by the employers. Another part of the intimidation technique is running down the opposition as inimical to the best interest of the union. The exclusion of the leaders of the opposition from initiating any constructive action which may win for them the confidence of the rank and file is also a part of that technique. The membership is constantly confirmed in the thought that the opposition

leaders are phrasemongers, good for nothing faultfinders; and the contenders for office and power themselves are made to feel that they stand no chance of ever functioning in any capacity within the organization unless they are ready to accept terms imposed by the administration. The more drastic procedure in the intimidation technique is that of depriving opposition leaders of their membership in the union and thereby excluding them from jobs in the industry.

The intimidation of radical minorities in trade unions presents for the most part no aspects distinctive from the practises of intimidation where an ordinary contest for power takes place. The technique is generically similar to that used where power is in the hands of the radicals themselves, who excommunicate dissenters or objectors to their policies. The historic case of Sacco and Vanzetti is illustrative of what a social group in power will do to intimidate radical dissenters, a game of intimidation practised on a state wide scale. The treatment accorded by the Communist parties everywhere to the followers of Leon Trotsky after his banishment from the Soviet Union may serve as an illustration of the other aspect of this situation. The elimination of Trotsky from the country whose revolution he had helped crown with success and to which he never forfeited loyalty was justified by the claims that his presence in Russia would constitute a danger to the Soviets. In the other countries "Trotskyites" were excluded as a means of intimidating dissenters.

The intimidation of voters by employers interested in certain kinds of politics is a relatively simple procedure. The voters are intimidated by fear of material disadvantage as well as by the odium of nonconformity. Following the Civil War Republican campaign managers practised what the Democrats called "waving the bloody shirt." The campaign for McKinley in 1896, with finance and industry seriously alarmed over the "free silver" danger, was notorious for the variety of means used to intimidate voters, especially the workers, to whom William Jennings Bryan was making a strong appeal. Employees were discharged for turning out to see or hear Bryan; employers threatened to "close down" their factories should McKinley be defeated. Business contracts were made out to contain an invalidating clause in the event of Bryan's election. The Republican party's self-assumed custodianship of prosperity has intimidated and stampeded voters on many occasions since 1896

by the implied or open threat of hard times should the opposition party win.

There are other forms of political intimidation. The political machines which usually dominate local politics practise intimidation on a large scale. Opposition voters are intimidated in various ways, some of them subtle, others crude, in order to keep them away from the polls. Business men are made to fear that contracts or favors may go to competitors if they do not "stand in" with the machine. Criticism of the leaders within the machine is usually fatal for the aspiring politician. The power to grant or withhold patronage is a strong weapon of intimidation in both local and national politics. And intimidation of course is an indispensable weapon in suppressing opposition and maintaining unity in war time.

A whole social group may practise intimidation upon another group, as is the case in the south, where the intimidation of the Negro assumes many forms in which are intermingled factors of a racial, economic, political and social nature. In Europe national minorities are intimidated in much the same manner. In countries where aliens are numerous they are the victims of many forms of intimidation, one of which is the threat of deportation hanging over alien radicals.

Intimidation is also a part of the technique of business. Competitors resort to intimidation which may merge into violence. The oil industry of the earlier years presents many examples of the resort to violent intimidation. Lowering prices in order to force competitors out of business may be considered a form of intimidation. Price associations and cartels often resort to intimidation to force recalcitrants into line. Chain stores by threatening to withdraw their orders sometimes force onerous terms upon small manufacturers who have come to depend upon the chain as their main market. Distributors of securities may be forced to handle certain objectionable issues by the investment banker's open or covert threat of ceasing further transactions. And financial groups out to secure control of particular corporations or to achieve other ends may make use of various forms of intimidation which flow from the possession of great power.

Intimidation is the stock in trade of gangsters and minor racketeers in the United States. They intimidate the small business man and sell him "protection" against the danger of which they make him aware. The small business man or

service agency is continually harassed, annoyed and intimidated by sub rosa representatives of the racketeering gang, while a formal representative offers in matter of fact business fashion protection from the harassing, annoying, intimidating crew. In recent years this industry has muscled its way into the labor union field. The gangster comes to the union, for instance, when it is engaged in a conflict with an employer, and offers to intimidate the adversary and force him to terms. Although his charges for this service are usually reasonable, he later sees to it that union officers become implicated in an overt act, after which he has the union in his grip and can collect as much as the traffic will bear. Should the union try to dispense with the gangster's services, he may intimidate it into retaining them. Having established connections within the union he next approaches the employer, to whom he sells protection from the union's organizing efforts. To convince an employer who shows little anxiety to be protected the racketeer, acting through his gangsters stationed in the union, will engineer "trouble" in order to prove that it pays to be protected. A large scale employer may not fall prey to the game of intimidation; nor will a well organized and intelligently led union open its doors to gangsters.

The success of the practitioners of intimidation is largely due to the growing insecurity of large masses of workers and to the narrowing of opportunities hitherto open to the intermediate social groups above the working class and below the business and professional classes. The peculiarities of the American system of law administration and enforcement, the conflicting jurisdictions of city, state and federal administrative and judicial authorities, furnish an appropriate setting for traffic in intimidation. The absence of normalized socio-ethical concepts and the all pervading reverence of material success as intrinsically valuable, characteristic of a population still in a condition of flux, supplies a milieu in which intimidation not only flourishes but is accepted as a legitimate part of the routine of living. The social process is consequently demoralized and aberrated, as the practise of intimidation makes more severe and still more complicated the conflicts unavoidable in a complex social system based on a pecuniary civilization.

J. B. S. HARDMAN

See: COERCION; VIOLENCE; FORCE, POLITICAL; CIVIL LIBERTIES; LABOR DISPUTES; STRIKES AND LOCKOUTS;

BOYCOTT; POLICING, INDUSTRIAL; BLACKLIST, LABOR; COMPANY TOWNS; COMPANY HOUSING; ESPIONAGE; ANTI-RADICALISM; DEPORTATION AND EXPULSION OF ALIENS; RACKETEERING; EXTORTION; MACHINE, POLITICAL; EXILE; SOCIAL DISCRIMINATION; RACE CONFLICT; KU KLUX KLAN.

**INTOLERANCE.** People are apt to condemn or deplore intolerance in others and condone or honor it in themselves. Perhaps it would be more just to say that it appears to them bad in some cases and good in other cases: bad when it is intolerance of the good and good when it is intolerance of the bad. Intolerance in the abstract has lost caste, but abstract intolerance happens to be of no social significance. And it is generally agreed that in the concrete a point is invariably reached beyond which tolerance ceases to be a virtue. In other words, contemporary conditions of life enforce a practical kind of toleration and leave the intolerant spirit largely untouched.

In analyzing the concept of intolerance a distinction must be drawn between the act of tolerating and the tolerant disposition; between the unwillingness to tolerate and the intolerant frame of mind which may or may not be associated therewith. According to the general assumption the person who tolerates a thing is in so far tolerant and the person who does not is to that extent intolerant. Intolerance is held to be an inevitable corollary of deep conviction, especially in social and political spheres, where vigorous discrimination is the beginning of practical wisdom.

This familiar viewpoint is open to serious qualification. Intolerance is far removed from discrimination in the sense of unwillingness to condone certain beliefs or practises. It will hardly be contended, to take an obvious example, that refusal to risk the effects of contagion by disease or insistence upon the isolation of the sick is evidence of intolerance in any proper sense of that word. In a variety of other situations as well discrimination may result from an open minded examination of the factors involved and from a perfectly rational apprehension of the unhappy results entailed; while, on the other hand, so-called tolerance in its negative aspect of acquiescence may be due to nothing more than ignorance or indifference. It becomes increasingly clear that intolerance turns less on the attitude of yes or no than on the nature of the feelings and the state of mind which lie back of the particular attitude. Intolerance does of course in the same way as discrimination deny

sufferance to the object of disapproval. But this is merely its outward aspect. The deep lying source of this outer attitude is a repudiation of the whole technique of empirical experimentation to which human beings acting as individuals or groups owe such objectivity of judgment as they are capable of. Another inner characteristic of intolerance is its cold indifference to the larger social implications of the situation at hand and its resultant tendency to minimize or deliberately to ignore broader relationships which if properly appraised would constitute the determining factors in the formulation of an attitude or policy in regard to the particular problem. This imperviousness to social and humanitarian considerations, combined with the refusal to appraise social programs in a tentative, experimental manner and in this way to keep these programs actively responsive to growing experience, may therefore be abstracted as the essentially distinctive qualities of the intolerant attitude.

The primary source of intolerance as an active social disposition is dedication to a fixed goal. Such dedication may vary from a more or less blind "drive" to a thoroughly conscious yet frenzied espousal or to a calm, reasoned commitment. The values which intolerance aims to preserve may be accreted by accident or circumstance to a general economic or political purpose, as in Fascist Italy. In such cases in proportion as these drives remain actively dominant the values are capable of an opportunistic evolution up to the point where they become too closely merged with the broader purpose to admit flexibility. The values may, on the other hand, constitute an integral component of the original propulsive purpose, as in Communist Russia; here the margin of compromise is correspondingly diminished. The religious institution and the state are the chief types of organized groups in possession of the authority and the sanctions to enforce their conception of values. The ground of intolerance frankly avowed, for example, by Roman Catholicism, is the church's responsibility as the custodian of the eternal and unalterable truth on which the destiny of man in the next life depends. A religious institution claiming universal validity and essential changelessness for its doctrine of salvation is necessarily intolerant. It is a self-evident duty for such an institution to give no quarter to conflicting views, since any conflicting view tends, if the initial premise be accepted, to corrupt true religious belief and thus to endanger

man's immortal soul. "The Church of Christ," said St. Augustine, "persecutes in the spirit of love . . . that she may recall from error . . . to secure the eternal salvation" of her enemies. Wherever doctrine becomes more responsive to growing human experience, religion becomes tolerant in spirit as well as in practise, but institutionalized religion suffers correspondingly in authority and power. Any religion therefore which is based upon correctness of theological belief is forced to adopt St. Augustine's position of *nulla salus extra ecclesiam* and in dealing with heretical opinions is forced to act on the principle that might makes right. The successors of St. Augustine in the mediaeval period could therefore be single minded and blunt. They were sure of their ground, and complete certainty fosters unabashed intolerance; they were unhampered by the prevalence of humanitarian feelings from carrying out extreme measures of repression; and they were provided with adequate social machinery for making their intolerant will effective.

The theoretical justification of political intolerance has varied with the conception of the state. In pagan Rome wide tolerance of belief was permitted, but the state was unyielding in its demand for participation in the imperial rites, which was in a sense an oath of allegiance. Marcus Aurelius, renowned for his intellectual and emotional liberality, prosecuted intransigent Christians because they refused to recognize the sacred character of the Roman emperor, a refusal which threatened to undermine the foundations of the state. With the establishment of the Christian empire the state became in theory the secular arm of religion and throughout the Middle Ages was expected to enforce the dogma of the church. In the early modern period the absolute state adopted the right, formerly exercised by the absolute religious institution, to insist upon uniform belief in all matters involving the stability and cohesion of the polity. A further development of the state idea, necessarily linked with intolerance, is illustrated by pre-war Prussia and present day Italy and Russia. Here the state is conceived as having a moral end to serve and becomes imbued with a Messianic sanctity. In all these instances the basis of intolerance derives from the assumption that a selected set of values either by its very nature is not or for practical reasons must not be subject to revision. The canonization of the will of the people in democratic rhetoric has made prevalent a type of

intolerance even more devastating in its potency than the intolerance of an absolute ruler or of an autocratic dictator. As Lord Acton has pointed out: "It is bad to be oppressed by a minority, but it is worse to be oppressed by a majority. For there is a reserve of latent power in the masses which, if it is called into play, the minority can seldom resist. But from the absolute will of an entire people there is no appeal, no redemption, no refuge but treason."

Not only the church and the state but any political, military, social, economic, educational or religious group having a program to forward or a vested interest to protect may become intolerant and if in a position to do so may attempt to suppress all manifestations of divergence. But whatever the nature or the source of the intolerant disposition, it enters the militant stage only when the values accepted as ultimate are felt to be actually in danger. An important factor in all persecution is fear. Even the religious persecutions of the past for all their appeal to eternal truth and their zeal against error as a spiritual disease did not take violent form except when intellectual or economic developments aroused lively fears for the prevailing religious system. It could be argued that intolerance unassociated with a fear complex of some sort is from the social point of view quite negligible.

The World War, which liberated a host of fears on the world, marks the beginning of a strong accentuation of militant intolerance; just as the subsequent fluctuations of intolerance reflect ups and downs in the apprehension of danger to social, political and religious institutions. For a considerable period prior to 1914 the civilized world was comparatively tolerant. There was good ground for John Morley's opinion, expressed in the 1870's in his book *On Compromise*, "that the right of thinking freely and acting independently . . . is now a finally accepted principle in some sense or other with every school of thought that has the smallest chance of commanding the future." This optimism, shared by many of Morley's contemporaries, has given way in the post-war period to a growing skepticism even in England and still more in those countries where the march of events gives support to Mussolini's dogma that the road to progress lies "over the more or less decomposed corpse of the Goddess of Liberty." In the United States too a retroactive tendency has been gathering momentum. The

passing of the illiteracy test over President Wilson's veto, deportation processes, criminal syndicalist laws, anti-evolution legislation, special oaths of national allegiance for teachers, the decision of the United States Supreme Court (October term, 1930) to the effect that the expressed will of Congress must be accepted as harmonious with the will of God and the like are indications of a movement toward cultural uniformity by coercion.

To deal constructively with the problem of intolerance is obviously difficult. No institution or organized group having adopted a program of action can afford to turn aside to consider any and every counterproposal. Successful administration of a social scheme is impossible without a kind of blindness to criticism. In this sense the refusal to tolerate is inevitable and useful, but as already indicated this is not intolerance in its stricter meaning. Adherence to a program turns into intolerance when the program becomes an end in itself and the uses to be served by the program are a secondary consideration. And "the uses to be served" are in their turn instruments of intolerance when as objectives of action they are looked upon as the final court of appeal in disregard of the living urgency of experience. If education in and out of school can develop a general understanding of ideals, customs and institutions as tentative means in the search for happiness, means to be freely tried out yet always subject to revision at some point by reference to the course of everyday life, education will greatly aid in overcoming intolerant inclinations. And in so far as such institutions as the state, the church and the school can more obviously and more effectively secure what must be gained through co-operative effort, the reason for the fear which has been and remains one of the chief causes of intolerance will have been removed. But the most important reform is also the most difficult to accomplish. According to the conventional conception of society, especially as this is entertained by dominant educational, religious and political groups, the mass of men must be cut from the same cloth. The ideal is adherence to a common pattern. A genuine or positive tolerance of spirit, on the contrary, would lay down as the basic social principle the intrinsic importance of individual differences. In a society which aimed at uniqueness in its citizens rather than at sameness, although in the process it would create for itself other problems, the evils of intolerance would tend to be eliminated

and the dangers of mediocrity and standardization greatly minimized.

M. C. OTTO

See: PERSECUTION; FANATICISM; RELIGIOUS FREEDOM; PROSELYTISM; INQUISITION; RACE CONFLICT; SOCIAL DISCRIMINATION; ANTISEMITISM; ANTIRADICALISM; CIVIL LIBERTIES; FREEDOM OF SPEECH AND OF THE PRESS; CENSORSHIP.

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INTRANSIGENCE entered as a term into social and political theory in the year 1873 when Spanish republicans put through a revolution and set up a democratic government. The constitution written for their new republic did not suit the radical section of the revolutionary party. They refused to accept it and turned a cold shoulder to every proposal that fell short of their demands. Their stand created an impasse, which was one of the conditions that led to the restoration of the monarchy. It was described as intransigent and for some time the political radicals of the Latin countries of Europe were called intransigents.

The attitude of mind which is designated by the name is, however, by no means restricted to radicals. Intransigence is a typical and recurrent phenomenon in the life cycles of societies and is found indifferently among any company of extremists. On the whole it has been somewhat more persistent among conservatives and reactionaries—such as the loyalist adherents to the house of Stuart in England, the Carlists in Spain, the royalists in France—than among radicals. Its attribution to radicals is an accident of the fact that it was in a radical situation that the attitude first received its identifying name. The name applies to any person or group which refuses to compromise its principles or arbitrate its demands, which rejects the adjustment of differences or the conciliation of disputes. The intransigent takes his stand upon the principle of "all or nothing," "rule or ruin."

In the social process such a stand rarely develops as a healthy or intelligent one. It presents itself in the form of a counsel of perfection, but its roots lie commonly in a mood of despair. The mood is hardly ever conscious. Its stimulus may be some not too obscure individual diathesis, like Savonarola's; or it may be a feeling of impotence and frustration in the presence of insuperable social facts. Whatever the stimulus, a program is formulated to alleviate the unrest it arouses. If the times are unstable, if many feel uncertain and insecure, this program becomes a focus of equilibration for a group. The group comes together, debates, analyzes, refines, reformulates. In the course of time an organic doctrine takes shape which has established itself as the ruling passion of the group, with all the authority and ineffability of a religious revelation, to be set up as an imperium over all the people. If the particular national or ecclesiastical economy where this is happening continues to disintegrate and the mores loosen, the group with the set doctrine and discipline may be able to seize power and apply its doctrine as a program. When this happens it finds that to retain its power it must compromise its principles. If it fails to compromise it is defeated. The effect of defeat, however, is not an abandonment of the doctrine but an intensification of faith. The validity of the doctrine increases as the power and importance of its adherents diminishes. Every practical setback is compensated for by an enhanced theoretic affirmation. The affirmation becomes in the course of time the compensatory corrective to every feeling of inferiority or deficiency from which the affirmer suffers. *In hoc*



*signo* is his sense of personal dignity and worth preserved and victorious; he must hence affirm it regardless of consequences.

Intransigence thus involves all the stigmata of a religious cult. Its doctrines with their commentaries and interpretations become tantamount to a theology. Their role is to serve as rationalizations of the discontents of their believers. Once formulated and fixed, such rationalizations become the special tradition of a group and are passed by emotional contagion and doctrinal schooling from one generation to another. They gain when so transmitted a liturgical and ceremonial significance. And this constitutes their vital function; by its means they survive even when they contain an aggressive component which leads their devotees—as is so often the case, for instance, with the Camelots du Roi in France—to clashes with the police power of residual society.

Often the entire response of an established order to its intransigent minorities is occasional action of the police. There are several reasons. To begin with, the mere definition of their principles and the ordination of their practises serve to drain and to relieve the implicated feelings of intransigent associations. Again, their small numbers, the exclusiveness of their "mystery" and their consequent supercilious attitude toward the uninitiate and profane who neither acknowledge their doctrines nor admit their disciplines all help to expand their self-feelings, until they gain without further action a sustained sense of personal adequacy and even of superiority. Radicals and conservatives alike make themselves, by means of their intransigency, in their own eyes a company of the elect which promulgates right rules but bears no responsibility for applying them.

Avowed religious cults manifest these traits of the intransigent in their sumptuary practises, their diet and their dress—such as the *Kashruth* of orthodox Jews, the prescriptions and tabus by which Gandellii and his sect govern their personal habits, the buttonless garments of the Mennonites, the uncut and unshaven head-pieces of the Seventh Day Adventists and the practise of marriage and divorce of the Roman Catholics. The prohibition movement in the United States is allied to these by mood and sanction; so are vegetarianism, antivivisectionism and various health cults. The domain of political and economic organization offers such types as the legitimist cults already referred to of France, Spain and England. American com-

munist as compared with Russian are intransigent. So are the Industrial Workers of the World in the labor movement. So are extreme pacifists. So are all anarchists. In all these cases the intransigence develops as compensation for feelings of inferiority set up by some perhaps unrelated situation. Thus the doctrine and discipline of Jewish orthodoxy compensate the persistent failure of the Jews to realize their national aspirations. Defeated in those, they define themselves as a chosen people whose election is signalized by peculiarities of dress and diet, by priestly peculiarities made common to a whole people. Similarly the principles and practises of the royalists of France offset the obvious ludicrousness of titles of nobility and courtly ceremonial in a bourgeois republic of petty tradesmen, rentiers and farmers who have abolished monarchy and all its impedimenta. Prohibition, which when bona fide is mainly a woman's gospel, provides a somewhat secularized channel for the emotions of the genteel tradition whose sectarian manifestations get belittled and nullified by the harsh realities of changing American society with its pioneer standards and industrial economy.

Prohibition in the United States is an intransigency which has come to power and has been compromised, but not by its honest adherents. As a rule it is the leaders of the intransigent group themselves who under the weight of responsibility which comes with power abandon rationalizations for reasonableness, principles for policy and ceremonial for purposive action. The history of communism in Russia provides the great current example of a substitution of this type, as the record of Christianity in Europe provides the great historic one. But rarely does intransigency happen into power. In the main its influence in the socio-political process is a function of its powerlessness. Powerlessness leads to the elaboration and refinement of doctrine and to ceremonial or symbolic action. The latter is dealt with, if at all, by the police; but the former operates by distortion and contagion. Its systematic completeness and logical rigidity make of it almost automatically a focus of attack. It becomes to its opponents a surrogate for the devil of orthodox theology. They incarnate in it their own fears and discontents. So royalist salvation is republican damnation; communist heaven is capitalist hell. Socialist, communist, Bolshevik, mean in America what bourgeois or capitalist would mean in Russia if such a group were free there to publish principles and pro-

gram. But attack imposes attention to the enemy, calls for information concerning his abilities and weaknesses. The required attention distorts the direction of the processes of the majority; the needful information contaminates its purposes. If the intransigency is of sufficient prestige and loud enough it remains unchanged in itself, but it has considerably modified the residual social process. This is the case with royalism in France and Catholicism and communism almost anywhere in industrial Europe. Where the intransigency lacks prestige it remains an irrelevancy and is left behind in the backwash of social change. This is the case with most of the lesser religious cults.

HORACE M. KALLEN

See: COMPROMISE; OPPORTUNISM; CHANGE, SOCIAL; RADICALISM; CONSERVATISM.

INVALIDITY INSURANCE. See HEALTH INSURANCE; OLD AGE.

INVENTION. A sharp distinction is often drawn between invention and discovery; the former is defined as an active combination of social elements into a new form, the latter as a more passive perception of existing relations of such elements. The two processes are, however, closely interrelated. Discovery of new facts or laws in physical or mental nature presupposes the invention of new methods of acting or thinking; on the other hand, invention of new influences and reactions whether in nature or in society is rarely devoid of newly discovered facts as assisting, inspiring or even originating its conditions. Invention in contrast to discovery is usually thought of as a change founded on or culminating in a new or altered technical process, in the sense of a combination of physical or material factors. However, there are also the "moral" inventions stressed by modern French sociology; Gabriel Tarde rightly balanced the conservative and collective forces of social imitation against the innovating and individual forces of social invention. Social scientists must reckon with mutations as the casual appearance of new data in a given combination of interrelated phenomena; their research in causation is able only to analyze the conditions under which man's creativeness reacts to or furnishes such new data.

Inventions may grow out of fixed situations and habits by imperceptible degrees, principally through the continuous summation of a large number of small deviations from initial situations and habits. In such cases, which are preva-

lent in primitive as well as in modern industrialized mass society, as has been shown by Lester Ward, Lloyd Morgan and others, the difference between invention and imitation is reduced to a minimum. The momentum of the change is overwhelmingly on the side of collective action; the singularity or heroism of invention and inventors is negligible.

Modern and primitive societies also furnish examples of a strong preeminence of the creative and voluntary element in both the origin and the elaboration of the inventive process. The instincts of workmanship and of leadership cannot be severed from the emergence of technical or non-technical invention; the whole process of invention becomes in consequence at once more irrational and more rationalized. Recent ethnology shows that heroes are not always legendary symbols of collective change. Modern technical invention as a commercialized branch of the division of labor also appears to serve a system of social wants which may be taken for granted by modern man but as a whole hardly admits of a rational explanation.

The two aspects of invention might seem to be another statement of the ethnological controversy between evolutionism and diffusionism. But the relation is at best an indirect one. Diffusionist conceptions are strengthened when it is recognized that a good deal of inventive change has definitely been introduced into static societies from outside. On the other hand, it will be well to regard the concept of a static society as a negative rather than a positive one and to ask what is to prevent cumulative progress through evolution. Scientific appreciation of social change by invention demands patient empirical research into the series of factors whose interrelation determines the fate of invention in human society. These factors are the character of real or personal data acting as initial mutations and the character of the natural and social systems and organisms that respond to those stimuli actively or inactively, rationally or irrationally, consciously or unconsciously. The traditional method of logical or psychological speculation on the origin of technical principles, such as the wheel and the screw, must be replaced by the collection of data on the different milieus and moments of their first historical or prehistorical appearance.

In the history of civilization Greek society was the first to exhibit the signs of technical and "moral" invention in the more discontinuous and explosive form of its sophism and idealism

Greek mathematics and physics have provided all later civilizations with the fundamental material for social and scientific construction and reconstruction; the manner in which invention was here anticipated for centuries has provoked justified wonderment. Greek culture has served as a principal basis for theories of the inventive process that emphasize the difficulties encountered by inventions in a politically and economically static society and the dependence of the spread and development of inventions on a parallel evolution of the whole social body. One of the striking incidents in the history of technology is the precocious advance of Greek scientific theory toward revolutionary inventions, such as the steam engine and pneumatic artillery, and the arrest of this advance not so much by social checks or prohibitions directed against it as by the limited and unimportant uses to which it was put: the utilization of steam expansion in Hero's steam boiler and of the same great physicist's anticipation of Percival Everitt's automatic sifter for the religious purpose of distributing holy water are pertinent examples. But it is precisely these positive instead of negative deflections of inventive processes that warn against laying too great and one-sided stress on the materialistic conception of social conservation as a result of undeveloped productive forces. It would be just as legitimate to conclude that the tremendous outburst of human intellect represented by Greek civilization was devoid of far reaching social and economic consequences because it was insulated by the economically neutral city-state and its aristocracy; this very economic sterility may have contributed to Greek intellectual precocity.

Mediaeval society erected under the auspices of the Roman church the static equilibrium of social strata and of economic existence within these strata into an ideal of sufficiency. Even if reality did not always and everywhere correspond to this ideal, its tendency clearly discouraged violent inventive progress in reference to both supply of and demand for economic goods and services; similarly it discouraged new mental and moral views and attitudes that might have stimulated technical invention. On the other hand, there was not only the underground devotion to ancient intellectualism both in ecclesiastical tradition and in the Arabian Aristotelianism and empiricism that was like a surf all along the southern border of mediaeval Christian culture; there was also, as modern research reveals, a slow cumulative growth of

empirical observation in the various scientific fields connected with mediaeval arts and crafts, such as medicine, mining, fishery and nautics. It is probable that the outward triumph of the Renaissance was less of an original landmark and more of a sudden sprouting of germs after long incubation than traditional conceptions would have it. In some respects the scientific urge of the Renaissance, bound up with the mystical intuition of alchemy and astrology, must in a sense have exerted a restraining influence upon extreme innovations that are taken too widely. From this viewpoint the theory of Max Scheler that the church was fundamentally friendly toward scientific discoveries and innovations and that it combated in Giordano Bruno and later in Galileo not so much the scientific kernel as the metaphysical setting of their doctrines loses its *prima facie* paradoxical character. The new monastic orders of Franciscans and Dominicans, as they made for a spiritual and moral intensification of the Christian religion, brought forth theoreticians and inventors of the rank of Robert Grosseteste and Roger Bacon; and the Copernican revision of the Ptolemaic astronomical systems was more or less anticipated in the school of Ockham at Paris.

The role of invention in the form of technical and social change in modern Europe is, however, as unique in the history of mankind as is the contemporary advent of "capitalistic" economy; the two may be taken as different aspects of the same great transformation of the western world. The underlying principle of this transformation is the changed attitude of man to his natural and social surroundings, from the acceptance of a given state and order of things to an ever growing determination to use—and belief in being able to use—discovery as a means of altering and adapting the environment to the fulfillment of new wants and plans. This changed attitude, which conceives of science as an instrument for making and remaking a universe of one's own, seems to contain the secret of the European's ultimate political ascendancy over the older civilizations of Asia. It alone was able to hold down the dangers of Mongol and Islamic invasion and in turn made western Europe the center of discovery, colonization and economic integration of all the outlying continents. "Moral" inventions were henceforward directed toward extending the circle of rationalistic enlightenment to an ever wider range of groups and strata inside as well as outside this cultural center, under the political and social concept of modern democ-

racy, while scientific and technical inventions have been advancing on parallel lines with the object of exchanging production and consumption in ever widening markets. Hence the parallelism of periods of political and industrial revolutions (mostly with a certain lag of the latter) led by England in the seventeenth and taken up by America and France in the eighteenth century. As every political revolution is the emergence of tendencies and forces long accumulated in a social and political situation but has distinctive causes and characteristics of its own, so revolutionary epochs of modern technical invention show extended and collective effort toward the solution of certain productive problems and sudden and individual intensification of this effort. The leading inventions of modern industry, those of the textile trades and of metallurgy and chemistry, had been anticipated experimentally and economically from the time of the arrival of capitalistic enterprise in the fifteenth and sixteenth centuries. But only their condensation in the shape of a few definite solutions, called forth by peculiar social and economic situations, enabled them to revolutionize modern economic life and to assign definite evolutionary power and place to the principal capitalistic nations, England, France, the United States and Germany. Made possible by an exceptional combination of transport facilities and mineral wealth, the heroic age of English industrial invention was opened by the pressure of world demand for English yarns and cloths, the mechanical fabrication of which in turn stimulated puddling and coke production as a basis for the new textile machines and steam engines. Invention in France was applied rather to the artistic refinement characteristic of its special function in the international division of labor. Eli Whitney's cotton gin and McCormick's reaper were as peculiar to the economic demands of the United States as Fulton's and Ericsson's work was to the shipping and shipbuilding trades. Germany fructified the inheritance of French chemistry and English iron smelting in the inauguration of the latest stage of industrialization, that denoted by the branching out of modern coal industry into the gigantic networks of the chemical and electrical industries.

The biographic history of these inventions also betrays the duality of collective atmosphere and individual inspiration, of the genius and the quack, of inventors and money makers. If the theory of economic motivation has tended to exalt the psychology of inventions above that of

industrial enterprise as a kind of earnest of a more altruistic future of society, it seems to have overlooked in a too rationalistic way the fundamental relationship between the two; namely, the ultimately irrational will to power that urges both the apparently disinterested work of scientific and the apparently acquisitive work of economic conquest. In historical perspective the two are coordinated products of the machine age, in so far as even in the case of the most independent pioneers it is the technical and economic urge of the age rather than any conscious motive or set of motives that furnishes the background and presupposition of their activities.

In the economy of the capitalistic market there has also been some inclination to idealize the inventor as the humanly more valuable but economically helpless or inferior object of exploitation by business. Without minimizing the representative importance of the many cases that have realized this pattern one may draw attention to the fact that an extreme individualistic view obscures the laws of interdependence between the inventive genius and economic society. Invention, like all other situations of "opportunity cost," contains at least an element of potential monopoly, the existence and execution of which depend largely on the whole body of surrounding social institutions. The prevailing form of this dependence is social protection awarded to the inventor—from the magic secrecy of early procedures and discoveries to the patent and copyright laws of modern civilized nations and to international treaties. It is significant that the first introduction of patent laws in early Stuart England was closely bound up with the mercantilist monopolies so objectionable to economic liberalism. The individual fortunes made under patent laws by inventors or appliers of inventions are frequently balanced by the fortunes lost in obtaining and defending the grant of a patent. The possible retardation of economic progress by individual authorship rights has its counterpart in the apparently frequent practise of capitalistic business of buying up inventions for the purpose not only of preventing untimely losses in productiveness but also of keeping up monopolistic situations. In the case of major inventions involving new industrial developments the tendency of modern business toward ever increasing size and concentration of plants explains the tremendous difficulties and risks involved in the step from the most perfect technical elaboration of an idea to its most modest economic application. The latter is governed not only, as is com-

monly supposed, by the laws of cost and supply prices but in a much more precarious manner by elasticities of demand that play the most surprising tricks even under a "dictatorship of the producer," as exhibited by modern standardized mass societies. On the other hand, the directed invention, which has come to take such a prominent part not only in the laboratories and the experimental studies but also in every other department—from personnel to marketing—of modern rationalized industry, has to a large extent exchanged the creative and individual for the cumulative and collective function and therefore the entrepreneurial for the executive labor character. This development has raised new and difficult problems of both internal remuneration and external commercial law: for example, in the question of the betrayal of business secrets to competitive firms.

The historically unique character of the modern age of industrial invention in the western world is best shown by the signs of a change or at least a division of public opinion on the social desirability of the continuance of technical progress at the present rate of increase. The sentiments prevailing in the early decades of last century, when not only the revolutionary workmen of the Luddite movement but even a leading theorist like Ricardo came to despair of a smooth working of the "law of compensation" for loss of employment caused by the increased production resulting from the introduction of machinery, repeat themselves a hundred years later. Technological unemployment has become a favorite reproach chiefly of socialist economists against what appears to them the incapacity of the capitalistic system to maintain proportions between technical progress and its rationalizing effects on production and consumption. The "law of compensation" can today no more than a century ago be regarded as an automatic process. On the contrary, the increase of the national and international complexity of modern industrial society makes adaptation to technical progress a series of equations with an increasing number of unknowns. Empirical research has made little progress toward the solution of the problem of the normal introduction of technical revolution into the apparatus of modern production. It has not determined whether or to what extent capital for rationalization purposes is taken away from other enterprises; nor has it revealed the proportions between negative rationalizing as cost saving and positive rationalizing as expanded production, between primary unem-

ployment created in the rationalized industries and secondary unemployment created in the industries that used to supply the primarily unemployed—that is, between the gain in physical productive power and the loss in purchasing power of the masses of a society, not to speak of the changing conditions of money and population. The planned economy of a communistic state might on principle do much to remove friction and accelerate adaptation between these various elements. But at least under the peculiar conditions of the Soviet government proof has not yet been given that this principle makes much practical difference, because even the complete dictatorship over labor and capital claimed by this government has not yet removed the enormous disproportion between a strangled national consumption and a forced investment of capital into a huge apparatus of industrialized production.

While societies like those of the United States and Russia continue to believe in progress by unchecked technical and other invention, because they believe either the harmony of the market or the dictate of economic plans will be able to make the ends of the social product and the social income meet, some skeptical social scientists question either the blessing or the possibility of such unchecked progress. They ask whether this progress in continuing to replace physical and mental "nature" in society by the artificial structures of an invented world might not dry up the sources of creative force that underlie even the most rationalized and collective inventing. They further inquire whether there is logic in the assumption of an endless rectilinear technical accumulation and whether a static state of equilibrium can be evolved out of a series of processes inherently dynamic. They point to the possibility that political or economic catastrophes may befall the domination of the world by the western nations through the agency of racial or economic outsiders, or that the genius of the western nations may turn away from the inventive period of the last few centuries, backward or forward to other forms of activity and symbols of desire. But such possibilities of inverted progress cannot be deduced from any actual data of the present situation in modern scientific thought, when even the program of world revolution leaves unshaken the factor of technical progress in the older conceptions of economic society.

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SEE: CHANGE, SOCIAL; INNOVATION; IMITATION; DIS-

FUSIONISM; TECHNOLOGY; INDUSTRIAL REVOLUTION; CAPITALISM; BUSINESS CYCLES; UNEMPLOYMENT; PATENTS.

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## INVESTIGATIONS, GOVERNMENTAL.

The term governmental investigations might be interpreted broadly to include every attempt on the part of a governmental agency to secure information of any sort whatsoever—even the research and investigations of a scientific, commercial, agricultural or similar character which are constantly being conducted by various departments of government and attempts by the department of justice or the police to solve particular crimes. It is perhaps more valuable, however, to limit its meaning in this connection to inquiries conducted by ad hoc bodies or by permanent bodies empowered by some definite statute, resolution or order to investigate some particular problem of public interest. Governmental investigations may be motivated by several distinct purposes: to assist legislative bodies in judging of the elections, returns and qualifications of their members; to effect legislative or executive supervision of the administration; to secure information to aid in framing new legislation, amending old laws or voting appropriations; and to determine the causes of particular events, for example, military defeats, industrial disputes or business depressions. Investigations may serve also either incidentally or even primarily to inform public opinion regarding the matters under inquiry. With the growth of governmental powers, the widening of the suffrage, the increasing democratic control of government, the development of new means of communication and the widespread dissemination of education this informing function has become more and more important.

Inquiries are customarily conducted by legislative or administrative committees or commissions; but in relatively rare cases, such as the inquiry into the magistrates' courts of three counties in New York City during 1930-31 by the Appellate Division of the Supreme Court, they have been committed to judicial bodies. The question as to which agency shall undertake an inquiry has at times assumed considerable im-

portance. In the struggle for parliamentary government in Prussia, Germany and Austria in the latter half of the nineteenth century the demands of the legislatures for their own investigations were several times checkmated by the creation of royal special investigating committees composed entirely of members appointed by the governments or of such persons and members of the legislatures. By setting up the Dodge Commission President McKinley similarly forestalled congressional investigation into the conduct of the Spanish-American War, the only war engaged in by the United States which was not investigated by Congress.

In Great Britain and the United States the investigating committee or commission generally proceeds by holding hearings, after due notice, at which persons believed to possess relevant information are invited, requested or summoned to appear and testify. In France and Germany, while the method of oral hearings is employed, greater reliance is placed on other methods, such as distribution of questionnaires and analysis of statistical samples. Increasing use of these methods is being made by English speaking countries.

Effective utilization of the method of oral hearings rests fundamentally upon the power to summon witnesses, to compel testimony, to require the production of books and records and to have recalcitrant witnesses punished for contempt. Such power is not possessed by ordinary legislative committees, although they may conduct hearings on a voluntary basis for the purpose of determining the opinion of the public as a whole, of experts and of interested parties on proposed legislation. For special tasks, however, the legislature may endow such committees or ad hoc bodies with the power to summon witnesses and require the production of papers. Royal commissions of inquiry in Great Britain can exercise enforcing powers only if specifically granted them; departmental commissions do not receive such grants. Congress generally gives the power to investigating committees in the act creating them, except in cases where the purpose is solely educational, as in the inquiry conducted in 1931 by the United States Senate Committee on Manufactures upon the proposal for a national economic council. Similarly temporary fact finding commissions in the United States are rarely given enforcing powers, although permanent administrative bodies with investigative functions, such as the Interstate Commerce Commission and the Federal Trade

Commission, are generally vested with compulsory testimony powers within limits. The investigating body cannot itself punish disobedience but it can generally call upon the regular organs of justice or, in the case of legislative investigations, upon the house which created it, to punish recalcitrant witnesses.

Investigating committees empowered to compel testimony are not bound by all the principles or precedents of courts of law regarding the privileges of witnesses or the giving of testimony. The witness in the United States has no inherent right either to give evidence in his own behalf or to be advised by counsel or to cross examine his accusers. There has been a growing tendency in recent years, however, to allow witnesses greater liberty to consult counsel; and committees usually permit counsel for any interested person to cross examine witnesses. Although investigations are not criminal cases, the only privilege which Congress has generally tended to recognize is that guaranteed by the Fifth Amendment to the constitution—that "no person shall be compelled in any criminal case to be a witness against himself." In order to secure testimony without violating the amendment Congress in 1857 passed a statute denying persons the right to refuse to give incriminating testimony but granting them immunity from any prosecution in connection with the acts testified to. Similar legislation was enacted by the legislature of New York state in 1931 in order to facilitate the work of the Hofstadter Legislative Investigating Committee. Congress, however, after seeing confessed corruptionists escape prosecution through their testimony amended the law in 1862 to provide that witnesses in congressional investigations must give testimony even though incriminating, but that their testimony or private documents produced by them could not be used against them in subsequent prosecutions. Samuel Seabury, counsel for the Hofstadter committee, attempted to escape the same difficulty by refusing to permit important officials suspected of corruption to testify unless they signed a waiver of immunity. The House of Representatives has at times indicated, although never in precise terms, that some of the "guaranties of a fair trial" apply in investigations preliminary to impeachment proceedings. In Germany also a distinction has been made between investigations whose object is criminal or disciplinary action and those merely incidental to legislation; in the former the privilege of refusing to give incriminating

testimony is recognized, but not in the latter. France apparently provides the least protection to witnesses before investigations; England, on the other hand, has in the Witnesses Protection Act of 1892 gone furthest in the other direction.

In France hearings are private; most other countries provide that they be public unless a majority of the committees votes otherwise; in the United States, while they may be either public or private, the tendency in recent years has been toward publicity. Publicity aids the committee by informing and arousing public opinion. In the Hofstadter Legislative Committee investigation into the government of New York City in 1931 and 1932 private hearings before a single committee member were used to obtain information later presented in public hearings before the committee as a whole. The power of committees to designate subcommittees of one or more to hear testimony is generally recognized, but such subcommittees do not generally have the same control over persons and papers as the full committee, unless specifically granted by the assembly.

The right of investigating bodies to hold meetings and take testimony at places other than the seat of government has now been generally established. Congressional committees in the United States may hold hearings during or between legislative sessions, at the committee room in Washington or elsewhere. In senatorial election years the Senate usually appoints a special committee to investigate campaign funds, which holds hearings in various states.

Investigating committees usually have the right to report at any time; they may make interim or progress reports and a final report upon the completion of the inquiry. Both majority and minority reports will be filed if the members are not unanimous. The assembly as a rule orders reports of its investigating committees printed together with the minutes of the hearings, which often fill several volumes. More than 11,000 printed pages emerged from the hearings of the Senate and House committees on the coal problem during the Sixty-third to the Sixty-seventh Congress, inclusive. Reports of British royal commissions are printed as parliamentary papers; those of American fact finding commissions are generally printed by Congress but sometimes by quasi-public agencies. The reports of investigating committees are invaluable for an understanding of the social, economic and political history of the countries concerned.

The power of legislative assemblies to institute investigations and to endow its investigative bodies with the power to compel attendance, testimony and the production of books and records was first established by the English House of Commons. A legislative committee of inquiry vested with this power was used in the House of Commons in disputed election cases as early as the end of the sixteenth century. There are records of many subsequent election investigations. The earliest grants of investigative power to parliamentary committees and their enforcement by the Commons as part of the legislative process and to determine the legality of expenditures also occurred in the seventeenth century, especially after 1688. Innumerable instances of inquiries since that time, of orders for the attendance of witnesses and of punishment for disobedience have definitely established the broad investigative powers of the House of Commons. In *Howard v. Gosset* [(1845) 10 Q.B. 359] Lord Coleridge said that the Commons could inquire into "every thing which it concerns the public weal for them to know; and they themselves, I think, are entrusted with the determination of what falls within that category. Coextensive with the jurisdiction to inquire must be their authority to call for the attendance of witnesses, to enforce it by arrest when disobedience makes that necessary . . . ." The power to commit for contempt contumacious witnesses before committees of investigation has been recognized and sanctioned by judicial decision as an inherent and indispensable auxiliary of the legislative power, without which the Commons could not perform its legislative and supervisory functions; just as from ancient times legislature and courts have exercised the power of summary commitment, for reasons of necessity and self-defense, to deal with libel and slander or with breaches of their privileges.

The importance of legislative investigations is declining in England because of the development of more permanent means of performing their functions. Since 1868 election contests have been tried in the courts. Since 1832 Parliament has placed increasing reliance upon royal commissions to make inquiries preliminary to legislation. These commissions are agencies of the executive and they enjoy a longer tenure and are composed of a more impartial and expert personnel than legislative committees. Most of the great English social reforms have resulted from their investigations. They do not have enforcing power unless specifically granted by Parlia-



ment. The British Treasury uses departmental and interdepartmental committees to supervise and control the financial affairs of the several services; such committees, however, cannot compel testimony. Since 1866 the Commons has received complete reports from the comptroller and auditor general on the manner in which its grants have been expended. Since 1861 the Standing Committee on Public Accounts of the House of Commons has been a critic of Treasury administration, and by reporting its findings to the Commons has fastened financial responsibility on the executive. Several additional sanctions for enforcing ministerial responsibility to the Commons reduce the need for committee investigations: "grievance before supply," the daily parliamentary question hour, supplementary questions, debate on the motion for adjournment and on the address in reply to the speech from the throne, and votes of censure. The composition of investigating committees of the House of Commons is as a rule non-partisan, and almost invariably their work is concerned with the determination of questions of fact or with the formation of judgments based on facts and the opinions of experts. The British select committees are not intended to be the tools of party tactics and party fights seldom occur.

The inquisitorial power was assumed by the American colonial assemblies, which modelled themselves after the House of Commons and asserted the same privileges. The contempt power was conferred upon all colonial legislative bodies as an essential auxiliary of the legislative power and without specific provisions. The records of the thirteen colonial assemblies, the practise of the Continental Congress and the committees of investigation of the state legislatures in the period following the revolution furnish ample evidence of the effective transfer of this institution to American political practise. In the course of their existence state legislatures have authorized thousands of investigations and have equipped their committees with the contempt power, which with rare exceptions has been upheld by state courts. At least ten state constitutions now provide specifically for this contempt power; some states do the same by statute.

The federal Congress, which began to function in 1789, also assumed that the legislative power implied the use of committees of inquiry with power to send for persons and papers. The first investigation by a committee of the House of Representatives with such power concerned

the defeat of General St. Clair in the northwest in 1792; the duty of the House to guard all public expenditures was cited as justifying this procedure. The first Senate committee inquiry under a grant of power to call for persons and papers took place in 1818 and dealt with the conduct of the Seminole War in Florida. Military affairs and operations were thus the object of the earliest investigations by the United States federal government, and they have been the object of more such investigations than any other single subject. Committees of inquiry had been employed to investigate the conduct of administrative departments and officials a number of times before 1827. In that year for the first time a standing committee of the House was given power to call for persons and papers in order to investigate the effect of a proposed revision of tariff duties upon domestic manufactures. This was the first congressional investigation as a preliminary to legislation. Investigations of the qualifications, behavior and immunity of members have been conducted upon occasion by committees in both houses. The first joint committee of both houses was created by a resolution passed in December, 1861, to investigate defeats of the Union armies.

About 285 investigations of the executive were completed by select and standing committees of the House and Senate from 1789 to 1925. Only three Congresses have not instituted such investigations, while no administration has been spared. A high watermark was reached during Grant's eight turbulent years, when Congress undertook thirty-seven inquiries into the administration; but this was surpassed in Wilson's last two years, when fifty-one congressional investigations either of the executive or to secure information were authorized. The total number of congressional investigations concerning members or the federal judiciary or collateral to the lawmaking function probably runs into the hundreds. Landis gives an incomplete list showing forty Senate inquiries between 1818 and 1923, thirty-eight House investigations between 1792 and 1892 and fourteen joint investigations between 1861 and 1922 by committees empowered to send for persons and papers.

On various occasions hostile witnesses have challenged the power of Congress to punish for contempt their refusal to testify or to produce papers. In 1857, after a newspaper correspondent refused to answer questions put to him by a committee appointed to investigate published

charges of the corruption of members, Congress in order to fortify itself in the exercise of the inquisitorial power provided by statute that a person who is summoned as a witness and who fails to appear or refuses to testify shall be punished by fine or imprisonment. The fact of contumacy was to be certified by the speaker of the House or the president of the Senate under seal to the district attorney of the District of Columbia. This act was upheld by the Supreme Court in the Chapman case [166 U. S. 661 (1897)]. Except for the single case of *Kilbourn v. Thompson* [103 U. S. 168 (1880)], in which the Supreme Court adopted the view that the contempt power of the House of Commons is judicial in character, derived from the time when Parliament sat as a high court, and is hence not exercisable by a legislature deprived in its creation of all judicial functions, the Supreme Court has affirmed the contempt power of Congress within the limits of its legislative power. The constitutional status of the congressional power of investigation was not finally settled until in *McGrain v. Daugherty* [273 U. S. 135 (1927)] the court held that the power of inquiry, with enforcing process, is an essential and appropriate auxiliary to the legislative function; that a legislative body cannot legislate wisely or effectively in the absence of information; that an inquiry to obtain information in aid of the legislative function, even though this purpose is not avowed in the resolution ordering it, is proper; and that a witness rightfully may refuse to answer where the bounds of the power are exceeded or the questions are not pertinent to the matter under inquiry. This decision was later reaffirmed in the *Sinclair* case [279 U. S. 290 (1929)].

Refusal to testify before a congressional investigating committee thus exposes a witness to three risks. If the committee takes no action against him, he will be left under suspicion. If it summons him to the bar of the house which created it, he may be committed to jail for contempt for a period not exceeding the duration of the current Congress; but he can obtain judicial review of his case through a writ of habeas corpus. If the house refers the case to the district attorney, he may be criminally prosecuted under the act of 1857. On the other hand, a rebellious witness may, like Mally S. Daugherty, escape punishment altogether, even if the highest court decides against him, through the prior termination of the life of the select committee whose questions he refused to answer.

Both the right of Congress to make legitimate inquiries without interference and the right of privacy of witnesses appear to need further protection, but only a voluntary reform in methods of conducting inquiries is likely to bring this about.

Before the Civil War inquiries were more frequently authorized by the House of Representatives; but since that time the Senate has been the more active body. This change has been ascribed to the control of party leaders in the House; to the fact that the House is more likely to be in political agreement with the president, especially during the first half of a term; to the freedom of debate and absence of effective closure in the Senate; and to its more frequent lack of political harmony, a result of the presence of the holdover members or of a group of insurgents.

In recent times congressional investigations have ranged over a wide area. Committees have delved into such matters of public concern as immigration; group, chain and branch banking; economic conditions; unemployment insurance; communist propaganda; railroad consolidations; lobbying; and post office leases. They have kept watch on the functioning of various federal bureaus, departments and establishments; they have inspected the affairs of private citizens and corporations; and they have inquired into such other diverse matters as the conservation of wild life, the condition of the Alaskan Railroad, Indian affairs, treaties with China, campaign expenditures, animal feeds and the price of shoes.

The frequency of American legislative investigations is probably traceable to the separation of powers set up by the framers of the constitution. Their plan was so to separate the legislative, executive and judicial branches of the federal government as to prevent the abuse of power by any one branch and thus to safeguard individual liberty. But this balance of power and dispersion of responsibility proved unworkable and precipitated a struggle for supremacy between the president and Congress which has continued to this day. Congress has steadily tended to encroach upon the executive and the executive has quite as steadily sought to resist such encroachment. In the absence of ministerial responsibility or of some arrangement which would bring the administration face to face with Congress the investigative activity of congressional committees has developed in response to the need for some means of holding

the administration to a strict accountability. With the development of an elaborate administrative mechanism at Washington and the great increase of powers exercised by the executive branch this need has become more and more insistent. Governmental efficiency, the protection of private rights and the execution of legislative policy as the will of the people demanded of Congress that it devise methods of supervising the administration of the law and executive conduct.

As a legislative function investigation has several distinct advantages. It is less unwieldy and cumbersome than impeachment and less inconvenient in its consequences than budget refusal. It provides a more effective control than mere resolutions requesting information "if compatible with the public interest," and it is a substitute for a system of administrative courts to protect the citizen from the arbitrary action of subordinate officials.

The attitude of the executive toward these inquiries has varied. Occasionally presidents and cabinet members, their reputations or conduct assailed, have asked for investigations. Such requests came from Alexander Hamilton and Oliver Wolcott as secretaries of the Treasury, from Postmaster General Gideon Granger, President Monroe and Vice President Calhoun and from Daniel Webster as secretary of state and William H. Crawford as secretary of war. More often, however, the executive has vigorously resisted committee inquiries. President Jackson vehemently repelled the attempts of the Wise committee to investigate his administration in 1837; President Buchanan protested against the methods of the House in the Covode inquiry in 1860; and President Coolidge criticized the procedure of the Couzens committee in its investigation of the Internal Revenue Bureau.

Any analysis of congressional investigations must take account of their political motivation. Political interests were apparent in the investigations launched against Jackson, in the inquiries which led to the impeachment of Johnson and in the frequent scandals of the Grant and Harding administrations. Party competition for the spoils of office has been reflected in repeated investigations of the customs houses, the Government Printing Office, the Bureau of Pensions and other branches of the civil service. Party affiliation makes for party prejudice and legislative committees do not always exercise their quasi-judicial duties impartially. The

members sometimes feel obliged to advance the interests of their party even at the expense of the facts and they rationalize their actions by identifying party interest with the general welfare. There exists a strong temptation to transcend the proper limits of a public inquiry and a great disposition to enter the domain of private life. The door is open to an indefinite search after evidence; and the suspension of the usual rules of evidence and of judicial procedure has often transformed the legislative committee into a tribunal of inquisition.

But if many congressional investigations have been partisan in their inception, methods and recommendations, disinterested observers generally agree that the results have justified their use. Their value arises from the exposure which they secure and the cautionary example which they set. Corrupt and inefficient officials may be removed, forced to resign or be disciplined; court action or impeachment proceedings may follow; the Senate may exercise its control over appointments more carefully; and Congress may transfer neglected duties to another department, create new agencies or even abolish an office. Hope of gaining a partisan advantage is less open to criticism when it results in the disclosure of some abuse, while the presence of a spirited opposition usually prevents the punishment or defamation of the innocent. But the repetition of practices once exposed indicates that party policies alone are no substitute for that eternal vigilance which successful democratic government demands.

The expenses of congressional investigating committees are met either by special appropriation, which requires a bill or resolution or a provision in an appropriation bill specifying a given amount, or out of the contingent fund of the House or Senate. In the latter case the amount is not specified, authorization being left to the Committee on Accounts in the House or to the Committee to Audit and Control Contingent Expenses in the Senate; disbursements are then made by the secretary of the House or Senate upon vouchers approved by the chairman of the committee. A joint committee requires either a joint resolution or payment in equal shares from the contingent funds. Complete data concerning the cost of congressional inquiries are not available. A total of \$214,660 was expended in connection with the principal investigations conducted by the Senate from March 4, 1923, to April 16, 1924. In 1926 Senator Warren, chairman of the Senate Appropria-

tions Committee, compiled figures showing that in the preceding sixteen years the Senate had spent \$1,383,500 on various inquiries. According to the annual reports of the public printer the expense of printing hearings of Congress in the fiscal years 1922 to 1924 was \$414,614. Although these amounts seem large, one commentator, calculating that 20,000 questions are asked annually in the House of Commons at a cost of a guinea apiece, concluded that over a period of sixteen years the cost of the daily question hour in Great Britain had considerably exceeded the cost of senatorial investigations.

In addition to legislative inquiries a familiar device for investigating public administration or problems of public concern in the United States is the permanent or temporary fact finding commission, usually authorized and financed by the legislature but appointed and conducted by the executive. Federal fact finding commissions made their modern debut in the United States with the creation of the Civil Service Commission in 1883; President Roosevelt made conspicuous use of them in dealing with coal, conservation, industrial relations and other problems; and several important commissions with investigative and other functions were created during the Wilson administration, the Federal Reserve Board, the United States Tariff Commission, the Federal Board for Vocational Education, the United States Shipping Board, the Railroad Labor Board and the Federal Power Commission. Expert commissions to investigate the tariff and other issues were promised by both presidential candidates during the campaign of 1928. In his first two years President Hoover appointed twenty-nine ad hoc commissions and committees, either upon his own initiative or by authorization of Congress, to deal with such matters as ocean mail contracts, law enforcement, agricultural marketing, child health, conservation of the public domain, wages and building construction, social trends, policies in Haiti, home building and ownership, employment, drought, timber conservation and illiteracy. A commission of congressmen and cabinet members studied methods of equalizing the burdens of war in 1931. In some quarters "government by commission" has been praised as a scientific approach to the solution of public problems; in others it has been condemned as a device for dodging issues.

Administrative investigations are financed either from direct appropriations by Congress,

as in the case of the National Commission on Law Observance and Enforcement, or entirely by private contributions, as in the case of the President's Committee on Social Trends. Some agencies, such as the National Timber Conservation Board, receive both public and private support.

In all departments of government there are agencies charged with making investigations or entrusted with administrative tasks for the performance of which investigations are essential. Large numbers of inquiries into matters of social significance are constantly functioning under governmental auspices. Congressional investigations of executive expenditures may have become less necessary since the establishment in 1921 of the office of comptroller general with supervisory and inquisitorial powers, although his influence over the departments as an agent of Congress was impaired by the Supreme Court decision in the Myers case [272 U. S. 52 (1926)].

Since 1910 temporary economy and efficiency commissions with limited funds have been established from time to time by law in many states to investigate the administrative organization and methods of the state government as a whole or of particular departments or institutions. These commissions have consisted of members of both houses of the legislature or of outside specialists or of both. The value of their work has varied. During the sessions of 1929-30 a total of 251 investigations preliminary to law-making were authorized by state legislatures. Considerable investigative work is also carried on by state governments through the research activities of industrial, railroad, taxation and other permanent commissions, banking and insurance departments and departments of education. In New York the governor is authorized at any time, either in person or by one or more persons appointed by him, to examine and investigate with enforcing process the management and affairs of any department, board, bureau or commission of the state.

Official agencies for investigating the administration of particular cities have been created in a few instances. Examples are the Boston Finance Commission (1907-09), authorized by the City Council and appointed by the mayor; the Permanent Finance Commission of Boston, established by law in 1909; the Chicago Commission on City Expenditures (1909-11) and the Efficiency Division of the Civil Service Commission of that city (1909-15); the Milwaukee Bureau of Economy and Efficiency (1910-12) and Bureau

of Municipal Research; the commissioner of accounts of New York City; and the Efficiency Department of Los Angeles (1914-17). The financial investigations of city comptrollers, as in Philadelphia, and the studies of police departments and municipal courts by local official crime commissions, as in Baltimore, also deserve mention. The legislature of New York state has several times instituted investigations into the government of New York City, the most notable being the Lexow investigation of 1895 and the Hofstadter investigation of 1931-32. Governmental inquiries in American cities, however, are infrequent, their place being taken by the unofficial investigations of bureaus of municipal research.

On the European continent the French assemblies were the first to follow the lead of the House of Commons and to assume the power to conduct investigations of the administration and to obtain information on which to base legislative policy. The commissions of the first revolutionary assemblies functioned in a way as permanent agencies of inquiry into the various branches of administration. The constitution of the Year III, however, did not mention this right of the legislature. After the Restoration there were repeated proposals for inquiries and some successful resolutions; during the July Monarchy the right of investigations was freely admitted. The right to conduct *enquêtes* has been tied up in France with parliamentary government, ministerial responsibility and the right of interpellation. Thus with the coup d'état of Louis Napoleon in 1852 all of these were abolished. Under the Third Republic the right of investigation was again successfully claimed by the legislative bodies, although there was neither constitutional nor statutory regulation of the *enquête*. *Enquêtes* are generally ordered by simple resolution, in the case of investigations of administration generally only after a commission has considered the resolution and has reported on it to the house; they can also be instituted by the adoption of an *ordre du jour motivé* to that effect at the close of the debate on an interpellation. The legislative committee cannot coopt non-parliamentary members unless authorized by the house. The right of legislative committees to require the attendance of witnesses, the production of papers and testimony under oath was not clearly established until a statute to that effect was passed in 1914. The expenses of the *enquête* are paid from the budget of the house authorizing it. Pierre lists twenty-

five investigations conducted by the Chamber of Deputies between 1832 and 1892 and five by the Senate between 1876 and 1891. Both during and since the World War the *enquête* has aided in securing more effective legislative control of the executive. It has been used by no means as frequently in France as in the United States, however, and as a method of control of administration it is distinctly less important than the interpellation.

While the legislative power of investigation was assumed in England, the United States and France as an essential corollary of the general legislative powers, the constitutions of many European countries provide specifically for this power. The earliest constitution of this type was probably that of Saxe-Weimar of 1816, which provided that the assembly of estates could set up investigating committees when it thought them desirable. Belgium made a similar provision in article 40 of the constitution of 1831. The Netherlands gave the right to the Second Chamber only in its constitution of 1848 and carefully regulated the exercise of the power in a law of 1850, but in the constitutional revision of 1887 the power was extended to the First Chamber as well. The right of legislative investigation was asserted in a number of German constitutions, including the Frankfort constitution of 1849; the Prussian constitution of 1850 reluctantly granted it in principle but left the details to subsequent legislation, which was never enacted. When legislative investigations were inevitable, special acts were passed applicable only to the particular investigation concerned; effective opposition by the government limited such investigations to four between 1850 and 1864; after the latter year the provision was practically a dead letter. The imperial constitution of 1871 contained no provision for legislative investigations; when such investigations were unavoidable they were as in Prussia provided for by special acts. Such were the acts establishing the tobacco inquiry of 1878, the stock exchange inquiries of 1892 and 1905 and the armaments inquiry of 1913. Thus although Germany had precedents for legislative investigations it had no effective provision for them until after the revolution of 1918. The Weimar constitution provides for legislative investigations under certain circumstances on the demand of one fifth of the members of the Reichstag. The constitutions of the Länder also provide for such investigations on the demand of from one fifth to one third of the members of the Landtag.

The legislative investigation in Germany is thus intended to serve in addition to its other functions as a protective weapon for minorities. By 1925 seven investigations had been authorized and in 1926 a committee was established to investigate the conditions of production and marketing in German industry; this last committee has issued a number of valuable reports. Several other European post-war constitutions established the right of investigation, but it has not played an important part in the government of the states concerned.

In the Rabkrin (Raboche-Krestyanskaya Inspektzia), or Workers' and Peasants' Inspection, the Union of Soviet Socialist Republics has a powerful organ of investigation. The Rabkrin is one of the commissariats represented in the Council of People's Commissars of the Soviet Union, the administrative agency of the Central Executive Committee, which in turn constitutes the supreme legislative and executive body of the U. S. S. R. The Rabkrin is composed of the people's commissar for Workers' and Peasants' Inspection chosen by the Central Executive Committee; three assistant chairmen, a secretary and a collegium of thirteen members subject to confirmation by the committee; four central sections for supervision of all inspection, improvement of government apparatus, bookkeeping and accounting and general administration; and information, legal and complaint departments. It has also local branches and each member republic has its own commissariat. This agency investigates all organs of government—administrative, economic and social—in order to check results and to combat red tape and bureaucracy; and it makes recommendations to the central government for simplification and increased efficiency. The Rabkrin proceeds on its own motion and also receives complaints from groups or individuals against Soviet officials or institutions. During 1930 and 1931 its Joint Complaint Bureau investigated 43,000 out of 100,000 complaints, most of which were against the *kulaki*, the administration of village soviets and misuse of office by politicians. Public and private hearings are held throughout the country and the Rabkrin has power to question the management and employees of any Soviet institution and to demand access to all books, accounts and documents necessary to its investigations. Its recommendations, which may involve removal of officials, reduction of staff, lowering of prices or reorganization of an industry, are subject to ratification by the Central Executive Committee.

An increasingly important position in the development of governmental investigations has been taken by the League of Nations and the related International Labor Organization. Through its technical organizations and permanent advisory committees, linked up with sections of the Secretariat, as well as through special ad hoc committees the League has undertaken a great many inquiries ranging over a very broad field. Characteristic of the permanent investigative organs of the League is the Permanent Mandates Commission, which maintains constant supervision over the carrying out of the terms of the mandates. The ad hoc commission appointed by the League to investigate the Sino-Japanese conflict in Manchuria in 1931 is reminiscent of earlier international commissions of inquiry appointed to determine disputed questions of fact in international controversies. The inquiries of the International Labor Organization have been concerned primarily with the international aspects of the problems of labor and industrial relations, largely preliminary to the drafting of recommendations or conventions for international action. Although many international investigations have functioned through direct oral examination of witnesses at the place involved in the investigation, such examination has not been based upon any power to compel testimony and the production of papers. Most international investigations have been conducted on a statistical or documentary basis rather than by means of oral hearings.

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*See:* LEGISLATIVE ASSEMBLIES; EXECUTIVE; SEPARATION OF POWERS; CHECKS AND BALANCES; CABINET GOVERNMENT; CONTEMPT OF COURT; CORRUPTION, POLITICAL; CONTESTED ELECTIONS; IMPEACHMENT; PUBLIC OPINION; INTERPELLATION.

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**INVESTITURE CONFLICT.** The subject of the investiture conflict, which raged, although not continuously, from the last quarter of the eleventh century until 1122, was the place of the secular authority in the appointment of ecclesiastical officials. While the controversy frequently tended to turn upon the right of the secular authority to give the pastoral staff and the episcopal ring, the spiritual symbols of ecclesiastical office, the important question at issue was the degree of control which the secular authority might exercise in the actual appointment. The investiture conflict may be regarded as the first phase of the sustained struggle between the spiritual and temporal powers which occupied western Europe for some 250 years after the accession of Pope Gregory VII (*q.v.*) in 1073. In the course of the investiture conflict other and more profound issues as to the relations of the two powers were raised. It is nevertheless true that it was this problem which originally brought the two powers into violent collision and made their relation one of mutual animosity. In the ninth and tenth centuries and in the first seventy years of the eleventh century the relations of the two powers were very complex and, at times, stormy. The temporal power continually wielded great influence in the ecclesiastical sphere, while the spiritual power exercised some and often considerable control over temporal affairs. This condition although partly contingent upon historical circumstances was a natural consequence of the difficulty in the practical application of an abstract principle—the Gelasian theory that each of the two great authorities was independent within its own sphere. In spite of the overlapping the actual relations of the two powers prior to the investiture conflict were on the whole sympathetic and dominated by a cooperative spirit. It is only by a consideration of the earlier conditions of episcopal appointments that the nature of the investiture conflict can be understood.

On the particular question of the appointment of bishops and abbots there was in the ninth century general agreement at least in principle. The typical view may be found in the *Epistles* (xix: 1) of Hincmar, archbishop of Reims, who

was the most outstanding churchman of northern Europe in the latter part of the century. He was clear that while having no arbitrary authority in appointing bishops the prince nevertheless had his rightful place, along with the clergy and laity of the diocese and the metropolitan and comprovincial bishops, in such appointments. In the tenth and the first part of the eleventh century the principles of Hincmar were normally recognized as just. Some writers of the time seem to insist upon the rights of the clergy and laity of the diocese to elect; others require the authority of the prince; but in the main there was little serious intention of ignoring what were regarded as the reasonable claims of both. The best evidence of this is the fact that in the tenth century writings of Gerbert, archbishop of Reims (afterward Pope Sylvester II), and in those of Peter Damian, one of the most famous representatives of the reform party of the eleventh century, it is easy to find some phrases which apparently favor the predominant place of the electors and others which seem to attribute chief weight to the prince.

The explanation of this attitude as well as the later emergence of conflict is to be found in the history of the times. The decay of the Carolingian civilization in the ninth century as a result partly of its own internal weakness, partly of new barbarian invasions, had been accompanied by a corresponding decline of the ecclesiastical life and order. Almost simultaneously with the revival of the religious life, which began in the tenth century and found its most important center in the monastery of Cluny, the political recovery of Europe was inaugurated by the reconstruction of the Holy Roman Empire by the German king Otto I. These two movements proceeded hand in hand until the middle of the eleventh century; and it was no doubt partly for this reason that even the ecclesiastical reformers tolerated the exercise of a very great authority on the part of the secular power in ecclesiastical appointments. There was another and very important reason for the development of this authority. With the growth of feudalism in the tenth century the great administrative offices of the empire had increasingly tended to become hereditary, and the emperors had come to look to the bishops with their great territorial jurisdictions as a counterbalance against the feudal nobility and as men to whom they might safely entrust great political power, provided of course that they themselves might exercise a commanding influence in appointing them.

While perhaps not trustworthy in all details the account given in Anselm's *Gesta episcoporum leodiensium* of the appointment of Wazo, one of the most illustrious of the reforming churchmen, to the bishopric of Liège in 1041 provides a good illustration of the typical and accepted method of appointing ecclesiastics in this period. After having been unanimously elected by the clergy and laity of the diocese Wazo protested that his election would displease the emperor Henry III. His objections were overruled and he was sent with a letter of the diocese and the pastoral staff to meet Henry at Ratisbon. In the deliberations of the emperor and bishops and princes of the court much opposition was manifested and it was urged that a bishop be appointed from the clergy of the royal chapel. But the active support of the archbishop of Cologne and the bishop of Würzburg finally secured the imperial consent to the choice of the diocese.

Not until the death of Emperor Henry III in 1056 did serious friction develop between the two authorities. Henry III had cooperated with the reformers in the movement against the more flagrant ecclesiastical abuses, especially the vice of simony, by which church offices were constantly bought and sold. But after Henry's death the temporal power in the empire, as in France, not only ceased to support reform but became the active cause of demoralization. Whether or not the charges brought against the administration of the empire during the minority of Henry IV and against Henry himself after he had assumed the reins of government were wholly justified, it is evident that simony was rampant both in France and in the empire.

The popes from Leo IX (1048-54) had taken energetic measures to suppress it. When Hildebrand became pope as Gregory VII in 1073 he continued their policy but gave it a new direction. Previous popes had dealt mainly with the simoniacal clergy; Gregory turned the attack against the secular authorities as being mainly responsible for the abuses. It was this which led directly to the great conflict.

The conflict first arose in France. In letters of 1073, 1074 and 1075 Gregory charged the French king with the most outrageous simony and threatened the severest penalties of the church unless he reformed. It was not until 1075, and then apparently in connection with the dispute over the appointment of the archbishop of Milan, that Gregory in a synod at Rome directly forbade Emperor Henry IV to bestow bishoprics and any layman to give investiture. The precise

terms of this decree are not known but those of the decree issued by the Roman council of 1078, at which the condemnation of lay investiture was repeated, have been preserved (Gregory VII, *Register*, vi: 5 b). The Roman council of 1080 added that any person receiving and any emperor, king or secular authority giving such investiture was excluded from the grace of St. Peter and forbidden to enter a church. As the proper mode of appointment it prescribed election by the clergy and people with the consent of the Apostolic See or the metropolitan (Gregory VII, *Register*, vii: 14 a).

While the issue was thus set, considerable ambiguity still surrounded the meaning of the prohibition. Just as the party of reform had not generally or clearly maintained that the temporal authority should have no place in appointments, but only that it should not have an arbitrary right to override the wishes of the people and clergy or to "invest" with the sacramental symbols of spiritual office and power (*Adversus simoniacos*, iii: 6, by Cardinal Humbert of Silva Candida), so even Gregory VII seems in letters of 1077 and 1079 to recognize the right of the French king and of Rudolph of Swabia to some voice in episcopal appointments (*Register*, v: 11, and *Epistolae collectae*, 26).

This vagueness, only gradually clarified, is reflected in the controversial tracts which the prohibition evoked in the succeeding years. Although sometimes seeming to deny the secular authority any share in appointments the supporters of the papacy, whose position may be illustrated by the *Libellus contra inuadores et symoniacos* (1097) of Cardinal Deusdedit, laid emphasis upon the abolition of the arbitrary right of the prince and upon such practical evils as the prevalence of simony and the congregation of place hunting clerics at the royal court, which according to Deusdedit arose from dependence upon the prince (prologue and cols. 1, 15). During the first phase of the controversy they avoided discussion of the secular position of ecclesiastical officers, which the protagonists of the imperial party stressed. Prominent among the latter was Wido, bishop of Ferrara, who in *De schismate Hildebrandi*, written probably in 1086, foreshadowed the later solution of the conflict by drawing a distinction between the two aspects of the bishop's office. While justifying lay investiture on the ground that the bishop's secular power and possessions must be granted by the prince, Wido admitted that his spiritual powers came through the ministry of other bishops.



In the closing years of the century the beginnings of a mediating tendency can be recognized in the position of Ivo, bishop of Chartres, a great canonist, one of the most important churchmen in France and a convinced supporter of the popes. In his *Epistola ad Hugonem* and *Epistola ad Loscerannum* Ivo developed the view that the question of investiture should be conceived as a matter not of eternal law but of what may be called an administrative order and that the granting of the temporalities was clearly the right of the prince. Indication of a similar mediatory tendency in the opposite camp is given by the anonymous *Tractatus de investitura episcoporum*, written probably in 1109 by a protagonist of the imperial party.

Progress toward settlement was, however, interrupted in 1110 by the startling proposal of Pope Paschal II to solve the difficulty by commanding the bishops and abbots to surrender their regalia, that is, their political authority and feudal lordships and possessions, if in return the temporal power would admit the freedom of election and give up the claim to investiture. It is tempting to relate this offer to some general movement of revolt against the secularization of the church through the immense development of the wealth and political position of the bishops and great abbeys—to such a movement as seems to have been represented later in the century by Arnold of Brescia and is reflected in the writings of so pious a churchman and so devoted an adherent of the papacy as Gerhoh of Reichersberg. But unfortunately little evidence has been preserved of the considerations prompting Paschal's action. His proposals were rejected if not by the whole episcopal body at least by those German and Italian bishops who were in Rome with the pope and Emperor Henry V in 1111, and they were condemned in emphatic terms in the *De honore ecclesiae* of Placidus of Nonantula. Following the failure of this solution, Paschal, who was in the power of Emperor Henry V, was reluctantly forced by the devastation of Rome and of the surrounding country and by the imminence of schism to issue a *privilegium* providing that bishops and abbots should be freely elected with the consent of the prince and that royal investiture with the ring and staff be a prerequisite of consecration. The church as a whole, however, violently repudiated the pope's temporary submission and at a council held in the Lateran in 1112 Paschal had to rescind his *privilegium*.

In France and in England an understanding had already been reached, although the exact

process and terms of the settlement with these countries is not known. It seems clear, however, that the French king and his great vassals had gradually accepted the papal prohibition of investiture with ring and staff and without renouncing their privilege of confirmation had recognized the principle of free election. In England the controversy between Anselm and Henry I had ended during the first decade of the century with similar concessions on the part of the king, who, however, continued to exact the oath of allegiance from the bishops. But no progress toward a solution of the major conflict between papacy and empire was made until after the death of Paschal's successor, Gelasius II, in 1119. The negotiations were then resumed, at first by representatives of the French church. When these broke down they were renewed under the more authoritative influence of the German princes, who at Würzburg in 1121 expressed their determination to achieve a settlement by which the empire and the church should both retain their rights.

The result was a direct correspondence in 1122 between Pope Calixtus II and Emperor Henry V. In September, 1122, Henry and the German bishops met the papal legates at Worms, and the conflict was finally terminated by the Concordat of Worms. The concordat provided that the churches of the empire should have the right of free election and consecration and that the emperor should renounce all right to invest with the ring and staff. The papacy conceded that all elections within the German kingdom should be held in the emperor's presence and that in the case of disputed elections the emperor with the advice of the metropolitan and bishops of the province should give his assent to the wiser part (*saniori parti*) of the electors; that the bishop or abbot elect should receive the regalia from the emperor before consecration and that in those portions of the empire outside the German kingdom the bishop or abbot should receive the regalia within six months after his consecration, except in the case of those sees or abbeys belonging to the Roman church.

In recognizing both the claim of the church to freedom of election and the reasonable right of the temporal power to some voice in determining ecclesiastical appointments, which in fact held so great a place in the political life of the Middle Ages, the concordat represented substantially the acceptance of the principles of the mediating party. The concordat secured peace between the church and the empire for thirty years. When

with the accession of Frederick Barbarossa in 1152 the two authorities again became ranged against each other, different issues were at stake. There seems to be evidence of varying interpretations of the settlement even during the interim of peace, and during the reign of Frederick II in the thirteenth century the question of ecclesiastical appointments grew once more acute. But on the whole the broad principle of the concordat was fully recognized. That principle constituted the application of the dualistic theory of the relation of the two powers. The investiture conflict did not disturb the normal validity and acceptance of this theory. It is, however, true that in holding the temporal power responsible for what he conceived to be its part in spiritual corruption and in evoking every sanction that the church had ever claimed to support his case, even to the extent of excommunicating and then deposing the emperor, Gregory VII had made a practical application of his spiritual authority which involved revolutionary consequences. Thus, while the conclusion seems clear that the investiture conflict did not imply an official assertion of any theoretical authority on the part of the spiritual power in temporal affairs, it did lead to actual claims to interference with the temporal power, which although they had little practical importance in the twelfth century could furnish a precedent for the great struggles between church and state in the thirteenth and fourteenth centuries.

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See: RELIGIOUS INSTITUTIONS; PAPACY; HOLY ROMAN EMPIRE; CLUNIAN MOVEMENT.

Consult: For source material: Heinemann's *Epistolae in Patrologia latina*, ed. by J. P. Migne, vol. cxxvi; *Gesta episcoporum leodiensium* in *Monumenta Germaniae historica*, *Scriptores*, vol. xii, p. 134-234; Gregory's *Epistolae collectae in Bibliotheca rerum germanicarum*, ed. by P. Jaffé, vol. ii, and his *Register* in *Monumenta Germaniae historica*, *Epistolae selectae*, vol. ii; *Adversus simoniacos* and *De schismate Hildebrandi* in *Monumenta Germaniae historica*, *Libelli de lite*, vol. i; *Libellus contra invasores*, *Epistola ad Hugonem*, *Epistola ad Innocentium*, *Tractatus de investitura episcoporum* and *De honore ecclesiae* in *Monumenta Germaniae historica*, *Libelli de lite*, vol. ii.

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INVESTMENT is the act of directing the employment of funds into capital or into claims to income. In the broadest sense investment includes not only the employment of funds in the maintenance and increase of capital goods from which a present or future money income is to be derived but also the purchase of durable consumption goods from which the income stream is of a psychic rather than a pecuniary nature. In the usual business interpretation of the term, however, such goods do not represent investments. Moreover in business terminology investment is regarded from an individual point of view rather than from the point of view of the community; that is, it is regarded as the transformation of current income into claims to future income rather than as a transfer of savings to those who can make the most productive use of them with a resulting increase in the capital and income producing power of the community. During 1918, for instance, the investments of the American people amounted to about \$22,000,000,000, yet the net loss in the physical capital of the country through war activities amounted to \$2,000,000,000. While some capital was destroyed and the social income stream lowered, certain individuals went through a process of investing funds and held higher claims to future income in the form of government promises to pay.

The maximum available for investment is the total savings, or the amount by which money income exceeds money expenditure on current consumption. Saving is dependent upon a large number of factors, among the most important of which are the natural resources of a country, its efficiency of labor, its stability of government, its distribution of wealth, the thrift, foresight and education of its people, and the development of institutions encouraging the accumulation of savings and facilitating their gainful employment. These factors affect the amount of saving because they influence the ability and willingness of a people to save. Thus the larger the natural resources of a country and the greater the efficiency of its labor, the larger is the excess of income over the amount required for subsistence and the greater is the ability to save

for the country as a whole. For a single individual the ability to save is a function of the size of his income relative to the subsistence minimum; hence, other things being equal, the more unequal the distribution of wealth in a country, the greater its ability to save. Willingness to save depends very largely upon the established mores. For people with very large incomes willingness to save is a factor of less importance, as their saving is largely an automatic accumulation of unspent income. Even a certain amount of saving by the mass of the population may not be the result of a deliberate decision, particularly in countries with a strong commercial banking system. Through the creation of new purchasing power, which is transferred in the form of credit to producers, the banking system increases the ability of the producers to draw upon the resources of the community, reducing *ipso facto* purchasing power in the hands of consumers. In highly developed industrial countries corporate savings, or the amount of corporate net earnings which are not distributed to the stockholders in the form of cash dividends, form a significant part of total savings. The larger the net income of a corporation relative to the outstanding capital stock and the more promising the opportunities for expansion in the business in which the corporation is engaged or in related lines of business, the more likely is the corporation to retain a part of its net earnings. Even in a capitalist society saving may be undertaken also by the government when it employs the proceeds of taxation for public works and other productive purposes; whether the total savings of the country are increased thereby depends of course upon the uses to which the individuals would have turned that part of their income which is appropriated by the government through taxation. Apart from other considerations the total amount of savings varies with changes in general business conditions. Corporate savings depend upon the movement of business activity; they are largest in years of prosperity and smallest in years of depression. Individual savings, which depend on the size of current income, likewise vary although less widely than do corporate savings. Estimates have placed the amount of savings for the United States in the year 1924, a fairly representative year, at about one sixth of the national income and for the United Kingdom at about one eighth of its national income.

Saving and investment are not coterminous. At all times, at some to a greater extent than at

others, a certain amount of saving takes place which does not result in immediate investment. Savings may be hoarded because investment opportunities are scarce or do not offer sufficient security, as in a period of financial uncertainty. Hoarded savings are in no sense investments, since the term investment implies the employment of funds in a manner which gives to the investor a claim to income either in the present or in the future. Savings which are not hoarded may be employed in a manner which is essentially different from genuine investment; they may be used for speculation—for the acquisition of goods which are expected to appreciate and which represent from the point of view of the purchaser an anticipated increase in capital value rather than a more or less permanent claim to future income.

There are certain general considerations which investors of all types take more or less into account: yield and appreciation possibilities, the ability readily to dispose of the investment (marketability) and safety. These are to a certain extent mutually incompatible—a high degree of safety, for instance, goes generally with a low yield—and the investor will therefore tend to emphasize one of these desiderata at the expense of the others. Even where investments are diversified the composition of the investment portfolio will reflect the bias of the investor with reference to each of these investment principles.

Apart from the purposes which he has in view the individual's choice of investments will be affected by the size of his income and his knowledge of investments. An individual with small income who desires to save for emergency and for competency in old age may find it difficult to obtain the diversification in investments which he desires; consequently his savings may be entrusted to a savings bank in the form of deposits or to an insurance company in the form of premium payments. Other individuals with greater ability to save may place a portion of their savings with banks and insurance companies and invest the rest in stocks, bonds and mortgages.

Where the individual's knowledge of investment opportunities is limited and his capital large enough to warrant the cost, he may use the services of investment counsel, which will help him to obtain such diversification of investment as is best suited to his needs; or he may entrust his savings to financial institutions which make it their business to invest the savings

of others in such a manner as they deem advisable, subject to certain restrictions imposed by public authority. The individual, however, will still have to choose among the various types of investing institutions. These include among others savings banks, which receive savings too small in amount to obtain the safety made possible by diversification; trust companies, which handle in a fiduciary capacity the funds and estates of individuals; and investment trusts, reaching that part of the investing public which desires diversification, higher yields than might be obtained elsewhere and opportunity for capital appreciation. Other investing institutions are building and loan associations and to a certain extent life insurance companies.

From the social point of view an act of investment results in the addition to the capital equipment of the country, unless the investment is made abroad. In primitive societies capital equipment is maintained and increased directly -- by turning labor that could be spared from the production of consumer goods to the production of equipment. With the development of the money economy the process of capital formation becomes more complicated: the funds for the purchase of capital goods produced by specialized industries are obtained from individual savers. Before the industrial revolution investor ownership took the form of a direct ownership of productive wealth, a form which still predominates in the less industrialized countries. With progressing industrialization this older form of direct ownership has been increasingly displaced by indirect ownership through stocks, bonds and other securities. The value of outstanding securities in the United States in recent years may roughly be estimated at one third to one half of the national wealth; in England it was estimated at 60 percent of the national wealth for 1918.

In an individualistic society the investor is left more or less free to decide which of the various enterprises bidding for his funds are to increase their power of commanding capital goods. The correctness of his decision will be reflected in the future market value of his investment; thus if the industry in which he invested is overexpanded relative to the demand for its product, his investment will depreciate. Under these conditions a certain amount of overinvestment in some industries and capital shortage in others cannot be avoided. In a planned society, where the flow of savings into various

industries is regulated by a central authority, much of this maldistribution could presumably be eliminated except for some radical and unexpected shifts in consumer demand.

In a developed capitalist society the judgment of the investor, whether he acts directly or through an investing institution, is directed by the machinery of the organized investment market, the two important constituents of which are the investment bank and the stock exchange. The investment banker acts as a middleman between those who require funds and those who have a supply of funds to offer. His profits are obtained from the margin between the price at which he underwrites the issue and the price at which he disposes of it to the public. Large corporations, to the extent that they seek capital not furnished through reinvestment of earnings, as well as states and municipalities normally satisfy their capital requirements through the services of the investment banker. The financing of hotels, office buildings and apartment houses is frequently done through the investment banker by the issuance of bonds secured by a mortgage on the property. Capital for the purchase and erection of homes, in so far as it is not obtained from building and loan associations, is raised by special companies which deposit mortgages on the property with trustees and issue bonds against this collateral; mortgage companies have developed in the United States only in recent years. Many financing programs, however, are not arranged through investment banking institutions. The demands of a national government are generally handled through the agency of a central bank, which in turn enlists the cooperation of investment houses. A few of the larger corporations, particularly certain public utility companies which have a wide and direct contact with the public, do a part of their financing without the mediation of the investment banker. This is likewise true of concerns whose capital requirements are relatively small and in which investors in general have little interest. In some European countries the functions of investment banker for industry are assumed by ordinary banks directly or through a subsidiary finance company, and loans on mortgages for the construction of homes and for agricultural uses are raised through mortgage banks owned by the public authority or by a cooperative association.

Just as the raising of capital funds is facilitated by the investment banker, so the transfer of capital is effected by security brokers who act

as intermediaries between buyers and sellers of securities. The purchase and sale of securities through brokers is facilitated by stock exchanges whose members enjoy the privilege of transacting business on the exchange. Only securities listed by the stock exchange committee can be traded on the exchange; securities with restricted markets are not approved for listing and are dealt in "over the counter" trading by specialized bond houses and similar institutions. Although the mere listing of a security does not necessarily assure it a ready market, since some securities are not actively traded, nevertheless a security which can be sold on the exchange is as a rule more marketable than an unlisted security and is for that reason preferable from the investor's point of view. Thus by improving the marketability of securities the stock exchange facilitates the raising of capital. An extremely important consequence of marketability due to the continuous functioning of stock exchanges is that a part of the investment needs of the country can be satisfied by the employment of commercial bank funds, which flow into the investment market as the result of loans to investment banks and brokers and as the result of direct investments in stock exchange securities by commercial banks.

One of the most important classes of securities for which market facilities are relatively inadequate is real estate mortgages. Individual real estate mortgages differ fundamentally from mortgage bonds in that the holder of the individual mortgage proceeds alone in the execution of his rights in case of default, while the holder of a mortgage bond proceeds through the intermediation of a trustee. The absence of a centralized market for real estate mortgages has been due to the nature of these mortgages. They often cover small pieces of local property, the value of which cannot readily be determined by scattered investors, and they may be of inconvenient denominations; moreover they require a considerable amount of attention with respect to maintenance of tax payments on the property, the regular payment of insurance and other details. It is to make these mortgages a more desirable investment that mortgage companies have developed which deposit individual mortgages with trustees and issue real estate mortgage bonds against this collateral.

Investments in stocks, bonds and mortgages are investments in the permanent capital of a country; from the point of view of the community the process of liquidating these investments

is normally a very slow one: the value invested in capital goods can be recovered only bit by bit from the sale of the commodities in the production of which they are employed. But the individual investor who wishes to recover his principal does not need to await the more or less distant maturity date in the case of contractual obligations, such as mortgages and bonds, or the liquidation of the concern in which his investment has been placed; he may sell his securities if there is a market for them and thus transfer his investment to others. The sale of securities at the price which was paid for them is, however, uncertain.

Investors who are particularly desirous of liquidity usually find that a portion of their funds may advantageously be placed in short term investments, such as commercial paper, trade and bank acceptances and demand or time loans against stock exchange collateral. These represent short term loans, usually for working capital purposes in contrast to fixed capital purposes, which are in many cases self-liquidating. Commercial banks, whose obligations are in the form of deposits payable on demand or at short notice, find it desirable to employ part of their funds in such forms. In the marketing of these loans certain specialized businesses have developed, such as acceptance and commercial paper houses.

With the increasing complexity of the investment market the apportionment of savings between industries has become more and more dependent upon the network of financial institutions. Investment banks are in a position to accept or reject applications for the flotation of securities which are brought to their attention. Commercial banks determine whether deposits left with them shall be loaned to particular enterprises. These institutions act as intermediaries between those who need capital and those who have capital to offer; but they are organized as businesses for a profit which is regulated by the margin between the price at which they furnish capital and that at which they obtain it. They will therefore direct savings not into industries which are in the greatest need of capital from the point of view of the community but into those industries which allow them the largest profit margin. The latter of course depends also on the price at which securities can be sold to investors. Assuming that the investors are well advised, they will adjust the price which they pay to the profit prospects of the industry in question; and these are determined

by the demand of consumers for the goods and services of the industry. Ultimately therefore the apportionment of savings among industries is regulated by the distribution of demand for their products; by and large investments will tend to be placed in capital goods which are calculated to produce commodities demanded by consumers. But the immediate and direct control of savings is in the hands of the institutions constituting the framework of the investment market, while the part played by consumers is an indirect one and subject to many qualifications.

The fact that an overwhelming share of the new capital for industry is supplied not directly by the investors but through the investment market means also that the investor is removed from direct control over the use to which his investment is put. A person who employs his savings in a small local enterprise, even if it is only in the form of a long term loan, retains a great deal of influence over the policy of the firm; but if he invests them in securities he acquires nothing more than a potential claim to income. Control of the physical objects on which the investor's money has been spent and of the business opportunities arising from the combination of the physical properties into a going concern is vested proximately in the management. Where the management is not a self-perpetuating group subject to no real control, as it is sometimes in large corporations whose stock is widely distributed, the control over it is likely to be in the hands of a small group of people who own only a very minor part of the total investment. For investor control there is substituted sometimes continuous control by the investment banker, one of the functions of which is to assure sound management for the benefit of the investor; this purpose, however, is often submerged by other aims which the investment banker is likely to regard as important, such as the exclusive handling of the financing operations of the concern and the effective coordination of the activities of the concern with those of others similarly controlled by the banker or by the group of financial capitalists with which he is affiliated.

The obtrusion of the investment banking machinery between the investor and industry tends also to accentuate the cyclical fluctuations in the flow of savings into investment channels. When the market for securities is good, the investment banker generally attempts to take advantage of this fact by encouraging industrial

concerns to a generous issue of securities; in periods of depression, on the other hand, the pessimism prevailing in the investment market discourages borrowing even for legitimate expansion. Adequate control over the flow of savings into investment channels might go far toward moderating the alternate periods of extreme prosperity and depression so characteristic of modern capitalist economy. Central banks in all countries have been granted broad powers designed to control money rates and the volume of credit, with the ultimate purpose of moderating the course of industry and of commodity prices. If through this means price and business stabilization could partially be achieved, investment losses through changes in the purchasing power of money might be reduced.

In the formative period of capitalist economy during the late eighteenth and the early nineteenth century investment institutions were subject to little regulation by the state. Under the influence of the philosophy of natural liberty and of natural rights it was assumed that the maximum economic welfare of the group is attained through the free and unhindered play of individual self-interest. As wealth and income increased, industrial organization assumed a predominantly corporate form; the investment market became more complex and the attainment of adequate knowledge by the individual of the industries and companies in which his savings were placed became increasingly difficult. His losses, for which poor judgment was primarily responsible, were increased by mismanagement and fraud on the part of certain financial institutions. Consequently the efficacy of the principle of *laissez faire* as applied to the investment market was questioned and, while the fundamental concepts of the earlier system remained, regulatory measures designed to protect the individual were enacted. Commercial banking became subject to regulation early in the nineteenth century. Insurance companies, building and loan associations and savings banks have similarly come under state supervision. Laws have been enacted to prevent the sale of fraudulent securities, and the issue of securities has been controlled through the regulation of corporate business. With the organization of the investment market its representative organs have imposed a considerable amount of control on the activities of the individual investment banking institutions. So vitally does investment affect the individual, state and world economy that there are tendencies for the whole field to be

subjected to greater scrutiny and regulation than have heretofore prevailed. The relation of foreign investment to tariffs, to trade balances and to the international flow of gold has received increasing attention since the World War, particularly during the depression beginning in 1929. Some form of public control over security issues to prevent overinvestment in fixed capital by private enterprises has been strongly urged in recent years, but so far such control has been fully exercised only during the World War and in the post-war period in Russia, where the entire industrial system operates according to plans laid down by the government. Control by public authority over the investment in and the import of capital from foreign countries has been more common, but it has been exercised with a view more to the political consequences of capital migration than to the economic effects of over- or underinvestment.

LIONEL D. EDIE

SEE: SAVINGS; ACCUMULATION; HOARDING; SPECULATION; INTEREST; PROFIT; RENTIER; ENDOWMENTS AND FOUNDATIONS; INSURANCE; CORPORATION; CORPORATION FINANCE; FOREIGN INVESTMENT; PUBLIC DEBT; FINANCIAL ORGANIZATION; STOCK EXCHANGE; INVESTMENT BANKING; LAND MORTGAGE CREDIT; INVESTMENT TRUSTS; TRUST COMPANIES; SAVINGS BANKS; BUILDING AND LOAN ASSOCIATIONS; BANKING, COMMERCIAL; MONEY MARKET; NATIONAL INCOME; WEALTH, NATIONAL; BUSINESS CYCLES; STABILIZATION, BUSINESS; ECONOMIC POLICY; NATIONAL ECONOMIC PLANNING; GOSPLAN.

**INVESTMENT BANKING.** Banking, or the business of receiving and lending the funds of the community, is described as commercial banking when it consists of receiving demand and short term deposits and making short term loans and as investment banking when it involves mainly originating and distributing long term securities, such as bonds and stocks. The basic functional difference between commercial and investment banking is the time factor: commercial banks facilitate the transfer of short term funds, whereas investment banks deal in long term capital. Investment banking therefore is largely utilized to finance the creation and use of durable capital goods, while the purpose of commercial loans properly so called is usually to finance a single business operation. Investment and commercial banking, however, are not as clearly separated in practise as they may be made to appear in a theoretical analysis: commercial banks in many countries play an important role in supplying long term loans, while investment banking houses not infrequently sup-

ply short term advances to governments and corporations, with or without public offering of the evidences of short term indebtedness.

Investment banking has played a vital role in modern economic life. One of the most typical characteristics of the present industrial order is the large scale enterprise financed through the aggregation of funds of numerous individual investors. The investment banking mechanism furnishes the channel through which funds are combined and directed to users who hold out prospects of an attractive return and protection for the original investment. While those who can utilize long term funds profitably might and at times do appeal for them directly to the investing public, in practise this is frequently a crude and wasteful process as compared with the specialization of this function in the hands of organizations which have won the confidence of the investing public and which stand ready to appraise expertly the credit of those who apply for such funds. By handling many security issues the investment banker can spread his expenses over a large volume of business and so cut down to moderate proportions the cost of investigating and distributing each offering.

The growth of investment banking coincides roughly with the evolution of modern capitalism. More specifically, modern investment banking dates from the nineteenth century and is the result of certain economic and political developments within capitalism. One of them is the rise of the modern state. Governments have been the earliest and most persistent borrowers from investment bankers, and the investment banking mechanism was originally created in most countries to help finance the government. In the nineteenth century the number of strong and stable governments which could be regarded as preferred risks increased; at the same time loans to governments became safer because they ceased to borrow for war purposes primarily and developed instead a tendency to borrow heavily for productive purposes, such as public works. Even more important for the later growth of investment banking was the development of large scale corporate industry. Because the investment banker is typically a merchandiser of securities, his task is greatly lightened if he can offer his clients issues of large and well known corporations. Such corporations by tending to adopt financial policies which make for more continuous financial strength create for their bonds and stocks a favorable status as investment media. Allied with the growth of corporate busi-

ness was the development of the export of capital. As nations became industrialized and turned to foreign markets as outlets for surplus production they had to extend long term credits to less well developed regions in need of equipment. The export of capital assumed major proportions in several countries during the nineteenth century and added the financing of governments and industries abroad to the other activities of investment banking organizations.

The mobilization of capital through investment banking media was facilitated during the nineteenth century by the rise of institutional investors and investing institutions, which furnished a large and certain market for securities at all times except in periods of major deflation. Life insurance companies built up reserves aggregating many billions of dollars invested largely in real estate mortgages and securities; other insurance carriers also accumulated in the course of time large reserves which had to be invested. Commercial banks properly so called devoted part of their assets to the purchase of securities. At the same time eleemosynary institutions and general business corporations became buyers of securities in vast amounts. There was also a great increase in the number of individual investors. The evolution of the money economy early created a special class in the community which received money incomes substantially in excess of expenditures, furnishing a surplus available for investment; the proportion of the population in receipt of such surplus money incomes has steadily increased in economically advanced countries. In the more industrialized nations participation of the mass of the population in the investment banking process was encouraged by the creation and spread of investing institutions, such as savings banks, trust companies and investment trusts, which act as agencies of cooperative investment for numerous individual savers.

In its more primitive form banking was concerned often with investment as well as commercial operations. Banking in antiquity, as judged by the fragmentary evidence available at present, appears to have been largely commercial in character; but allowance must be made for the fact that governments sought long term credits and that certain industries, such as shipping, required even at that time outside long term capital. During the Middle Ages banking was practically unknown as a separate business, but whatever banking was carried on was largely of the investment type. Thus the Bank

of Venice, known as the first public bank, was primarily a transfer office for public debt and was created through a forced loan levied on the wealthy citizens of the republic. The Lombard bankers combined extensive trading operations with the grant of long term loans to lay and clerical rulers. The Bank of England itself was founded in 1694 as a device for raising a long term loan for the government; it obtained the note issue and banking privilege in return for an advance at 8 percent of £1,200,000 to the government of William III.

The tendency of banking institutions to specialize along either commercial or investment lines became manifest first in Great Britain. The reasons for it are largely historic. Since London developed as a center of international trade before it became the financial capital of a great industrial nation, its banks early concerned themselves with the financing of trade. British industry, which was the first to experience the rapid transformation and expansion known as the industrial revolution, has been built up from small units and financed largely out of its own profits or by local investors rather than through large public issues of securities. The earliest and perhaps the most important type of investment banking institution in England were the merchant bankers or acceptance houses. These houses, originally engaged in trade, gradually built up reputations for financial strength which made their credit generally acceptable; their major interest shifted then from trading in goods to the acceptance of bills drawn on them by English and foreign merchants. In the course of time foreign governments also turned to them as an easy means for tapping the London capital market, with the result that they became important also in foreign security financing. For a time some merchant bankers, such as Overend, Gurney and Company, sought short term deposits, allowing a liberal rate of interest in order to attract funds for long term investment abroad; but the collapse of this famous Quaker firm in 1866 precipitated a major panic in London and tended to establish in Great Britain more firmly than ever the desirability of institutional specialization. Merchant bankers have refrained as a rule from financing home industry. The same is true in the main of houses of issue, which are large investment banks specializing primarily in the origination of new issues. The long term financing of domestic industry, where the organized investment market is drawn upon, is done through



finance and investment companies or through promoting groups created for the flotation of specific issues. Some issues are undertaken also by ad hoc groups of investment trusts, finance companies, insurance companies and large individual investors, the purpose of which is to benefit their participants to the extent of underwriting costs and profits. The distribution of securities to the ultimate investor is handled mainly by brokers working for a commission, although in recent years joint stock banks, which otherwise specialize narrowly in the commercial banking business, have undertaken to execute security orders for their clients.

On the continent of Europe the tendency has been for both commercial and investment banking to be carried on by the same institution. This combination of functions is to be explained largely by the comparative lateness of the industrial revolution in these countries and by the absence of a substantial body of individual local investors ready to finance home enterprise. The relatively large units necessary to take advantage of modern industrial methods could be founded in these countries only with the aid of banks which provided long term as well as working capital and often took an active role in initiating, planning and promoting enterprises. This is clearly illustrated in the history of German industrial development after the creation of the empire. The large German banks promoted the establishment of new enterprises, financed the expansion of old ones through short term loans funded after a while into long term obligations and on the whole tended to dominate large scale industry through the retention of substantial blocks of securities and through controlling access to the capital market. Investment banking in all continental countries is carried on more or less on the German model, the only important exception being France, where banks are more specialized. The large credit banks in France confine themselves on the whole to distribution of fixed interest securities through their numerous branch offices, while the *banques d'affaires* act as full fledged investment banks originating new issues, distributing them to large investors and carrying substantial blocks of securities in an attempt to retain control and stabilize the market. Both types of institutions tended until the World War to neglect home industry, with the exception of railroads.

Of less importance than the general banks in the evolution of investment banking on the con-

tinents have been two types of organizations—private banks and finance companies—which have engaged primarily in investment banking and at times carried on a competitive struggle for supremacy. Many of the private banks, resembling the English merchant bankers, were family enterprises which attained to prominence in the eighteenth century, some tracing their history back to the Middle Ages. One of them, the house of Rothschild, assumed during the nineteenth century a dominant position in the more important money centers of Europe. Private bankers constituted the financial aristocracy of their countries and exercised an influence in business and politics entirely out of proportion to the amount of capital under their control. Finance companies were launched by public subscription, especially during periods of prosperity, to enrich their stockholders by the fabulous profits that were supposed to be reaped by investment bankers. One of the earliest and certainly the most spectacular of the continental finance companies was the Société Générale du Crédit Mobilier incorporated in 1852 in France. Its organization was encouraged by Napoleon III as a balance to the power of the Rothschilds, who had been very intimate with his predecessors on the French throne. Its prime purpose was to furnish long term credits for large scale business by selling its obligations and shares to numerous small investors. It engaged in industrial promotion on its own initiative and sought to dominate the market for new issues by bidding vigorously for prospective new offerings, by purchasing outstanding securities in the open market and by making a large volume of security loans. The Crédit Mobilier eventually got into difficulties and was reorganized as a commercial bank of deposit and discount, but its methods were copied by many German and French banks and its influence is believed to have been substantial in shaping the course of development of continental investment banking. The experience of the Crédit Mobilier is typical of the history of later finance companies: organized during security market booms and depending upon public security issues for their funds, they have been burdened with a frozen portfolio in the subsequent period of deflation. General finance companies must be distinguished from companies created by groups of bankers, with or without the participation of industrialists, to facilitate the financing of an important industry which has been brought under unified control or attempts organized expansion into foreign fields.

Finance companies for specific industries are quite common in the smaller continental countries and are found also in England. In Germany the finance company is generally a subsidiary of one of the large banks or of an important industrial combination.

In the United States investment banking was much slower in developing than commercial banking. Incorporated banks which began to grow rapidly at the end of the eighteenth century were at first restricted to commercial activities; and both the first and the second Bank of the United States were by their charters limited to dealing in bills of exchange and bullion. The assumption of the national and state debts by the federal government after the adoption of the constitution created a temporary flurry of interest in securities; the beginnings of brokerage organizations in New York and Philadelphia are traced to this period. Capital to finance a few large enterprises and the Louisiana Purchase was obtained largely from England and Holland, the two most important capital markets at the time; also the internal improvements and the westward expansion which followed the War of 1812 were based on large imports of capital from abroad, chiefly Great Britain. As the capital import movement grew, a special mechanism was gradually evolved to handle it. Some Americans, like George Peabody, a Yankee dry goods merchant, opened houses in London to bring American securities to British investors. The second Bank of the United States, after being rechartered in 1836 as the United States Bank of Pennsylvania, opened a London agency and sought to popularize American securities there. Conversely British houses, like the Barings, built up American connections of their own and even the Rothschilds after long hesitation sent August Belmont as their personal representative to the United States. A few domestic investment banking houses served the home market exclusively. Many of the commercial banks bought bonds at the time or made loans on them freely, and in the period of "wildcat banking" the distinction between commercial and investment banking became very tenuous.

The collapse of the United States Bank of Pennsylvania and defaults on state securities after 1841 cut off for a time the supply of capital from abroad and stimulated the growth of a domestic capital market, which prior to that time consisted of a few wealthy traders and shipowners in New York and Philadelphia. Because of disastrous experiences with wildcat

banks there was a general tendency to draw a sharper distinction than heretofore between commercial and investment banking, both in law and in practice. As a result security houses combining issue and brokerage functions gradually came to the fore, especially in connection with the railroad financing of the period. In the years from 1840 to 1860 such houses as E. W. Clark and Company of Philadelphia, which helped finance the Mexican War, and Drew, Robinson and Company of New York, which included Daniel Drew and aided in the financing of the Erie Railroad, were organized.

During the Civil War the development of investment banking was further stimulated by the exclusive reliance upon domestic financing forced upon the union government by its lack of popularity in Great Britain. Funds were obtained through a syndicate of banking houses under the leadership of Jay Cooke and Company, the first such operation carried out in the United States; and the sale of a billion dollars of government bonds to a vast number of individual investors was successfully accomplished through the use of salesmen and advertising.

After the war the investment banking mechanism developed during the conflict was shifted to the sale of railroad mortgage bond issues, stimulating the overdevelopment in this field which led directly to the panic of 1873. While Jay Cooke and a number of other houses that had turned to railway financing collapsed during the panic, others continued active in the retail distribution of securities; and in the following twenty years the size and strength of the security selling organization enjoyed further growth. Many new firms were started, while several mercantile and trading organizations shifted to investment banking in response to the attraction of larger profits, thus repeating the history of the English merchant bankers. The house of J. and W. Seligman, for example, evolved from a mercantile to an investment banking status during this period, and Lehman Brothers changed from a cotton to a security house. In addition there was a marked tendency for many investment houses throughout the country to shift their major activity to New York as the financial center of the nation.

International bankers, whose relative importance had waned during the Civil War and post-bellum days, came to the fore again in the 1890's when a wave of railway receiverships engulfed about one fourth of the railway mileage of the country and the gold standard was endangered

by the monetary policies of the federal government. Houses like J. P. Morgan and Company with excellent English and French connections, Kuhn, Loeb and Company and August Belmont and Company with strong German and Austrian affiliations, took the lead in the reorganization of bankrupt railroads and the rehabilitation of government finances.

In order to make their work of railroad construction effective the bankers had to take a keen interest in management. Prior to this time American investment bankers, following the English tradition, concerned themselves mainly with the sale of securities; they assumed only a minor role in the enterprises which they financed leaving the active heads of the business free to determine its policies. It was principally due to this fact that American enterprise retained control in a large number of concerns financed largely with capital imported from abroad. But the international banking houses which reorganized the network of bankrupt railroads were too jealous of their reputation and too keenly aware of the dangers involved to leave management in the old hands. Not only did they take prominent places on boards of directors but they also merged properties, bought control of competing railroad lines and formed holding companies or voting trusts which tied up control of individual lines for a number of years.

The period of prosperity which followed the election of McKinley in 1896 made the railway reorganizations and combinations of the preceding years extraordinarily successful. The great banking houses, their prestige raised and their wealth multiplied by the successful railway reorganizations, proceeded to apply the same methods to other industries, thus initiating the era of industrial mergers which followed the turn of the century. Frequently they took the lead in organizing combinations—the United States Steel Corporation, for example, was directly promoted by J. P. Morgan and Company—and in other cases, where industrialists or promoters initiated the combine, the bankers took over control when their financial aid or managerial ability was sought.

While in the time of Jay Cooke the house with the most salesmen and the largest number of clients was in the lead, during the period of reorganization and combination stress was laid upon origination rather than distribution power. In the following decades the actual work of domestic security distribution fell increasingly to

relatively small organizations scattered all over the country; and the big international banking houses, whose prestige stood high with institutional investors and retail dealers at home as well as with security distributors abroad, held a dominating position in the financial markets. At the same time a number of financial institutions other than investment banks were drawn into the security business. During the great speculative boom trust companies, which had for some time exercised general banking powers without specific regulation in New York and other states, became active also in the security markets. The large life insurance companies, in possession of huge reserves and closely affiliated with investment bankers, participated freely in underwriting the numerous issues of securities floated in connection with large merger and expansion programs. Commercial banks, although limited by law in their powers of engaging directly in the investment banking business, purchased bonds freely and greatly increased their security loans during this period.

The panic of 1907 was followed by considerable readjustment. The Hughes investigation in New York state caused the removal of life insurance companies from the security underwriting business, although they continued as the largest single group of security buyers. The failure of the Knickerbocker Trust Company in New York City brought about laws for the regulation of trust companies, but these did not interfere directly with their security purchasing or underwriting activities. While greater specialization of function among financial institutions was thus enforced, commercial bankers made use of security affiliates incorporated under state law in order to enter freely into investment banking operations. To preserve identity of ownership between the bank and the security company the stock of the latter was deposited in trust for the benefit of bank stockholders and it was provided that bank stock could not be sold without the transfer of stock ownership in the security affiliate. The First National Bank of New York organized the First Security Company in 1908, the National City Company followed in 1911 and in the ensuing years commercial banks in a number of cities followed suit.

The World War and post-war periods witnessed a spectacular expansion of the investment banking mechanism in the United States. The unprecedented increase in the number of individual security holders during the war, a result of the intensive Liberty bond campaign, paved

the way for the enormous sale of corporate and foreign securities after the war, a course which was facilitated by the prosperity of the 1920's. The avidity of the public for new investment and later for speculative issues exceeded all bounds, and the rapid expansion of bank investments and security loans to individuals and brokers created purchasing power with which to pay for the new flotations. Because of their strategic position the security affiliates of banks played during this period an increasingly important role in the origination and even more in the retail distribution of securities. So broad did the security market become and so plentiful were the available foreign bond issues, investment trust securities and all kinds of industrial flotations that numerous new or formerly obscure organizations rose to prominence and competed vigorously with the older and well established houses. The latter were compelled in many cases to change their methods to keep pace with these less conservative and often remarkably effective rivals. Even where the older houses became less active, however, the fact that they still played a prominent role in the management of many leading enterprises through interlocking directorates and substantial stockholding enabled them to maintain a position of influence. In addition a number of organizations other than investment banks became once more engaged in the security business. Investment trusts, particularly those affiliated with investment houses, participated in underwriting activities. In the public utility field some holding companies took a prominent part in the financing of their subsidiaries, organizations like the Electric Bond and Share Company and Stone and Webster, Inc., combining management and investment banking functions. The stock market panic of 1929 and its aftermath caused considerable mortality among the newer organizations and enhanced the prestige of a number of the older houses; it also led to agitation for a return to the earlier basis of institutional specialization, particularly through a reduction in the activity of commercial banks in the security markets.

Outside the United States, to which Canada is closely linked with respect to investment operations, and the European countries the development of investment banking has been retarded by the absence of a large class of individual investors. Thus in Japan despite the attempts made by the government to foster investment in home securities by people of small means a compila-

tion made in 1928, a year of comparatively active new financing, showed that 92 percent of the new issues was sold to banking, trust and insurance companies and only 8 percent was taken up by individual investors. Such conditions do not warrant the creation of a specialized investment service; whatever investment financing is done locally must be consummated by general banks.

The investment banking mechanism of each country and period has been strongly influenced by the type of borrower seeking funds in its capital market. In Great Britain, for example, foreign government financing called for a small group of strong houses under whose auspices the rank and file of investors could be successfully appealed to. With the coming of the railway era it became necessary to evolve new channels for raising the capital needed and the great railroad building boom of 1844-47 brought into prominence a group of contracting and financing houses that subsequently played an important role in London investment banking. Again, new types of institutions became important in several European countries immediately after the World War when, through the cooperation of banks with the government, organizations were created to promote the expansion of foreign trade by providing intermediate and long term credits. An interesting outgrowth of industrial rationalization in the subsequent period was the holding, promoting and financial enterprise of Kreuger and T'oll, based in the first instance on the successful monopolistic organization of the Swedish match industry. It made large loans to governments in return for match monopoly concessions and obtained funds by selling its own securities in the richer capital markets of the world. The taint of fraud in its management as well as the world wide depression brought on its complete collapse in 1932.

Investment banking practise is even less standardized than investment banking organization. The manner in which security issues are handled varies not only from country to country but also within the same country, depending upon the size of the issue, the investment or speculative character of the security and its other relevant characteristics. Generally, however, the course of each new issue may be said to consist of three successive stages—investigation and negotiation, purchase, and distribution.

New security offerings come to the investment banking house in a variety of ways. The very large corporations maintain continuous financial

and personal relations with a banking house, such relations being often based on interlocking directorates. Buying representatives of the banking house and independent agents and negotiators also play an important role. Smaller houses usually obtain securities for distribution by joining syndicates initiated by the larger organizations. Many issues of a less seasoned character are brought to an investment banking house by direct application on the part of corporations, while in the case of municipal issues and railway equipment trust certificates competitive bids are sought because of the high degree of standardization found in this field. However the new offering may be brought to the attention of the investment bank, its statistical or buying department will make an investigation. Often an option will be taken on the issue for a period of time while thoroughgoing accounting, engineering and financial surveys are made, at times with the aid of outside specialists. If the investigation leads to a favorable result a purchase agreement is drawn up describing the issue and the terms on which it is to be taken over.

Because of the magnitude of possible losses investment bankers prefer to share risks, even those they assume only for a short time. Accordingly it is customary for issues to be purchased, either in the first instance or immediately after acquisition by the originating house, by a banking group. In the case of large issues two or three such groups may be formed in rapid succession, additional houses being brought in at each stage to spread the risk further and to interest additional organizations in the eventual distribution. When an issue is purchased outright by the investment banker it is said to be underwritten; the term, however, is also used in a narrower sense when bankers underwrite the sale of an issue offered directly by the corporation to its existing shareholders. Because of the legal preemptive right of shareholders in most corporations to subscribe to additional common stock issues such offerings of established companies are generally made first to their own shareholders, with the underwriting bankers standing ready to take over the unsold portion.

Since sudden changes in financial conditions may make new security issues unsalable after their purchase by investment bankers, a large measure of risk is incurred by them in comparison with the profits that can be made on any one issue and the capital that must be embarked

in the business. It is customary therefore for the original purchase group to form distribution syndicates to take over and sell the issue to investors in the shortest time possible. Such syndicates bring to bear the joint efforts of their sales forces and established connections with numerous small dealers to push the sale of each issue; thus they are able to reduce the risk incurred by shortening the time needed for selling and also to obtain a more widespread and hence more effective distribution. The original purchase or banking group may at times use selling groups instead of distribution syndicates; these do not underwrite the sale of the issue but merely obtain a "dealer's discount" from the offering price to the public if they accomplish sales to their clients.

The gross income of investment banking houses is obtained primarily from the spread between the purchase and sales prices of new issues. Among the important supplementary sources of revenue are the acquisition of bonus shares and blocks of securities at low prices in connection with new issues or promotions and the exercise of fiscal agency functions for governments and corporations for whom financing is carried out. Expenses arise chiefly from salesmen's commissions, advertising and the overhead cost of running the organization. A prominent item of expense is the cost of large loans from commercial banks, arranged by syndicate groups or by individual houses and protected by security collateral. Investment banking organizations must resort to such loans, because their capital usually constitutes but a small percentage of the total commitments they undertake. The slowing down of the process of security distribution, especially in periods of temporary congestion of new offerings or of severe bond market deflation, calls for a very large increase in these loans, as the amount of unsold securities in the hands of investment banking houses is at such times abnormally high. Although investment banking houses do not as a rule publish statements showing their income accounts or balance sheet position, profits are known to vary widely with changes in security market conditions. Costs in relation to the volume of business handled are smallest for wholesale houses and those specializing in selling to financial institutions, while they run highest in houses engaged in retail distribution to the small individual investor. They are very high in the case of small and highly speculative issues, which, however, are generally avoided by large

and well established banking houses. In these issues high pressure salesmen or aggressive mail order advertising campaigns are used to reach small buyers; the greater and more expensive effort needed to effect distribution is balanced by a very wide spread between purchase and sales price.

The outstanding peculiarity of investment banking practise in the United States as compared with that of European countries is perhaps this ubiquitous use of the security salesman, a practise which developed from the aggressive "doorbell ringing" methods of selling first made prominent by Jay Cooke in Civil War days. Virtually all houses of any size engaged in retail security selling depend upon corps of salesmen, compensated in the main by commissions on actual sales, to keep in touch with clients and obtain orders. In continental European countries, on the other hand, security buyers are expected to come to their banks and investment houses to place orders; while in England brokers play a prominent part in retail security distribution by advising clients and taking orders on a commission basis for new offerings. Other features more or less peculiar to American practise in times of prosperity are the popular sale on a large scale of stock as well as bond issues, the speedy nominal "closing of the book" shortly after the offering, the pegging of prices through syndicate bids in the open market during the period of distribution and the development in recent years of periodical, billboard, radio and direct mail advertising of securities as a means of reducing the resistance met by the salesmen in effecting actual sale.

While the basic economic function of investment banking is to allocate the annual flow of savings to specific productive employment, it tends also by offering acceptable media for investment to encourage saving and hence to accelerate industrial development. The stimulation of investment thus attained is uneven; it is at its peak in periods of prosperity, for as soon as the public evinces a willingness to buy there is a general rush among investment bankers to create and dispose of new issues at a profit before the market becomes saturated. When the expansion in investment banking operations assumes the proportions of a boom in the security markets, the investment banking mechanism is all too likely to absorb an excessive proportion of liquid funds and short term credits in order to support investment in long term securities. At such times large scale purchases of securities

by banks and the sharp increase in security loans to individuals permit the investment banker to sell new issues on a greatly enlarged scale. The resulting rapid bank credit expansion for investment purposes, experience teaches, leads to maladjustment later, in the course of which the indebtedness is scaled down while the volume of new financing is reduced for a time to abnormally low levels. Investment banking also tends to strengthen large business units at the expense of the small: since large enterprises and combinations attract the attention and the confidence of the investing public, their securities are more readily marketable and because of their larger volume they can be handled at a smaller unit cost. The presence in a country of a highly developed investment banking organization hungry for business is thus an important stimulus to the expansion of established enterprises by the issue of more securities and an incentive to the formation of large scale combinations. In Great Britain, where the investment banking institutions have been traditionally engaged only in government and foreign financing, large scale enterprise and industrial rationalization have been relatively long delayed despite the fact that in the early nineteenth century British industry was in the van of progress by a wide margin.

The issue house, the central factor in the investment banking mechanism, exercises a dominant role in determining the distribution of new capital among various industries. In normal times important issue houses turn down far more individual applications for funds than they accept, selecting those which are likely to prove most attractive to the investor and which promise the greatest profit for the house. In order to protect their clients, to assure future control over financing and to profit in other ways investment banking houses have sought to gain control over large corporations by retaining large blocks of voting stock and by obtaining representation on boards of directors. In connection also with government financing the investment banker has frequently sought to be more than a merely passive agency for selling securities at a profit. At times bankers have dictated policies to political bodies as a price for their financial aid. Especially the governments of less well developed countries have had to subject themselves to a measure of control by investment banking houses floating their issues.

In the richer countries the search by invest-

ment bankers for new offerings with relatively high yields tends to turn their attention to foreign securities. Commercial and industrial groups often take the initiative in stimulating an export of capital, seeking to provide buying power for foreign customers by urging bankers to sell bonds for them. In many instances political and trade treaties, concessions, building contracts for public works and similar privileges for special interests have been sought abroad by big banking and industrial groups with loans as the consideration. The need for foreign capital in the economically less developed countries to finance government deficits, railway and other capital improvements and corporate development has made the international banker an important factor in the political development of the last century. In the United States the investment banker has often been guided solely by the desire to distribute at a profit what he considers a satisfactory security. In Great Britain investment bankers have sometimes attempted to foster specifically British exports, going so far in certain cases as to insert in the loan contract a "tying clause" earmarking the proceeds for the purchase of British manufactures. French foreign financing, on the other hand, has frequently been based on political considerations, the foreign office of the government working closely with the international investment bankers for this reason.

Investment bankers may also finance domestic corporations which acquire interests abroad and thus indirectly finance the export of capital. In such cases domestic corporations may float security issues designed to finance the construction of plants and other facilities abroad or the purchase of stock interests in foreign enterprises. In some instances separate corporations are organized to operate abroad. The International Telephone and Telegraph Company and the American and Foreign Power Company are outstanding examples of American corporations that have raised funds freely through security issues in the home market and have invested them in public utility enterprises in foreign countries. Occasionally such corporations develop into full fledged international finance companies. Companies of this type, which have been an important factor in the international migration of capital since the earlier days of the railway era, seek to combine the functions of security flotation with investment and direct participation in industrial management. They raise funds by selling their own securities in the

home market, supplemented at times by foreign issues as well. Capital so raised is then invested in foreign enterprises, control of which is often retained in whole or in part through stock-ownership or monopoly concessions from the government. The finance companies of the nineteenth century being interested in railway promotion often carried on also contracting and construction activities. Finance companies of the twentieth century, like the ill fated Kreuger and Toll, have fostered national industry, in which they participate by stockownership, through utilizing their investment resources to obtain new markets abroad.

Public regulation and control of investment banking are present to some extent in nearly all countries where it constitutes an important economic activity. A number of objectives are sought in public control. The effort to prevent security frauds has resulted in nearly every country in special legislation (known in the United States as blue sky laws) providing either for approval by a regulatory authority of new security issues before offering or for effective prosecution and punishment of fraud after its commission. Also legislation governing the organization, administration and financing of corporations is in part designed to prevent losses to investors through unsound or fraudulent practices in connection with promotions and security issuance. The fact that investors have suffered enormous losses in perfectly sound securities because of sharp declines in quotations during periods of major deflation has created another objective of control—stabilization within reasonable limits of security prices. During boom times this may take the form of restrictive central banking policies. During depressions the reverse policy of artificial easing of credit to encourage expansion of bank investments and loans as support for declining prices is frequently attempted. In certain countries efforts have also been made to attain a measure of stabilization through regulation of stock exchange practices.

A more fundamental objective of investment banking control is the allocation of capital among various prospective users in accordance with some preconceived plan. One instance of such control is that exercised by the Capital Issues Committee set up in Washington during the World War with power to pass on each new offering proposed. Because of the stupendous volume of government financing that had to be accomplished this committee sought to dis-

courage other issues as far as possible, except where they were regarded as necessary to finance industries which played an important role in the prosecution of war, such as the railroads, steel companies, munitions manufactures and the like.

Numerous proposals have been advanced to apply the same principle in peace time in the interests of more rational and stable economic development. During the post-war period several capital importing countries—Italy, Germany, Poland, Australia and Colombia—actually set up control over issues floated abroad. In Italy the minister of finance was given full control over all foreign borrowing in 1928. In Germany borrowing abroad by states and municipalities was made subject to approval by an advisory board of government and central bank officials; this body sought to restrict the import of capital as far as feasible to funds required for productive uses, so that the necessity to pay interest and principal would not constitute a dead weight burden on Germany's international balance of payments. In Italy, Austria and other European countries a large measure of state control over the flow of domestic capital was obtained during the post-war period through close cooperation of the government with large banking institutions. Such a policy has led, however, to the necessity for liberal government aid and intervention in depression periods to prevent the collapse of institutions which become overloaded with frozen commitments undertaken at the suggestion or behest of the state. Complete control over the flow of long term capital is now achieved only in Soviet Russia, where a portion of the national income is allocated each year to stated capital investments under a system of national planning and state control of industry.

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See: INVESTMENT; FOREIGN INVESTMENT; INTERNATIONAL FINANCE; PUBLIC DEBT; CORPORATION FINANCE; PROMOTION; BLUE SKY LAWS; BONDS; DEBENTURES; STOCKS; FINANCIAL ORGANIZATION; BANKING; COMMERCIAL; STOCK EXCHANGE; MONEY MARKET; INVESTMENT TRUSTS; HOLDING COMPANIES; LAND MORTGAGE CREDIT.

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**INVESTMENT TRUSTS** Investment trusts are corporations, common law trusts or trusted funds set up to provide investors with the advantages of diversification and supervision of their investments. The sole objective of such trusts is cooperative investment resulting presumably in higher return with equal safety or in greater safety with equal return. Unlike holding, operating and finance companies they generally avoid the "entangling alliances" of management or control of the corporations whose securities they own and so limit their ownership in any one industrial, merchandising or public utility company that they may at any time quietly withdraw without sacrificing related interests or disturbing the market for the securities being liquidated. The preponderance of common stocks in portfolios of most American investment trusts has made more difficult any popular distinction between them and companies organized at least in part for quite different purposes. Terminology is less confused in Great Britain, where investment trusts own principally bonds and preferred stocks and show a wide distribution of risk in their limited common shareholdings.



In the historic Scottish and English sense investment trusts are more closely akin to savings banks or insurance companies than to holding, financing, operating or purely trading concerns. Like the former their appeal has been primarily to the thrifty who have built up estates by systematic saving and reinvestment. Any holder of investment trust securities other than debentures and notes is, however, in a very different position from the savings bank depositor or the insurance policyholder. Instead of being creditor for a stated sum of money under given conditions the investment trust participant is part owner of a fund of securities and cash; his immediate and ultimate returns vary, depending upon the ability and conservatism of the trust administration.

With regard to service investment trust funds and companies may be compared also with investment consultants. Here again, however, the differences are marked. The services of investment counsel may be relatively expensive and are necessarily limited to the wealthier investors. Investment counsel moreover possess varying degrees of authority in giving effect to their recommendations. In some cases their functions are advisory only; in others they are entrusted with complete administration. Participants in investment trusts possess only such control over management as is conferred by voting power of common stocks; while in uniform trust funds the beneficiaries, as long as they choose to hold their certificates of participation, have no control over the trustees. Investment counsel and trust companies in their accounts for private estates must as a rule administer each investment fund separately. Investment trusts rest upon the principle of mingled investments under responsible centralized supervision.

When properly run, investment trusts are the logical vehicles for middle class investors, enabling them to enter the investment arena on something approaching terms of equality with institutional investors and the rich whose capital is sufficient to permit large distribution of risk and employment of special financial counsel. This has proved true during the ups and downs of a half century of British experience, although in the United States certain varieties of investment trust were engulfed in the speculative mania of 1928-29 and departed very far from their proper purposes. Only half the truth would appear, however, if it were not recognized that the wealthy also have found investment trusts convenient and serviceable in building up

a backlog of safe investments which yield a larger return than government bonds.

From the point of view of the individual investor, particularly the inexperienced small investor, the theoretical justification for co-operative investment devices lies in the confusing variety of securities available for purchase, the technical character of modern investment markets and the need for expert guidance in interpreting business trends and critically analyzing corporate reports. From the social and economic standpoint investment trusts may be said to encourage thrift by making investment safer and more profitable and to attract the scattered capital of small investors who otherwise might hesitate to buy securities. By their own purchases and sales—and in Great Britain by the limited underwriting they do in new offerings of bonds which meet their investment requirements—investment trusts have accelerated the sifting processes by which investment markets distinguish between better and poorer grades of securities. Sales from their portfolios when prices are top heavy and purchases adding to their holdings when bargain levels obtain have generally introduced a steadying force into fluctuating markets. On the other hand, in the unusual situation in which investment trusts experience feverish growth and assume a speculative character their heavy purchases of securities on a rapidly rising market may prove an additional unsettling factor by aggravating the inflation of values.

Investment trusts originated in Great Britain around 1860 or even earlier. British investment trusts, however, did not assume real importance until they became actively identified with the rapidly increasing export of capital overseas in the period between 1875 and 1890; the identification of one with the other continued until the World War. Investment trusts assumed a position of leadership in discovering overseas investment opportunities and contributed materially to the consolidation of Britain's financial supremacy by mobilizing the resources of numerous small investors for purposes of capital export—a function which in France was performed by the banks. So important in this connection were the investment trusts that German imperialists urged (with negligible success) that similar companies were necessary for Germany to compete more successfully with England in the export of capital.

In the late 1880's public interest in British investment trusts reached feverish proportions

and a boom was ushered in accompanied by all the evils of mushroom growth. Investment trusts, which were organized so speedily as to outstrip the growth in the volume of good securities, purchased too freely on rapidly rising security markets and drove the prices of some securities to dizzy heights. The struggle to increase earnings and dividends during times of rapidly rising security prices led many trusts to use devious and unsound practises. In order to realize profits from financing, dealing, issuing and underwriting many companies created large numbers of new trusts, which engaged in a variety of promoting, financial and investment activities and created a pyramid of paper values. In some cases cash dividends were disbursed without allowance for market depreciation and without reference in the reports to the impairment of capital. Some of the trusts failed adequately to distribute risk, confining their investments to a single industry or to a narrow group of securities. A number of the early trusts were characterized by still another weakness, the lack of sufficient reserves built up out of current earnings. There were instances also of too high overhead, of excessive organizers' profits, of transactions which proved more advantageous to certain directors than to the investment trust and of failure to keep a sufficiently liquid position in view of the imminent price reactions. The new institutions also suffered from two kinds of undesirable directors: those whose eminence in other fields attracted investors, regardless of the directors' fitness for their new responsibilities; and those connected with banking houses which frequently used the affiliated investment trusts as a dumping ground for issues which the public failed to absorb.

The Baring crash in 1890 and the accompanying international disturbances revealed the glaring weaknesses and abuses of the investment trusts which had sprung up so rapidly in the preceding decade. During the five years following 1890 some investment trusts were reorganized or wound up; others were compelled to reduce or eliminate dividend rates and to write down capital. Large losses were incurred and public confidence was not restored until the end of the decade. Out of these experiences, however, there emerged tested principles upon which a sounder superstructure was erected. The example of several companies which had successfully overcome adverse conditions and made progress during this entire period was studied to advantage. It was recognized that to finance new and untried

enterprises, to originate securities and to serve as fiscal or management agency for industrial or public utility undertakings are functions separate from those of investment and should not be undertaken by investment trusts. Reports were submitted to investors revealing in a clearer and more detailed manner the financial and investment status of the trusts, and auditors became more exacting in their requirements. Unethical practises in this field are now strikingly absent. The satisfactory performance of investment trusts during the World War and the deflation following it served to increase the faith of the British public. It also emphasized the importance of such factors as purchase for investment values, wide distribution of risk, continuous supervision and freedom from domination by banking houses that would not scruple to place their own interests above those of investment companies with which they are associated.

Practically all British investment trusts, which are usually incorporated under the general Companies Acts, have outstanding debentures as well as preferred and common shares. Borrowing rarely exceeds in amount the aggregate of paid-in share capital; and debentures, perpetual and terminable, through issuance of which almost all borrowed capital is obtained, are protected by cash and security assets equivalent at cost to at least 200 percent of their outstanding face value. Share capital is raised as a rule in the proportion of £60 par value of preferred stocks for every £40 in par value of common, or "ordinary." Thus of every £2000 paid in there will frequently be found £700 to £1000 in debenture borrowings, £800 to £600 in preferred stocks and £500 to £400 in common.

The comparatively low fixed rates on the borrowed and preferred share capital, generally from 4 to 5½ percent, together with expenses of management averaging annually about ½ percent on invested funds can be comfortably met out of income from interest and dividends on the trust's holdings; net earnings resulting from employment of fixed cost capital thus increase the amounts available for distribution on the common shares and for building up of reserves. Advantageous as such a capital structure proves to owners of common shares in times of prosperity and stable security markets, it would be perilously top heavy in unfavorable financial weather except for the British practise of buying mainly senior securities, treating realized profits as capital rather than income, paying out in dividends less than the net earnings derived

from interest and dividend income alone and regularly building up reserves in the form both of surplus appearing under the capital and liabilities side of the balance sheet and of deductions made from the cost figures for investments on the assets side.

In fact there has developed in Great Britain a clear cut distinction between investment trusts and finance companies based mainly upon the arbitrary standard of the treatment of capital profits. Investment trusts are regarded as quasi-permanent investors in securities considered more or less as fixed capital. Sales and reinvestments are made as a rule in order to maintain or improve the quality of the portfolio or to increase the interest and dividend yield thereon and only incidentally to realize profits. Profits and losses on turnover are treated as capital items not subject to the income tax; they are run through a special hidden account separate from ordinary profit and loss, or income, statements and are used in very large measure for reducing the figure at which investments stand in the balance sheet to points often far below cost. Finance or trading companies, on the other hand, treat securities owned as stock in trade and actively buy and sell with the intention of making trading profits; such profits are regarded as income available for expenses and dividends and must be reported, with deduction of realized losses, as taxable income.

There are at present in Great Britain more than two hundred investment trusts with an aggregate paid-in capital well in excess of £319,000,000 derived from issuance of debentures, preferred and common stocks in approximate ratios of 40, 35, and 25 percent respectively. The holdings of each company vary from a hundred to a thousand different investments. As appears from the reports of eighty-three companies holdings are distributed between senior and junior securities as follows: bonds and debentures 41.7 percent; preferred stocks 23.6 percent; common stocks 34.7 percent. For seventy-one companies, whose reports permit such comparative surveys, the geographical distribution of holdings is as follows: British Empire (excluding Canada) 45 percent; continental Europe 18 percent; Latin America 16 percent; United States and Canada 14 percent; other countries 7 percent.

Few institutions closely resembling the British investment trusts are to be found elsewhere. Switzerland and Belgium especially offer notable examples of investment, holding and operating companies interested in rails, utilities and

industrials of many countries; because of the diversity of their holdings and the broad distribution of risk in their portfolios it might not be inappropriate to term some of these companies financing investment trusts. Yet important as have been the credits and investments extending across national boundaries and overseas of numerous banks and corporations in these countries and in France, Germany and the Netherlands, the organizations existing solely in order to diversify risk cooperatively and to provide investment supervision are conspicuously few in number.

In the United States and in Canada there has developed during the last eight years a formidable investment trust movement. The first attempts, during the World War and the early post-war period, to organize investment trusts in the United States were connected with the export of capital. Such attempts, however, were few and were for the time ended by the depression of 1921-22. Interest in investment trusts revived in 1924, but they did not become important until two years later. From then on growth was extremely rapid; within four years investment trusts were organized with resources exceeding \$3,000,000,000. Motives prompting the sponsors varied all the way from a desire to provide the public with sound cooperative investment facilities to a wild scramble for private profits, evidenced in high pressure salesmanship with its attendant abuses. Particularly as the speculative mania of 1928-29 reached fantastic heights, it became evident that an investment device thoroughly sound in principle was in many instances being distorted and misapplied by persons who lacked background, knowledge and in some cases even personal integrity—abuses which recall the vicissitudes of early British investment trusts as well as American experience in the field of mortgages, mortgage bonds and in earlier decades railways, public utilities and banks.

The development of American investment trusts, finance, trading and holding companies not only repeated the earlier British abuses but gave rise to entirely new ones based upon unsound holding company practises. Control of huge aggregations of capital for the purposes of manipulation and speculation was easily obtained in some instances by the issue of non-voting stock; the grant of large common stock bonuses, subscription rights and special voting privileges to promoters; and the use of the holding company controlling a series of subsidiary companies by credit pyramiding devices. Much concentration

of utility, railroad, banking or industrial interests was readily accomplished through capitalizing an almost blind public faith in anything bearing an investment trust label. Promoters' fees and management charges were very often excessive. A few trusts were disguised trading companies speculating in a riotously inflated stock market. Even at the height of the bull market in 1929 there were organized investment trusts which filled their portfolios with stocks bought at prices beyond any reasonable earning capacity. Bankers in some instances unloaded new issues upon investment trusts under their control or influence. Plain as was the earlier British evidence of dangers involved in close relationships between houses originating and distributing securities and investment trusts, it required the events of 1930-31 to give conclusive American demonstration that managers of such companies and funds must have no ulterior motives in their investment policies if they are faithfully to serve investors.

Despite their initial disappointments American investment trusts appear, when viewed in proper perspective, to be firmly established. Comparatively few outright failures occurred as a result of the stock market collapse, and many weak trusts were salvaged, at least in part, by mergers with stronger groups. In spite of heavy shrinkage in their assets investment trusts have largely maintained service on their outstanding debentures. From interest and dividend income many of them earn enough to pay preferred dividends, although in numerous instances these have been continued only after writing down of capital or have been discontinued because of shrinkage in asset values behind their outstanding debentures. Official investigations, including careful surveys by the New York State Bureau of Securities, have shown relatively few instances of deliberate fraud or dishonesty in management, although the New York state attorney general reported to the legislature in March, 1932, that only about half of the one hundred companies intensively studied were free of one or more objectionable practices in "dumping," borrowing and lending, inadequate reporting, speculative operations and dividend payments. The charge that price gyrations rather than stability of security values resulted from their activities is heard less frequently. It is more generally realized that mistakes of judgment in timing their purchases and sales, although largely negating any stabilizing market influences which the relatively modest capital of investment

trusts might even then have exerted, could not reasonably be blamed for the speculative orgy and its inevitable aftermath.

Very few of the American investment trusts have specialized in foreign securities, and those which had been large buyers of bonds or stocks originating abroad have greatly reduced their commitments, both absolutely and proportionately, since 1930. Nevertheless these companies were a factor of some importance in the pre-crisis export of American capital to South America, Japan and Central Europe, particularly Germany. Although no more than twelve or fifteen at the most have held really substantial amounts of German securities, their aggregate funds invested in that country have probably ranged between \$75,000,000 and \$100,000,000 and have represented perhaps as much as 10 percent of their total holdings at cost. The natural bent of the American investor to place his funds in domestic securities has been fortified by the international collapse of business and credit on a hitherto unprecedented scale. As revival of confidence at home, however, must in some measure depend upon and accompany the same phenomenon in other countries, it does not appear likely that the future policy of American investment trusts will place a strong emphasis upon purely domestic holdings. On the contrary, it seems probable that some companies now functioning, as well as others which may be created as vehicles of international investment, will promote the export of capital and thus help to delay the conversion of the United States' favorable visible balance into the unfavorable balance which is normally characteristic of creditor nations.

There are several widely different varieties of investment trusts in the United States. The major types are the contractual (or trust) and the statutory (or incorporated) trust. The contractual investment trust is set up under a special contract, indenture or trust agreement, in accordance with the terms of which a trust company, a party to the trust contract, retains legal and physical possession of the securities or cash or both comprising the corpus of the trust and issues or authenticates certificates of participation. The most widely known investment trusts of this kind are the so-called fixed and semifixed trusts. They may be described as unit series in their make up, because the trust indenture describes a given unit of stocks against which certificates representing two thousand, more or less, pro rata shares are issued for public sale.

When the trust agreement prevents change in the composition of the unit (except in cases of mergers, reorganizations or liquidations) or merely allows eliminations without substitution of any other securities, the trust is fixed; when some leeway is given to make substitutions, whether under purely arbitrary or less exacting restrictions, the trust is semifixed or supervised, as the case may be.

The statutory (or incorporated) type comprises investment trusts organized under the general statutes of incorporation of the several American states or inviting public participation on substantially the same basis and by means of substantially the same kind of securities. Unlike the contractual (or trust) type these investment trust corporations (or Massachusetts or other common law trusts, which are operated like corporations) issue shares or stocks which are not redeemable or convertible like trust certificates; they are shares in an investment enterprise rather than merely certificates carrying a pro rata claim to trustee held units of securities or funds of securities and cash.

Besides the fixed, semifixed and supervised investment trusts of the contractual type, on the one hand, and managed investment trust corporations and Massachusetts trusts, on the other, uniform funds administered by trust companies or affiliates may be regarded as a form of investment trust. Such uniform funds include trust funds and incorporated funds. Uniform trust funds are the means by which several large trust companies enable their clients to share in jointly operated trust funds in minimum amounts too small to warrant an individual trust estate. Participation involves hardly any more formalities than signing a standardized trust instrument or becoming a party to the indenture under which the uniform trust is established by the act of subscription. Details differ, but the purpose is to give small estates the supervision and division of risk enjoyed by large ones. In uniform trust funds the participant, or certificate holder, is both beneficiary and remainderman; the trusts are revocable or the certificates redeemable at the option of the participants at their current values as determined in periodical revaluations. For technical reasons involving problems of taxation, accountancy and investment and distribution policies funds of this kind are not altogether suitable for that great majority of living or voluntary and testamentary trusts reflecting the peculiar requirements of each testator and separating the interests of life

beneficiaries and remaindermen. Application of the economies and advantages of mingled investment for the ordinary types of trust estate may be made more conveniently through an incorporated fund, especially if the trust officers plan an active supervision which will result in shifting investments, and aim both to build up reserves and to pay out distributions from income comprising profits as well as interest and dividends. The corporate form of uniform fund has been worked out by several leading trust companies and is being adopted or seriously considered by others; it is applicable, of course, only where permission to mingle is specifically given in the terms under which the individual trusts are established. No direct public participation is involved; these special investment corporations are merely convenient devices employed by the trust officers for trust estate investment. Complete service can thus be given to smaller voluntary or testamentary trust estates with less inconvenience to the trust officers and with the same attention as that enjoyed by the largest estates and a distribution of risk which is at least equal to, if not much greater than, theirs.

Insistent publicity has created the impression that fixed investment trusts include the bulk of American investment trust capital. That the enormous amounts paid in to companies of the managed variety in earlier years, however, leaves them still far in the lead is evident from compilations made in 1931, which show a total in round numbers of \$3,500,000,000 paid in to American investment trusts, of which approximately \$600,000,000 is for certificates in fixed and semifixed trusts. The \$2,900,000,000 of company capital may be split roughly into \$400,000,000 in debentures or bonds and \$2,500,000,000 in share capital. Although an indeterminate part of this gross figure may represent financing for holding or finance companies or for enterprises on the border line between these and investment trusts proper, it is still sufficiently impressive to illustrate the important if quiet role which such companies are playing today in American finance.

That this has been a passive rather than an active role since 1930 has been due primarily to two factors: the extreme difficulty of raising new capital, which has limited funds available for additional purchases; and the great depreciation as to both bond and stockholdings, which has raised the problem of absorbing realized losses resulting from sales either in the course

of reinvestment or in the process of repurchasing at a discount their own debentures and preferred stocks for retirement. The first difficulty will yield only with time; the second has been met to a degree by the establishment of special investment reserves to bear the impact of necessary losses in the readjustment of long range investment positions. These reserves have been created out of earnings, out of capital surplus arising from the writing down of stated values on paid-in capital stock and out of surplus resulting from purchase and retirement of the trust's own debentures and preferred stocks at prices less than par and liquidation values.

The New York Stock Exchange requirements concerning listing of investment trust company securities, while not insisting upon the separation from income of any realized profits or losses, have at least made it necessary, where such separation does not occur, to disclose clearly in the income statement the amount and origin of any drafts upon these reserves to cover losses over any fiscal period. The practise of excluding from income any cash losses or profits and running these through special reserve or surplus accounts is increasing. Not only are regular dividends to be largely divorced from fortuitous profit and loss on portfolio turnover, according to the Stock Exchange recommendations, but there are to be more frequent and complete accounting, proper exposition of consolidated positions and intercompany relationships, more conservative marketing methods, publicity of holdings and other practises emphasizing professional responsibility among directors and officers. These are all in accord with universal British practises, which also include making interest and dividends alone available for expenses and ordinary dividends, paying only cash on common and regularly reinvesting part of the earnings thereon, eschewing purely trading operation and recognizing the role of bonds and preferred stocks in any balanced investment position.

Of the fixed and semifixed investment trusts it may be remarked that many have improved their set up, presentation and sales methods as a result of the Stock Exchange rulings applying expressly to them. These offerings are not eligible, as are investment company stocks, for listing on the exchange. Association of member firms with them is limited, however, to an approved list of those which conform to requirements setting up new standards in the business. Appeal to

prospective investors on hypothetical charts of "what might have been" (in the highly improbable case that ten or twenty years earlier the identical list of common stocks comprising the present unit would have been chosen) has had to be abandoned. "Loading" and trustee charges have been more clearly expressed in order to permit comparison between offerings. Distinctions have been more clearly set forth between real income and return of capital in distributions made by those trusts which are required by their indentures to sell rights, stock dividends and split ups. There has been positive statement concerning disposition of interest paid by trustees on accumulations and on reserve funds paid in by the public.

One notable result of these requirements as well as of the changed position of many earlier "blue chip" stocks has been the issuance of new series by sponsoring groups for numerous fixed trusts. Not only has the principle of supervision been granted recognition by the dropping of old market favorites and the inclusion in the new units of stocks hitherto less popular, but the indentures have been drawn with greater care or amended with a view to a better definition of the trustee's responsibilities and a provision for his compensation during the life of the trust. Even more significant is the shifting of sales effort from the so-called distributive to the accumulative types. The former, it may be assumed, worked well enough when stock prices were high and markets were soaring. Now, however, the interests of the investor are presumably better served by conserving the results of stock split ups (if any), by saving stock dividends and by exercising rather than selling such rights as may accrue.

The efforts of investment trusts to put their own houses in order, spurred on by official investigations and encouraged by the constructive recommendations of the New York Stock Exchange, have done much to forestall drastic proposals made in various quarters for state regulation. While projects of varying tenor are still under consideration, the laying down of wise comprehensive codes could be exceedingly difficult without a broader background of American experience. Blue sky legislation in the majority of American states gives the commissioners certain powers in requiring reports and in ferreting out abuses, and it is likely that antifraud acts will be strengthened with specific reference to certain generally condemned practises. In so far as investment trusts and particularly holding

companies tend to increase the separation between ultimate ownership and control, it seems likely that federal and state regulation will be broadened and strengthened to take cognizance of their activities in the fields of banking, railroads and public utilities.

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See: INVESTMENT; FINANCIAL ORGANIZATION; HOLDING COMPANIES; TRUST COMPANIES; INVESTMENT BANKING; FOREIGN INVESTMENT; TRUST AND TRUSTEES.

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IONESCU, TAKE (Ionescu) (1858-1922), Rumanian statesman. Ionescu studied law in Paris and as a member of Ilfov's Bar Association entered the political arena with buoyant enthusiasm for the realization of the national aspirations of Rumania and for a program of social reform inspired by his admiration for France and Great Britain. He was the founder of the Democratic-Conservative party and served successively as minister of public instruction, minister of finance and minister of the interior. He was minister without portfolio from 1916 to 1918, minister of foreign affairs in 1920 and prime minister during the short crisis which extended from December, 1921, to January, 1922.

Ionescu furthered the social betterment of the peasant class by making primary education compulsory and by proposing in 1915 the agrarian reform, which was realized in the years from 1917 to 1921. His sympathy for the bourgeoisie moved him to advocate reformation of the inheritance tax (law of 1900), reduction of the legal interest from 5 percent to 4 percent (law of 1904), increase in the number of secondary schools and expansion of higher culture. He protected with equal vigor the political and civil rights of the Jews, defended freedom of the press and was influential in establishing universal manhood suffrage in 1917.

His political career culminated in the part he played in the national unity of greater Rumania. He aided the Transylvanian national movement despite the treaty of alliance of 1883 with the Austro-Hungarian Empire, secretly renewed after thirty years. At the negotiations for the Treaty of Bucharest in 1913 he secured the territorial expansion of Rumania into the Dobruja and from 1914 to 1916 he directed the campaign against the Central Powers. His famous parliamentary speech of December 16 and 17, 1915, brought Rumania into the World War on the side of the Allies. At the peace conference he was instrumental in securing the annexation of Bessarabia, Bukovina and Transylvania. Ionescu favored the creation of a Danube federation of the Balkan states but subsequently realized the impossibility of achieving this and

was instrumental in the formation of the Little Entente in 1920.

CHRISTINE GALITZI

*Consult:* Ionescu, *Take, Souvenirs* (Paris 1919); Iancovici, D., *Take Ionescu* (Paris 1919); Thevenin, Leon, "Take Ionescu" in *Revue politique et littéraire*, vol. ix (1922) 584-86; Maiorescu, T., "Din insemnarile zilnice" in *Comoribiri literare*, vol. lxvi (1931).

**IRISH QUESTION.** The *pax romana* was never troubled by the Irish question. Not that the Romans were unacquainted with the Hibernians; on the contrary, the evidence points to ever growing trade relations between Erin and Roman Gaul. Christianity was transmitted to Ireland by traders in the fourth century, paving the way for the work of St. Patrick and his disciples in the fifth. Simultaneously, although independently, Roman letters and Roman learning were conveyed to Ireland, perhaps by pagan scholars fleeing before the irruption of German barbarians into Gaul. The eventual fusion of saints and scholars engendered a monastic movement which played a basic role in the re-Christianization and reeducation of Merovingian Gaul and its Germanic annexes, offering formidable competition to the Benedictines and their Roman sponsor. Irish Christianity was not in close communion with the Apostolic See of Rome; Irish saints who were also scholars made their peculiar contributions to mediaeval Catholicism independently—notably the *Penitentials*, of which Gregory the Great was unaware. It was this isolation of Irish Christianity which in the seventh century first posed the Irish question in England. The *Book of Armagh* admitted of appeal to Rome from the successor of St. Patrick "if he cannot decide," but this measure of recognition of Roman headship did not suffice for the zealous emissaries working from Canterbury and faced with the rivalry of the Irish at Lindisfarne. At the synod of Whitby in 664 the intervention of an English king decided the issue against the Irish. It was the first but by no means the last time that England and the papacy were to see eye to eye in Irish matters.

In the ninth century the Celts of Erin had to deal with their first invaders. The Northmen, or Ostmen, established themselves in the chief ports from Dublin round by Waterford to Limerick; their walled towns, which frequently had Celtic antecedents, were soon incorporated as integral elements in the Irish political structure—a structure which had meanwhile been evolving, like that of Anglo-Saxon England, toward monarchy of a feudal type. The usurpation of

Brian Boru (1002), although it dispossessed the time honored dynasty of the Ui Neill and opened the way to other aspirants, perhaps gave greater reality to the office of high king. The economic conditions of the time did not permit of real centralization, but in the eyes of contemporary European princes the *magnificus rex Hiberniae* was the acknowledged ruler of all Ireland. The state of Ireland in the eleventh and twelfth centuries has been not altogether unjustly compared with that of the east Frankish kingdom after the disappearance of the Carolingian dynasty, where an elected king, himself a "stem duke," exercised a variable measure of authority over his fellow dukes, themselves eligible to election to the kingship. In the twelfth century, however, Irish saints and scholars set in train a movement that was to wreck the high kingship. The Cluniac and Hildebrandic reform movements, launched in Ireland by Bishop Gillebert of Limerick, actively propagated by St. Malachy of Armagh (d. 1148) and supported by the high kings, reached their climax at the synod of Kells in 1152, where a Roman legate bestowed the pallium on each of the four archbishops. Ireland of her own motion had accepted the whole program of ecclesiastical reform, but the fact weighed little with popes who had not the reasons for championing political independence that had prevailed in the cases of Poland and Hungary. Accepting at face value the clamorous accusations of Malachy and other Irish reformers, successive pontiffs abetted the Norman-Welsh conquest of Ireland, and thereby facilitated the surrender of its bishops and kings.

The conquest itself was distinctly unnational. Invited and guided by Irish Celts, led and commanded by Norman-French lords whose blood was mixed with that of the Celts of Wales, of ficered and manned mainly by Welsh and Flemings, Strongbow's force was anything but English. Henry, "son of the empress," followed less to reinforce the conquest than to curb his own vassals. Under Prince John Ireland bade fair to become a Norman sister to England: under John as king the foundation of an Anglo-Norman lordship in Ireland with institutions distinct from their English counterparts was continued; under the justiciar Wogan (1295-1312) the work reached its climax in the formation of a local Irish Parliament. In 1304 Richard II writing from Ireland summarized the situation: "There are in the land of Ireland three kinds of people; the wild Irish, our enemies; Irish rebels; and obedient English." The *irrois*



*savages* were the Celtic chieftains—O'Briens, O'Conors, O'Neils, O'Donnells and the rest—who although ever ready to make submission in return for confirmation of their land and authority were consistently striving to restore and expand the possessions of their sept; the *irris* *rebels* were the "chieftains of English lineage"—Geraldines, Butlers, Burkes and lesser lights—who although ever ready to seize additional lands from "Irish enemies" were still more ready to resent the intrusion of fresh lords from England or attempts to govern Ireland from England. Of very different stuff were the *Englois obissantz*, consisting mainly of the population of the Anglo-Irish towns; this population was a variegated composite of Irish, Ostmen, Flemish, Welsh, English and other elements bound firmly together by a common business interest. The feudal lords whether Gaelicized Normans or crossbred Celts could have no loyalty to England's king; the towns in Ireland as everywhere in mediæval Europe were the foes of feudalism and the friends of centralizing monarchy. Anti-Irish only in so far as Irish spelled feudal, the townsmen passed the statutes of Kilkenny and similar defensive legislation. Far below these categories, almost beyond the ken of Richard II or of the chiefs who dickered with him, the mass of the Irish, the tillers of the soil, the drovers and laborers, remained little affected. Transferred from Irish bondage to Norman villenage, their numbers augmented by the depression of many free churls, the *betaghs*, or *hibernici*, possessed no rights, Irish or English, until—as was also the case with their congeners in England—the operation of economic changes wrought their slow conversion into a free rent paying tenantry dependent mainly on wages for their livelihood.

In the fifteenth century the English interest in Ireland reached its lowest ebb, and the rise of the new monarchy in England entailed a new, this time an English, conquest of Ireland. The Tudors in England using Star Chamber and Parliament to crush the survivals of feudalism were fain to use other tactics in Ireland. A Parliament of the "obedient English" of the four counties of the Pale—less than a twelfth of all Ireland—called in 1494 by the deputy Poynings, ratified for Ireland recent acts of the English Parliament and provided that in future all legislation of the Irish Parliament must have the prior approval of the English council. The Parliament of Ireland having thus surrendered its independence not to the English Parliament but to the English crown, the latter in its turn handed

back its powers, old and new, to the Geraldine Kildare. Unable as yet to cope with feudalism in Ireland, Henry VII left the Irish to "crown apes next" while he consolidated his position in England. Although the Butler-Geraldine feud and the headlong revolt of Silken Thomas in 1534 compelled the extension of the Pale to include most of Leinster, Henry VIII preferred to govern Ireland "by sober waics, politique drifts, and amiable perswasions." Nor did his emphasis on repudiation of papal supremacy in assuming the title of king of Ireland in 1541 meet with especial resistance from Ireland.

As Elizabeth became increasingly involved in continental politics, the attempt to rule Ireland through Irish chiefs broke down. Shan O'Neil denied the queen's right to make him a hereditary earl and, posing as a champion of Catholicism, intrigued with Guise and Spain, a policy imitated by other and lesser chieftains. Thus sprouted the religious branch of Gladstone's upas tree—a branch that was to flower in the penal laws and bear fruit in the "uncrowned king." While Englishmen despite the efforts of the Jesuits gradually abandoned Roman Catholicism, Irishmen clung to it as the badge of their special interests. The queen's answer was the policy of plantation and the reduction of Munster and Connaught. With the flight of the earls in 1607 the way was open for the plantation even of Ulster. The growth in James' reign of the agrarian branch of the upas tree did not stop there; gavelkind and tanistry were judicially pronounced invalid; Davies undertook a general examination of old Irish tenures and redistribution in fee among the former holders. The small freeholders, deliberately dispossessed, emigrated, were reduced to tenants or took to the wilds as "torics," forerunners of the Whiteboys. In certain areas the Elizabethan policy of "surrender and regrant" was superseded by widespread confiscation and systematic plantation. Yet the bulk of the land did not change hands, and the survival of brehon customs—later known paradoxically as the Ulster custom—left the tenants essential security; the position of the toiling masses, the cottiers, remained unaffected by the fortunes of their betters whether Irish or English. Commercial prosperity was deliberately fostered, especially by Strafford, in the interest of the revenues of the English crown, then so anxious to avoid financial dependence on the English Parliament; an Irish army supported by Irish money promised to be a strong prop to English absolutism. Irish Catholics suffered

fewer disabilities than English and only in political life.

Stuart prosperity bred Stuart loyalty. The insurrection of 1641, mainly of quondam landlords against plantation landlords, gave place to a far wider movement for the crown against the Parliament, although Owen Roe O'Neill still asserted an independent Catholic patriotism, which hampered Ormond's efforts. Cromwell in Ireland knew no distinction between royalist and Catholic. Unprecedentedly sweeping confiscation totally altered the agrarian problem: "Hell or Connaught," coupled with continental armies and American colonies, claimed the vast bulk of Irish landlords and tenants; the laboring cottiers remained to till the soil for Puritan warriors and London realtors. Trade and industry were annihilated by war and discrimination. Restoration brought fresh "settlement" of the land, which was restored only in small part to pre-Cromwellian holders; absenteeism mounted and insecurity depressed values. However alien themselves, the landlords welcomed the reappearance of an Irish tenantry; customary tenant right survived all storms, and Catholic disabilities did not extend to rights in land. The loss of population, hurtful to the landlords, seems to have benefited the cottiers. Trade and industry revived, again encouraged by the crown, although the English Parliament was now able to keep a watchful eye out for English commercial interests. Once again the Stuarts strove for the welfare of the "obedient English" of Ireland, and once again even conditional prosperity bred not nationalism but loyalty to the crown and hostility to the Parliament of England.

The triumph of William of Orange at the Boyne in 1690 ushered in a new era for Ireland, the rule of the English Parliament. The conquest was complete and was fully exploited by the conqueror. The English Parliament at once assumed—and in 1719 asserted—the right to legislate for Ireland. By English law Catholics were excluded from the Irish Parliament, and the latter was permitted to enact the penal laws. To reinforce the Protestant landlord garrison further confiscation of Catholics' land was accompanied by abolition of customary tenant rights. The Catholics, forbidden to purchase land or to lease it for long periods, were reduced for the most part to tenants at the mercy of Protestant landlords. These landlords, whose title rested on seventeenth century confiscations and whose ascendancy rested on the penal laws, were bound to loyal dependence on England.

The middle class, Protestant and Catholic alike, was simultaneously eliminated. William had promised: "I shall do all that in me lies to discourage the woollen manufacture in Ireland, and to encourage the linen manufacture there, and to promote the trade of England." The legislative destruction of the Irish woollen industry by the English Parliament in 1698 was but the chief of a series of measures which while tolerating distilling, the linen industry and the provision trade drove thousands of manufacturers of both creeds to France and other countries. In such an Ireland, ruled by a class of landlords largely absentee and almost exclusively Protestant, with a negligible middle class—serve for the agents and middlemen of the landlords—and a hopelessly rackrented peasantry, there was no room for nationalism; neither 1715 nor 1745 produced a ripple in Ireland; like Swift and Molyneux before him, Lucas went unheeded.

The accession of George III heralded the birth of a new, non-Celtic although largely Catholic Irish patriotism. Disturbances in the American colonies impaired the market for Irish linens; worse, the revolution led to an embargo on Irish provisions, bringing distress and suffering to landlord and tenant. The Irish Parliament was moved in 1779 to demand free trade with England. Backed by non-importation agreements, the drilling of the volunteers and the inability to find Irish money to pay British troops, the demand was impressive; at war with France, England repealed her restrictions on Irish trade and industry; under further pressure the act of 1719 was repealed in 1782; and in 1783 the English Parliament completely renounced its legislative authority over Ireland. During the agitation of the "rival Harries"—Grattan and Flood—most of the penal laws had been repealed; the remainder soon followed, and in 1793 Grattan's Parliament admitted Catholics to the franchise although not to the legislature. A period of prosperity marked by resuscitation of Irish industry ensued.

Simultaneously had been born a very different movement. The Whiteboy disturbances, beginning in Munster in 1761 and spreading under a variety of names to other provinces, have been well described as the operation of "a vast trades' union for the protection of the Irish peasantry; the object being, not to regulate the rate of wages, or the hours of work, but to keep the actual occupant in possession of his land, and in general to regulate the relation of landlord and tenant for the benefit of the latter." At the same

time efforts were made to reduce or abolish the tithes to the Protestant clergy and to limit the fees of the Catholic priests. Economic distress enhanced by the rapid growth of the poverty stricken population took no heed of religion or politics save in the north; there the division of the lower classes into Catholics and Protestants made it possible to stimulate the latter against the former. The rise of the Peep o' Day Boys, later Orangemen, rallied the Catholics to the ranks of the Defenders, later Ribbonmen, and precipitated a long series of disturbances of religious color.

The French Revolution was echoed throughout the British Isles in the formation of republican secret societies; the chief Irish society, the United Irishmen, arose among the Presbyterians of Belfast. The appeal of liberty and equality was primarily to the middle class; the aristocracy and gentry boasted few such romantics as Lord Edward Fitzgerald. For these Jacobin enthusiasts the victory of 1782 was of small moment. Grattan's Parliament had two grave defects: it did not control the Irish executive—the "kingfishers"—and it remained a landlord assembly thronged with English placemen. Conscious of weakness in the face of a ruling class backed by a foreign government, Theobald Wolfe Tone, a Dublin Protestant accepted as leader of the movement, appealed to the peasants against the landlords: "Our independence must be had at all hazards. If the men of property will not support us, they must fall; we will free ourselves by the aid of that large and respectable class of the community,—the Men of no property." The peasantry, flattered by the unusual attention of their betters and as in France ready to embrace the opportunity to remedy their grievances on an exceptionally generous scale, rallied to the cause; the Defenders were partly absorbed into the United Irishmen, and Whiteboyism ventured into new fields. From its new allies the movement suffered more than it gained: the Presbyterians tended to draw back in alarm; agrarian disturbances enabled Fitzgibbon to intensify repression. French expeditions ended in disaster, and Tone escaped the gallows by Roman suicide in prison; his associates paid on the scaffold for the insurrection into which they were driven in 1798. The union was bought, if not fully paid for, and Robert Emmet's brief flare was speedily extinguished.

In the first half century after the union the Irish upas tree speedily put forth a verdant foliage, its three branches—agrarian, religious

and educational—sturdily supported by the ancient political trunk. The roots lay deep in Ireland's past, but the mature verdure of the nineteenth century was of a hue not conspicuous in earlier Irish landscapes. Throughout Irish history the agrarian question had risen from the struggles among landlords past, present and prospective. The completeness of the Williamite conquest and the subsequent proved stability of the British government had removed all fears of fresh confiscations. By the end of the eighteenth century existing Irish land titles might be regarded as secure. But the very security of the landowner, coupled with the effects of capitalistic economy, increasingly forced to the fore a new agrarian problem—the problem of relations between landlord, tenant and laborer.

At the time of the union there existed a marked tendency in the direction of small holdings, due principally to the operation of Foster's corn law of 1784 but stimulated by the admission of Catholics to the franchise in 1793; the one factor put a premium on tillage, the other on the number of forty-shilling freeholders on a landlord's estate. The "peace without a parallel" and the consequent fall of grain prices, coupled with the landlords' unwillingness to adjust rents correspondingly, produced a marked tendency to clearances. Heightened by the disfranchisement of the forty-shilling freeholders in 1829, clearances were to reach their climax with the famine, being further encouraged by repeal of the corn laws in 1846, by the new poor law of 1847 and by the Encumbered Estates Act of 1849. Absenteeism mounted sharply after the union. Agents and middlemen in a seemingly endless chain extracted the utmost in rents, fees and services from the tenants, holding arrears always over their heads; cottiers paid in labor for their conacre holdings. Leases for short or indeterminate periods prevailed; in 1847 the Devon Commission reported: "The greater portion of the occupiers of land in Ireland hold as tenants from year to year." Except in Ulster compensation for improvements was unknown; at the first opportunity the land was "canted" to the highest bidder. To Nassau Senior "the treaty between landlord and tenant is a struggle like the struggle to buy bread in a besieged town or to buy water in an African caravan." Against the evils of rackrenting the laborers and poorer farmers, who were also laborers, continued to react in Whiteboyism, although they were unable to bring the agrarian question to the pass at which Gladstone felt constrained to set himself the task of defining and

redressing Irish grievances. Whiteboyism in its various aspects lacked the cohesiveness of a definite organization, although its sporadic manifestations seem to have been linked by potato vine telegraphy. Only in connection with the tithe agitation of 1831-32 did Whiteboyism reach the proportions of a national movement, a movement shadowed by the religious as well as the agrarian branch of Gladstone's trifurcate upas tree.

The religious question was partly political, partly agrarian. Grattan's Parliament had repealed the penal laws and admitted Catholics to the franchise; the union had failed to fulfil the hope of Catholic emancipation. Although upper class Catholics had resented the continuance of their political disabilities, it remained for a popular demagogue to make Catholic emancipation an issue. Thwarted in his own political ambitions, a middle aged criminal lawyer named Daniel O'Connell founded the Catholic Association in 1823. The established Protestant church of Ireland was not merely endowed but empowered to levy tithes on all occupiers of land of whatever creed. Tithes and parish cess had long been objects of Whiteboy attack; not infrequently these grievances had been employed by landlords and middlemen to divert peasant attention from their own rack rents. Momentarily coupling religion and economics for a political end and aided by his stormy bilingual oratory O'Connell carried the county Clare in 1828. Fearing revolution the tories yielded; the "uncrowned king" entered Parliament at the price of the disfranchisement of six sevenths of the Irish electorate. To reward the peasantry O'Connell guided the "tithe war," which ended in 1838 after minor concessions, in the comedy of commutation; the landlord paid the tithe for the tenant and increased the rent. Shifted from the religious to the agrarian account the question lost interest for the Liberator, who bent his efforts to stamping out Whiteboyism and Ribbonism along with trade unionism and Chartism.

The third branch of the upas tree, the education question, was a more slender growth. While the "national schools" were successfully combating the survival of Gaelic speech, higher education in Ireland was virtually open only to Protestants, through Trinity College, Dublin University. Presbyterians preferred to go to Scotland, Catholics to the continent, although Maynooth existed with state aid to educate Catholic priests. In 1845 the Maynooth grant was more than doubled, and three non-sectarian

"godless colleges" were established, a measure which failed to solve an essentially religious question.

One other branch of the Irish upas tree, the problems of trade and industry, completely escaped Gladstone's attention, perhaps because its leaflessness permitted it to be obscured by the thick foliage of the other branches. "The Union dealt a heavy blow to trade," as O'Connell phrased it. The textile industries, temporarily and partially protected by the union duties, suffered rapid decline on their withdrawal; everywhere domestic hand loom workers were thrown out of employment; only in the north did a new linen industry grow up on a factory and machine basis. The provision trade and its dependent industries declined as the exportation of livestock was resumed. The handicrafts, which had flourished under Grattan's Parliament, were ruined by the removal of the seat of government from the Liffey to the Thames. Only brewing and distilling, the former almost exclusively for export, prospered. Whatever other factors may have played a role, it is fairly certain that lack of capital in Ireland—indeed the virtual impossibility of accumulating capital save in the north, where the Ulster custom prevailed—was of basic importance. Such industries as were established in Ireland, particularly before the removal of the union duties, were mostly established by Englishmen. Englishmen, however, had little incentive to invest in Ireland: the possibilities of profitable industrial investment in England itself still seemed inexhaustible; employers of labor were especially deterred by the reputation of the Whitelboys as a ready school for industrial trade unionism. In this latter opinion English manufacturers were encouraged by O'Connell's denunciations of Irish combinations.

The absence of industry while it intensified the agrarian problem also made for the weakness of the middle class, and this fact in turn meant the continued absence of serious nationalism. The day had not yet come for tenants and laborers to make common cause and unfurl the banners of nationalism in a struggle for agrarian reform. Herein lay the secret of O'Connell's power. He had accepted the disfranchisement of the peasantry. The handful of urban workers had never enjoyed the franchise; although they were organized in combinations, he could afford to defy and denounce them. Concerned mainly with strengthening his "tail" in Parliament and controlling the Irish patronage, King Dan was no enemy of the established order. Davitt, the

greatest foe of landlordism in Ireland, yet an ardent admirer of O'Connell, acknowledges that "he cannot be classed among those who have fought strenuously against landlordism"; nor could anyone charge O'Connell for whom Unitarian and Dissenting mill owners in Manchester in 1836 raised a purse of £700, and who "would to God, children of thirteen years old in Ireland could earn the money which the English factory children might have earned" save for Lords Althorp and Ashley—with having been a foe of capitalism. Politically as well as socially O'Connell was conservative in the extreme. He rejoiced that he "kept Ireland free" from the "pollution" of the Chartists. Successive repeal associations were organized for an object which the "uncrowned king" himself stated to be "not worth the price of one drop of blood." His slogan, "Ireland for the Irish—God save the queen" is reminiscent of the policy of Stratford and Ormond.

Under the wing of the Repeal Association, however, there blossomed in the 1840's a vigorous nationalist movement. To be sure, Young Ireland was more in tune with the European *Zeitgeist* than with the conditions of the moment in Ireland. Inspired by Davis, guided by Mitchel and rationalized by Lalor, the movement even in its very name reflected continental stirrings rather than the aspirations of any social class in Ireland. Renunciation of England and all her works was the prime article in the catechism. Thomas Davis, poet and idealist, reacted violently against the idea that the factory system would benefit Ireland: "Oh, no! Oh, no! ask us not to copy English vice, and darkness, and misery and impiety; give us the worst wigwam in Ireland and a dry potato rather than Anglicise us." John Mitchel, chief of the Young Irelanders, who at the outset conceived of the nationalist movement as necessarily embracing all classes of the population, eventually adopted Davis' characterization of the landlords as a "filthy mass of national treason." Ardent republican and advocate of "public opinion with a helmet on its head," he was deemed worthy of transportation for fourteen years. But although his virulent Anglophobia led him to rejoice that the French insurgents of February, 1848, had renounced competition and free trade "in the sense in which an English Whig uses these words," the June days left him positive that "Socialists are something worse than wild beasts."

Of the Young Irelanders the clearest and most vigorous thinker was Fintan Lalor. Lalor defined

the spirit and aim of Young Ireland as "not to fall back on '82 but act up to '48 . . . Not the constitution that Tone died to abolish, but the constitution that Tone died to obtain, independence, full and absolute independence, for this island, and for every man within this island." Lalor, like Tone, had no hope of countenance from the Irish aristocracy; from the middle class he hoped for sympathetic assistance, but it was to the peasantry that he turned to give the necessary drive to the movement. "The principle I state and mean to stand upon, is this, that the entire ownership of Ireland, moral and material, up to the sun, and down to the centre, is vested of right in the people of Ireland; that they, and none but they, are the landowners and law-makers of this island . . . For let no people deceive themselves, or be deceived . . . by constitutions . . . and franchises. 'These things are paper and parchment, waste and worthless . . . those who own your land will make your laws . . . The rights of property may be pleaded . . . Against them I assert the true and indefeasible right of property—the right of our people to live in this land, and possess it."

Lalor's teachings were not fully appreciated by his associates; national not social revolution was their goal. In any case the time was badly chosen for revolution; as in 1798, it was foreign example not native ferment that produced the Tipperary rising of '48. The famine and famine fever of '46 and Black '47 had left the peasantry no energy to expend in revolt; misery and despair counseled emigration, and in a decade Ireland's population was reduced by one fourth. Interesting as a projection of the ideology of individual nationalists, Young Ireland cannot be accounted an Irish national movement. The mass of the peasantry was powerless to help or hinder this non-sectarian movement; the property qualification for the franchise was further raised in 1850, and the electorate continued to support O'Connell's band, known, now that the maestro was dead, as the Pope's Brass Band.

In the second half of the nineteenth century the Irish upas tree came to full growth. If its foliage was less verdant, its poison sap ran strong and proved the bane not only of successive British ministries but of Gladstonian Liberalism itself. Emigration, always a conspicuous Irish phenomenon, became a constant factor; although a few towns grew slightly, the heavy drain of population from the countryside produced a steady diminution in the general density of population. Notwithstanding the continued decline

of agriculture in favor of pasturage, reduction of population tended to effect reduction of the pressure for land; the peasantry was therefore in a stronger position for an economic struggle against landlordism, which with the disappearance of the middlemen loomed ever more prominently as the national grievance. In the years immediately following the famine—during which the Liberator's son had publicly averred: "I thank God I live among a people who would rather die of hunger than defraud the landlords of their rent"—Gavan Duffy's all Ireland tenant right movement was inevitably aborted; but the time gradually ripened for the more prosperous tenants to make common cause with their less fortunate fellows.

Emigration, which to some minds offered a happy solution for the Irish question, proved to be a complicating factor of far flung implications. Overseas and particularly in the United States the Irish reaped fulfilment of the angel's promise to Abraham. Whether by politics and contracts or by means more devious many out of their multiplying millions equipped themselves to possess the gates of their never forgotten enemies. The Ribbonmen, who after the Tithe War had gradually absorbed most of the Whiteboy elements, disappeared from Ireland to reappear as the Ancient Order of Hibernians. In time this and other Irish-American organizations were to play a vital role in Irish affairs.

This by-product of emigration soon nurtured disturbing fruits. In the American Civil War many Irish had fleshed their swords; their commissions dazzled the eyes of surviving revolutionists in Ireland. In 1858 James Stephens, a disillusioned Young Irelander, had founded in Dublin the Irish Republican Brotherhood; a few years later a cognate Fenian society was formed at Chicago. Deliberately the Irish Fenians through the newspaper which was founded to serve as the public organ of their secret society appealed for the aid of "the blistered hands of labour." "It is a waste of time and labour, or worse, to endeavour to arouse the upper and middle classes to a sense of the duty they owe their country." With the farmers the Fenians had little to do; their agitation centered in the towns among the artisans and laborers, with the result that in the 1860's the landlords enjoyed a temporary surcease from agrarian disturbances. The Fenians were not socialists even in the limited agrarian sense of Lalor; their program was purely and romantically nationalistic. Inspired by the news from Russia and fed with

tales of the thousands of armed men ready to sail from America, the I. R. B. plotted dire conspiracies, which eventuated in the pitiable collapse of 1867.

Yet Fenianism produced results in England, in Ireland and in America. In England Gladstone was moved to attempt the felling of the upas tree. Characteristically the Liberals addressed themselves first to the religious question. In 1869 the Protestant church of Ireland was disestablished and in part disendowed; in the general readjustment the Maynooth grant and the larger *regium donum* to the Presbyterians were abolished; the measure interested churchmen, Orangemen and Catholic bishops but left the mass of the population unmoved. The Land Act of 1870 did not accept what the Liberal prime minister in 1864 had called "communistic views disguised under the term of tenant right"; it merely legalized the Ulster custom in so far as it was practised and provided compensation for improvements if the evicted tenant could afford to prosecute his case in the courts. The Irish University Bill of 1873 was defeated with the aid of the Irish members. With the branches trimmed Gladstone hoped to remove the political trunk by continued coercion. In Ireland the amnesty agitation for the release of Fenian prisoners swept Isaac Butt into the leadership of the Irish parliamentarians. Under his cautious guidance Irish members at Westminster adopted the policy of independent opposition. To pressure for a federal solution of the political problem, for which the epithet home rule was coined, Butt linked a revived agitation for tenant right, which crystallized as the demand for the "three F's." In America Fenianism produced the Clan-na-Gael, ever a ready supporter of revolutionary agitation for Irish independence.

Michael Davitt, a Fenian, was chiefly instrumental in effecting the close cooperation between agitation in Ireland and Irish organizations overseas. The "new departure" of 1878, which put at the disposal of the leaders in Ireland generous sums of American money, coincided with the supersession of Butt by another Protestant champion of home rule; Parnell and his lieutenants at once embarked on the policy of obstruction in Parliament, driving out of the organization the more moderate of Butt's following. In America Davitt's proposals met with a response embarrassingly overenthusiastic. The American revolutionary Irish had no sympathy with mere parliamentary agitation as a substitute for revolutionary conspiracy but were more than ready

to welcome vigorous agitation against landlordism. In 1879 shortly after Davitt's return from America the Land League was successfully launched in Mayo, whence its operation soon spread to other parts of Ireland. In the antipodes as well as in the United States supporting land leagues were formed; the *Irish World*, the Clan-na-Gael and the A. O. H. poured money into Ireland. The Land League campaign differed in many essentials from the earlier Whiteboy disturbances; the movement attracted all elements of the peasantry, including the more well to do farmers; its methods despite the horror excited by the new word boycott were in the main legal; it worked in the open, countenanced by Parnell and other Irish political leaders and even by one of the archbishops. Rome's attempts to interfere against Parnell and the Land League tended to "make Peter's pence into Parnell pounds." The land agitation, with its slogan "The land for the people," was the most revolutionary movement in nineteenth century Ireland. O'Connell had intimidated the Iron Duke, but it needed Michael Davitt, the friend of Henry George, to convince English Liberals that under certain circumstances a man might not do what he would with his own. The Land Act of 1881 embodying the principle of the "three F's" established a dual property right in the land. Although unsatisfactory to the Land Leaguers—and still more to the Parnellites, unable to admit that any good could come from a parliament at Westminster—the act, followed in 1885 by the Ashbourne Land Purchase Act, went far toward removing the grievances of the more prosperous farmers. Something was also done for the agricultural laborers by the series of laborers acts beginning in 1883.

The politicians, who had curbed Davitt's enthusiasm for a no-rent campaign before the passage of the Land Act, found the weapon a failure when used for purely political ends. Hampered by the Phoenix Park murders, the Invincibles and the suppression of the Land League, the constitutionalists almost regretted that they had ever hearkened to Davitt's ringing denunciation of a policy that would ask "our peasantry to plod on in sluggish misery from sire to son, from age to age, until we by force of party power may free the country." The Parnellites had failed to wreck the bill, but the circumstances of its passage and the coercion policy that accompanied it fed the agitation, assisted by the revival of the National Land League as the National League. Extension of the franchise in 1884-85 merely strengthened

Parnell, who steadily augmented his phalanx at Westminster. In 1886 the impossibility of forming any ministry without Irish support impelled Gladstone's Liberals to commit political suicide by sponsoring the First Home Rule Bill.

For an almost uninterrupted period of twenty years of "resolute government" the Unionists strove to "kill Home Rule with kindness." Their initial Land Purchase Act was amended and extended, culminating in the Wyndham Act of 1903. The fundamental difficulties of the small holder, which lay beyond the direct reach of government, were recognized in the creation in 1899 of the Department of Agriculture under the guidance of Horace Plunkett, since 1889 the apostle of cooperation. The Local Government Act was extended to Ireland in 1898. The Irish, however, remembered the kicks and forgot the kindness. Although the Parnell split of 1890 was but ill healed by the recognition of Redmond's leadership in 1900 and although funds from America temporarily dried up, the Nationalist party continued to be the chief vehicle of Irish political expression. Ignored by the resurgent Liberals, save for the passage of the virtually non-partisan Birrell University Act of 1908 and a few acts in further remedy of details of the land problem, the veterans of Parnell's struggles were enabled by the parliamentary situation consequent on the elections of 1910 to wring from England the goal of their ambitions—the Home Rule Act of 1914, providing for the establishment in Dublin of a parliament frankly subordinate to its parent at Westminster.

If the Nationalist party reflected the national aspirations of Ireland, the aspirations of Irish nationalists were finding expression in the Irish Ireland movement. Landlordism had suffered a mortal blow; slowly but inevitably it was being extirpated in Ireland—on terms which left ex-landlords and ex-agents the wealthiest and socially most considerable class in the country. The Church of Ireland had been disestablished, but the Protestant ascendancy remained socially intact. Although the local government patronage was surrendered to the Catholics in 1898, the "county class" retained its impregnable position. At the same time the material improvement of the farmers' position was reflected on the shopkeepers; manufacturing industry outside the Belfast area made little progress, but an important and well to do middle class developed. Not being gentlemen, the middle class youth must find some new avenue to social standing; and this they sought in Irish Ireland. The Gaelic Athletic

Association founded in 1884 excluded agents of the Castle garrison from its clubs and strove to place hurling and "Gaelic football" on a level superior to tennis and cricket. The Gaelic League founded by Douglas Hyde in 1893 preached the superiority of the Celtic language and literature to the Saxon; in 1913 the National University made Irish technically compulsory. A new school of Irish literature, using admirable English, clothed Irish mythological figures in Grecian garb or wove dramas racy of the soil. In 1896 an immigrant son of an Irish emigrant, James Connolly, attempted the formation of an Irish Socialist Republican party; from 1898 to 1903 his *Workers' Republic* preached Karl Marx in Celtic terms, spiced with emphasis on Tone and Emmet, Mitchel and Lalor. Another returned emigrant, Arthur Griffith, through the pages of the *United Irishman*, later *Sinn Féin*, preached his fanatically narrow "Hungarian policy," derived mainly from Friedrich List and Ferencz Deák; least national in its conception and policy of all the phases of the Gaelic revival, Griffith's organization was destined to become through the operation of forces which he labored vainly to combat the dominant mouth-piece of Irish nationalism. Even in 1910 the republican left wing of Sinn Féin through *Irish Freedom* lent countenance to what Griffith venomously dismissed as "English trade-unionism in Ireland" and queried the patriotism of Irish industries built on underpaid labor. Although insisting that "the independence of this country is the first practical step towards the building up of a decent civilisation," *Irish Freedom* viewed the Dublin labor war of 1913 as a "spiritual revolt"; like the young Irishmen, the republicans were prepared to hate "imported" capitalism. It was mainly members of this group who with a few survivors of the I. R. B. and a large following of constitutionalists organized in 1913 the Irish National Volunteers, the grateful response to the inspiration provided by Carson and the Ulster Volunteers; control was soon taken over, however, by Redmond and the parliamentary party.

Far different was the reaction to capitalism of another element in twentieth century Irish nationalism. Trade unionism in Ireland had been a spontaneous growth closely akin to trade unionism in England; its progress had been aided by the progress of the larger movement, for English trade unions in self-protection had found it expedient to build Irish branches. An Irish Trades Union Congress founded in 1894 had functioned

virtually as an adjunct to the Nationalist party. In 1907 the labor movement took on fresh life with the rise of Larkinism and the organization of unskilled labor. Fought by Griffith and Redmond alike, Larkinism developed a nationalism of its own, welcoming Connolly back from America in 1910. The great Dublin lockout of 1913-14 marked a vital turning point: the Trades Union Congress renounced allegiance to Redmond and formed itself into an Irish Labour party; Connolly, the nationalist, in Larkin's absence assumed direction of the Transport Union and its protégé, the Irish Citizen Army. Taking advantage of the split in the National Volunteers, Connolly and Tom Clarke, of the I. R. B., won the support of the republicans in Sinn Féin. Despite the frantic opposition of Griffith this triangular combination of organized labor, predominantly unskilled, of the old line physical force revolutionaries, who brought the money of the Clan-na-Gael, and of the Irish Ireland intellectuals who controlled the Irish Volunteers, sought to turn England's difficulty into Ireland's opportunity. The Easter rising of 1916 was foredoomed to failure, but its ruthless repression swung national sentiment from constitutionalism to warfare. A metamorphosed Sinn Féin gave birth to the Irish Free State.

The establishment of the Free State was strenuously resisted by fanatical republicans and rued by many who had looked forward to the establishment of a new social order. But although more potent than the penniless Communists, who welcomed the ripple of soviets of agricultural laborers and creamery workers, the Irish Republican Army, largely financed from America, could make no headway against the forces of Great Britain, whose artillery was now operated by men in the green uniforms of Saorstát Éireann. The labor movement, again dominated by the skilled workers, set its face against radical action. A Labour party in the Dail has not prevented the abridgment of British social legislation. The Free State quickly adopted tariffs and turned to the Shannon to aid industrial development; but it found that the consular service of Erin could for the most part be best handled by the British Empire. The remnant of the landlords were given short shrift; but British sports are embraced by gentlemen of a new definition, who may be sons of publicans. The Irish language has proved an embarrassment, although it had to be made an official language; literary ferment has been replaced by rigorous censorship; "Irish Ireland," the iridescent dream born of the ro-



mantic times of struggle, has become a nightmare in the mundane days of self-control. Religion, ever an extraneous injection into the material problems of Ireland, is not a present issue; with blatantly sectarian Northern Ireland on her flank the Free State has not yet followed the example of so many Catholic nations in open struggle with the church. The peasants and the shopkeepers, the bulk of the people, have inherited the land; to them as to Sydney Smith "Erin go bragh" has ever meant "Erin go bread and cheese."

An aberrant aspect of the Irish question is presented by Belfast. A portion of Ulster was so thoroughly planted at the beginning of the seventeenth century that a large proportion of the lower classes in that region is Scotch Presbyterian. The infiltration of Irish into the planted area could not be prevented; in particular the heavy emigration of Scotch-Irish to America in the eighteenth century opened the way for the return of numbers of Catholic Irish peasants. This fact gave a freakish twist to Whiteboyism in the north: the Presbyterian tenantry resented the competition of the Catholic Irish; under the name of Peep o' Day Boys, later Orangemen, they initiated a series of attacks on their rivals, forcing them to organize as the Defenders, later Ribbonmen. With the rise of industry in the Belfast area this guerrilla warfare of the two creeds was carried over into the ranks of the urban workers. The Ulster linen industry aided in the growth of the shipbuilding industry, the one employing the women, the other the men; the sexual division of labor and the temptation of an increasing family wage tended to depress wage scales and the position of the workers in general. To Ulster employers the creed of their workers was a matter of indifference, their wages a matter of vital importance. Elsewhere trade unionism might force wages up; but in Belfast, where with monotonous regularity religious processions provoked rioting between the two portions of the working class, trade unions found it difficult to function. Ulster business men feared economic separation from Great Britain and the rule of a farmers' parliament at Dublin; hence their enthusiasm for the Churchill slogan of 1886, "Ulster will fight, and Ulster will be right." To the Orange workers, whom Birrell described as having no more religion than a billiard ball, this meant simply "To hell with the pope." The rioting that year reached unprecedented dimensions. Twice, in 1893 and in 1907, the warring workers

fraternized openly, but these were special occasions that constituted reversals of the general rule. The "home rule means Rome rule" agitation and the drilling and arming of the Ulster Volunteers brought a return of the days of 1886. Ulster solemnly covenanted to prove her loyalty to Britain by resisting to the death the application of British law. The World War and the suspension of the Home Rule Act brought a reconciliation so complete that in the first years after the war a united trade union front forced wage scales even above Glasgow and Dublin levels. On July 12, 1920, at a monster mass meeting Carson carefully identified Sinn Féin, Catholicism and Labor as a trinity not to be tolerated "be the consequences what they may." The consequences were two years of violence, the expulsion of Catholics from virtually every form of employment, the disruption of trade union organization and the rapid decline of wage scales. In the meantime Ulster accepted the Better Government of Ireland Act of 1920 and sealed her separation from agrarian Ireland.

JESSE DUNSMORE CLARKSON

See: GOVERNMENT, section on IRISH FREE STATE; NATIONALISM; DOMINION STATUS; CATHOLIC EMANCIPATION; ABSENTEE OWNERSHIP; HUNGER STRIKE, \*

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IRNERIUS (c. 1055-c. 1130), Italian jurist. Irnerius was born in Bologna, where he became professor of rhetoric and dialectic at an early age. His fame came to the attention of the countess Mathilda, who urged him to study law. His life from approximately 1076 to 1090 is a matter of controversy among modern scholars. Fitting and others (such as Besta, Palmieri and Vinogradoff) allege that he studied law at the school in Rome, where he later taught, and that about 1084 because of political strife he returned to Bologna, where after a period spent in research and writing he began to teach about 1090. The better view, advanced by Savigny and affirmed by Pescatore, Patetta and Kantorowicz, seems to be that Irnerius studied law as an autodidact at Bologna, working through practically all the *Corpus juris* before beginning to teach there. Documents from 1113 to 1118 reveal him acting in a judicial capacity after a visit to Rome in 1118 he taught at Bologna until his death.

Uncertainty also exists concerning the works of Irnerius. All are agreed that he was the author of a great portion of the marginal and interlinear glosses to the *Corpus juris* and that he was the compiler of numerous *Authentica*, or notes, which made use of the constitutions in the Novels to indicate those statutes in the earlier compilations of Justinian that had been supplanted. Fitting edited and attributed to Irnerius works

of a different type, more comprehensive in scope and yet more theoretical in nature; for instance, the *Questiones*, *Summa codicis* and *De aequitate*. Others, in agreement with Fitting, have either edited or attributed to Irnerius works of a similar nature. Pescatore, Patetta and Kantorowicz deny that the edited texts were written by Irnerius, and Kantorowicz even holds that no works outside the glosses and *Authentica* were written by him, but that he did transcribe the so-called *Codex S* (now lost), the fount of all the vulgate manuscripts of the *Corpus*.

Irnerius' great contribution to jurisprudence was undoubtedly the establishment of the law school at Bologna, which focused its attention upon intensive study of Roman law and the development of jurisprudence in all its aspects. The personality and ability of Irnerius within a few years made Bologna the center of legal thought in Italy, and his students, the four doctors, extended its renown over Europe.

A. ARTHUR SCHILLER

*Works*: The glosses of Irnerius have been edited by F. K. von Savigny in his *Geschichte des römischen Rechts im Mittelalter*, 7 vols. (2nd ed. Heidelberg 1834-5) vol. iv, p. 458-70; by Gustav Pescatore in his *Die Glossen des Irnerius* (Greifswald 1888); and by Enrico Besta in his *L'opera d'Irnerio*, 2 vols. (Turin 1896) vol. ii. No mass of *Authentica* has been published. Doubtful works: Palmieri, G. B., *Il "Formularium tabellianum" di Irnerio*, *Appunti e documenti per la storia dei glossatori*, vol. i (Bologna 1892); *Questiones de iuris subtilitatibus des Irnerius*, ed. by Hermann Fitting (Berlin 1894); *Summa codicis des Irnerius mit einer Einleitung*, ed. by Hermann Fitting (Berlin 1894); *Summa institutionum* in *Scripta anecdota (antiquissimorum) glossatorum*, ed. by G. B. Palmieri, 2 vols., *Bibliotheca Iuridica Medii Aevi* (rev. ed. Bologna 1914) vol. i, p. 269-476.

*Counsult*: Fitting, Hermann, *Die Anfänge der Rechtsschule zu Bologna* (Berlin 1888) p. 80 100; Meynial, E., in *Revue historique de droit français et étranger*, vol. xxi (1897) 339-50; Kantorowicz, H. V., "Über die Entstehung der Digestenvulgata, Ergänzungen zu Mommsen" in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung*, vol. xxx (1909) p. 254, n. 10, p. 270, n. 1, and vol. xxxi (1910) 14-40.

## IRON AND STEEL INDUSTRY

HISTORY AND PRESENT ORGANIZATION.....MEREDITH GIVENS

LABOR CONDITIONS

United States.....COLSTON E. WARNE

Other Countries.....HORACE B. DAVIS

HISTORY AND PRESENT ORGANIZATION. Although it is the center of a galaxy of industries, the heavy iron and steel industry comprises the normally integrated processes of smelting, refin-

ing and shaping iron and steel. Its products—pig iron, and semifinished steel in the form of ingots, structural shapes, bars, tubes, rails, plates, strips, sheets, wire rods, forgings and

castings—constitute the raw materials for further fabrication by the metal or engineering trades, from which the heavy iron and steel industry is to be distinguished. Because of its unusually great integration of operation and concentration of control the industry includes many other related activities. All of the larger companies mine their own ores and fuels, most of them operate extensive transportation facilities, while some embrace under unified control all the related and essential processes from mining to the final manufacture of ordnance, the construction of ships and the output of other products. In addition the industry has many by-products. 'Thus in 1930 the United States Steel Corporation controlled from one sixth to one fifth of the American production of Portland cement utilizing its own blast furnace slag; the industry furnishes the bulk of the important coal and tar by-products of the coking process and a substantial volume of gas for light and power.

Iron especially in the form of steel provides the structural basis of industrial civilization. Iron and coal are inseparably associated with modern technology and have been decisive instruments in the growth of capitalism, particularly since their technological interlocking in the modern steel industry. It is this development which has made possible the intensive exploitation of the mineral accumulations of the ages and the tremendous acceleration in the rate of production and consumption which underlie the recent development of industrialism. The increasing consumption of iron and steel measures the onward sweep of the machine age. In the United States the industry produced 108 pounds of pig iron and 34 of steel per capita in 1878, 638 pounds of pig iron and 592 of steel in 1909 and 786 pounds of pig iron and 1042 of steel in 1929—an increase of more than 500 percent in pig iron and nearly 3000 percent in steel. This enormous expansion in the output of iron and steel has been the primary factor in the conquest of industry by machinery, the growth of industrial integration and mass production, the concentration and trustification of industry, the great changes in consumer habits and the rapidly increasing urbanization of modern life.

In addition to the fact that it is the basis of other industries, the heavy iron and steel industry ranks among the foremost of the major industries in all highly industrialized nations. In the United States since 1919 iron and steel and their products have occupied third place in

the fourteen major industrial groups as classified by the census, exceeded in total value of production only by foods and textiles, although closely pressed by the machinery industry, and have alternated from third to fourth place in "value added by manufacturing." In 1929 blast furnaces, steelworks and rolling mills had an output comprising 5.9 percent of the total value of American manufactures and employed nearly 5 percent of the wage earners engaged in manufacturing. If machinery and allied products are included, the iron and steel industries surpass all others in value of production.

The almost infinite diversification in the modern use of steel—in the metal trades, in the manufacture of machinery, automobiles and ordnance and in thousands of other major and minor uses—is one of the most characteristic aspects of the steel age. All industries are dependent upon iron and steel either for machinery or raw materials or both. In the United States for the ten-year period 1922 to 1931 the railroad, construction and automotive industries were the predominant consumers of steel, absorbing over one half of the total, as shown in Table 1. The sharpest increase in the consumption of steel was in the automotive industry because of its recent great expansion; in 1929 it consumed 52 percent of the output of malleable iron foundries as well. Greater consumption by the construction industry reflected not only the expansion in building but also the increasing use of steel as a substitute for other materials. The railroads have always been important consumers of steel, but their relative importance in the steel market declined seriously after the wartime shortage had been made up, as they were unable to extend their lines mainly because of increasing competition from alternative methods of transportation. On the other hand, agriculture has increased its consumption of steel as a result of the agricultural crisis and the decline in prices which has accelerated the pace of mechanization. Although a considerable amount of iron and steel appears in consumption goods, most of the product takes the form of capital goods, reflecting the enormous fixed capital requirements of modern industry and its essentially metallurgical character.

An important consumer of iron and steel which does not appear in the statistics on the distribution of its uses is the munitions industry. Especially since the introduction of firearms and ordnance iron has furnished the sinews of war and constituted the basis of mili-

TABLE I

PERCENTAGE DISTRIBUTION OF FINISHED STEEL TO PRINCIPAL CONSUMING GROUPS IN THE UNITED STATES, 1922-1931

| CONSUMING GROUPS       | TEN-YEAR AVERAGE | 1922 | 1923 | 1924 | 1925 | 1926 | 1927 | 1928 | 1929 | 1930 | 1931 |
|------------------------|------------------|------|------|------|------|------|------|------|------|------|------|
| Construction           | 15.6             | 11.8 | 13.3 | 14.4 | 15.3 | 13.2 | 14.9 | 15.7 | 14.7 | 17.8 | 16.8 |
| Automotive             | 13.9             | 8.9  | 10.1 | 11.1 | 14.5 | 14.7 | 13.3 | 15.4 | 17.6 | 14.1 | 14.8 |
| Railroads              | 21.0             | 23.9 | 30.0 | 26.7 | 21.7 | 22.7 | 19.9 | 17.7 | 18.4 | 17.0 | 14.6 |
| Oil, gas, water        | 9.1              | 14.8 | 10.8 | 8.3  | 7.9  | 6.6  | 8.9  | 8.4  | 9.0  | 9.5  | 9.7  |
| Exports                | 5.4              | 7.8  | 6.3  | 6.1  | 4.5  | 5.4  | 5.4  | 5.9  | 5.8  | 4.3  | 4.1  |
| Food and packing       | 5.0              | 4.2  | 3.7  | 4.8  | 4.2  | 5.3  | 5.2  | 4.8  | 4.7  | 5.8  | 7.9  |
| Jobbers and warehouses | 7.5              | *    | *    | *    | *    | 10.5 | 12.7 | 10.8 | 11.1 | 12.2 | 12.7 |
| Agriculture            | 3.9              | 2.5  | 2.4  | 3.5  | 3.0  | 2.7  | 4.3  | 6.3  | 5.3  | 4.5  | 3.6  |
| Machinery              | 3.2              | 2.8  | 2.5  | 3.7  | 2.7  | 2.6  | 2.8  | 3.5  | 3.8  | 3.8  | 3.4  |
| All other              | 15.4             | 23.3 | 20.9 | 21.4 | 26.2 | 16.3 | 12.6 | 11.5 | 9.6  | 11.0 | 12.4 |

\* Figures not available.

Source: Compiled from data in the *Iron Trade Review and Steel*.

tary power. Particularly in Europe the iron and steel industry has been intimately identified with the production of munitions and the growth of militarism. In the Franco-Prussian War the Krupp works' improved ordnance was an important factor in Germany's victory. The World War was fought with steel, and one of its prizes was the iron mines of Lorraine. The Central Powers could not have fought as long and effectively as they did had not Germany been the greatest steel producer in Europe mainly by virtue of the union of the iron of Alsace-Lorraine and the coal of the Ruhr within its borders. Lorraine had been taken from France in 1870, but the strategic industrial and military importance of the prize was not appreciated until years later. During the World War barbed wire for entanglements, steel rails for the roads of transport and pursuit, steel plates for submarines, armor for tanks and battleships, were as indispensable as projectile steel, ordnance, small arms and ammunition. Minor steel producing countries, such as Italy, were relatively ineffective because of the difficulty with which these essential supplies were obtained. The weight of the American industry decisively turned the scales in favor of the Allies. No modern nation can become a first class military power without a highly developed iron and steel industry.

Although iron has been of overwhelming economic importance only during the past one hundred and fifty years and steel only during the past fifty years, iron has been an indispensable element in technology since it was first smelted three or four thousand years ago. Technologi-

cally the importance of the metal lies in its abundance, its strength and malleability and in the fact that for many uses it has no substitute. The slow steady growth of the industrial arts is nowhere more clearly demonstrated than in the history of iron. Prehistoric fires probably drew iron from the rocks quite accidentally; iron tools were used by primitive peoples. The use of iron was preceded by the use of copper and bronze, although in some cases the order was reversed. In the primitive open forges and bloomeries the impurities of iron were slowly "burned" out and a disappointingly small amount of pasty metal—a variety of the modern wrought iron—was ready for hammering, drawing and shaping. Uniting the two primary stages of iron manufacture—smelting and shaping—the early iron makers fused and softened the balls of malleable iron and hammered out their own shapes and implements for industry and war. For thousands of years the open wood or charcoal fires of the forge, or bloomery, was the sole known method of obtaining iron, the only progress during that long period taking the form of minor improvements in the bellows and other auxiliary apparatus.

On the basis of these primitive methods (which still persist in remote parts of the civilized world and in economically backward countries) the ancient civilizations developed an important iron industry, which produced an excellent quality of wrought iron and steel used mainly in the manufacture of military and agricultural implements. The industry reached its highest development in the Roman Empire, with the main producing centers in Italy, Spain

and Britain. There was an active international trade both in iron ores and in iron products. In Roman Italy the craft of the smith was highly developed; production was commonly carried on in small shops with a single forge, an artisan and a few apprentices, and smelting and manufacture were combined with the sale of the final products in which the shops specialized. Implements were wrought by repeated heatings and forgings on individual anvils. Prices were high in contradistinction to those of copper; and the artisans were usually prosperous and occupied an important social-economic status. Although in some places manufacturers gathered many smiths together under one roof, the factory system in the iron industry was negligible. Capitalistic merchants, however, bought up part or all of the output of independent artisans and sold it throughout the world. The most important use of iron was in the manufacture of implements of war; the armies had their own smiths and the government participated in the industry, although it was left mainly to private enterprise. In the later Roman Empire the government took over the exclusive manufacture of arms and armor and concentrated it in large state factories.

During the Middle Ages both the technology and economic organization of the iron industry remained practically unchanged, except for the improvements in furnace construction, the introduction of the Catalan forge and of the use of water power in driving the bellows and the hammers. Great skill was attained by the Arabians, Spaniards, Germans and Swedes in the manufacture of iron, particularly in the making of swords and ornamental ironwork. The forges, however, continued to be highly wasteful of iron, fuel and labor. It was not until the fourteenth century that molten iron for direct casting was produced in improved smelting furnaces of European iron makers. This was accomplished by means of larger furnaces with higher stacks, by forcing an air blast into the furnace by the use of water power, and by better heat conservation—all the result of attempts to save fuel and labor. The first castings were of poor quality and the uses of cast iron were not at once appreciated. It was gradually discovered that iron smelted directly from the ores requires further refinement for the production of really satisfactory castings. This led eventually to the divorce of smelting and casting and the growing importance of iron founding. The origin of the blast furnace, a vertical cylindrical crucible in which iron is

separated from the ore by smelting in direct contact with the fuel and flux, is enveloped in uncertainty. In the latter part of the mediaeval period the Germans developed the *Stückofen*, an improved form of the Catalan forge which they had built to a height of ten to sixteen feet. This improvement was the direct antecedent of the blast furnace, which is known to have been used in Belgium about 1340. Smelting practice was improved and perfected during the fifteenth and sixteenth centuries by the Germans, Belgians and the French; and gradually the Catalan forge and its improved form, the German *Stückofen*, were both superseded by the charcoal blast furnace. The greater economy of fuel and labor, the larger output and the greater diversity to which the greater supplies could be put more than compensated for the dissociation of smelting from the forging of malleable iron.

During the sixteenth century the most important use of casting was in the making of cannon, which revolutionized the technique of warfare. The demand for more and improved cannon greatly stimulated the iron industry. At this time the industry had reached its highest development in Germany, both in quality and quantity of iron output. A considerable capitalistic organization prevailed in the mining of iron and the sale of the final products, although on a much smaller scale than in the production of silver and copper, in which the Fuggers operated mines, smelting works and rolling mills. It was from Germany that England imported the blast furnace and other improved methods of iron making.

The next phase of the development of the iron industry was bound up, both as cause and effect, with the industrial revolution, which was largely a revolution in metallurgy and power. By the beginning of the eighteenth century the primitive bloomery was obsolete in Britain; it was replaced by the more complex sequence of operations represented by the blast furnace, the forge and the rolling and slitting mill. The iron industry was third in importance among British manufactures, mining and smelting 180,000 tons of ore annually and giving employment to 200,000 people in mines and manufactories. But the industry was hampered by the "tyranny of wood and water"—wood to provide charcoal and water to transport raw materials and products and operate the hammers and mills and furnish the blast for the smelting furnaces. Establishments were therefore widely scattered. The extent to which industry was hampered by the scarcity of charcoal, because of deforestation

and restrictions to protect forests from further ravages, is indicated by the fact that only 17,350 tons of iron were produced in Britain in 1740. Pit coal was used in iron smelting by Dud Dudley as early as 1619 and the first Abraham Darby established the commercial use of coke in 1709, but it was not until sixty years later that coke came into general use in smelting despite the economic need for a new fuel. In the midst of its decline the British iron industry was revived and transformed by the introduction of mineral fuel in smelting, the application of the steam engine to furnish the blast and the rapid advance in mechanical engineering—all phases of the industrial revolution, for which more and cheaper iron was the indispensable basis.

During this period the great change in the refining and shaping of iron was initiated in 1784 by Henry Cort. Building upon the experiments of others Cort introduced the puddling furnace, which permitted the use of fuels other than charcoal and furnished hot malleable iron directly to the rolling mill in a single continuous process. Until then malleable iron had been made either by the direct process or from pig iron by reheating in the forge. Cort had been among the first to investigate the application of Watt's engine to the forge hammer. His inventions now substituted a reverberatory puddling furnace for the hearth of the forge, grooved rolls for the hammer and the chemical removal of impurities in the iron for the method of removal by slogging. The puddling furnace reduced the cost of manufacture and yielded a larger quantity and more uniform grade of iron; the new rolling mill could handle heavier blooms and greater lengths and could turn out a greater variety of shapes and sizes of rails, bars and plates than had hitherto been possible. The result was startling. Hitherto a tilt hammer had with difficulty produced a ton of bars in twelve hours; but now fifteen tons of puddled metal could be passed through the rolls in the same time, and iron produced with pit coal could be substituted for charcoal iron for all purposes except the manufacture of crucible or cementation steel.

Technological changes in the iron industry produced corresponding changes in its economic organization in Great Britain. While the industry nowhere passed through the guild stage prior to the factory system (the guilds of ironmongers were fabricators and not producers of iron) and was dominated by capitalists who owned more or

less extensive works and paid wages to workmen, it remained a relatively small scale and decentralized industry until the close of the charcoal era. With the breaking of the "tyranny of wood and water" by the use of coal adjacent to iron mines the scattered establishments gave way to large and integrated concerns which mined the ore and coal, smelted, refined, rolled and slit the iron in its finished form of plates and rods. Smelting and refining were again united in the new integrated processes. Iron-works were concentrated near the coal fields, larger capital was invested and single works frequently employed half a hundred or more men. Landed proprietors, who formerly had participated actively in the industry, now leased their coal and iron lands to industrialists and provided most of the fixed capital as absentee owners. Thus comparatively small capital of their own was required by the active industrialists, most of whom had been metal traders, as in the case of many successful craftsmen in Sheffield and Birmingham seeking control over sources of raw materials. As fixed capital requirements increased amalgamations became numerous, and the industrialists early formed associations to regulate the business. Profits were very large, both for the landowners and the active industrialists. Upon retiring many of the latter engaged in banking and financiering, thus establishing an early and intimate association between the iron industry and finance.

Under the influence of its own higher productivity, declining prices and the demands for iron of an increasingly industrial economy, the iron industry expanded its output. By 1788 Britain's 59 coke furnaces produced 53,800 tons of pig iron as against 14,500 tons of charcoal iron made by 26 furnaces. The total output of pig iron in Britain increased from 68,000 tons in 1788 to 250,400 tons in 1806, Swedish and Russian iron were no longer imported, and the production of charcoal iron almost disappeared. Output kept on mounting, stimulated by the demand for munitions during the Napoleonic wars and the increasing use of the steam engine, machinery, water pipes and gas apparatus. The decline in prices resulting from greater demand and output was accelerated by increasingly higher productivity due to a series of mechanical and other improvements, particularly the Neilson hot blast introduced in 1828, a device to economize heat which resulted in a great saving of fuel, higher smelting temperatures, more

rapid working and a large increase in furnace output. This decline in the price of iron was one of the most important factors in the development of manufacturing. Minor improvements in processes were introduced by foreign manufacturers (the French use of furnace gases to heat steel, for example, introduced in 1811); but although iron production grew rapidly on the continent, the iron industry at this time was predominantly British, the basis of Britain's industrial supremacy and of its leadership as the workshop of the world. The industry received another tremendous impetus from the introduction of railroads in the 1830's, both because of their demand for iron and of the provision of cheaper and better transportation. Moreover the construction of railroads in economically backward countries increased Britain's exports of iron as well as the export of capital to finance construction of the railroads.

Meanwhile in the vast forests of North America the iron industry persisted in the use of charcoal for one hundred years after that fuel had become obsolete in England. By the middle of the eighteenth century the British colonies were producing almost as great a quantity of pig iron, bars and blooms as the mother country, perhaps from a fifth to a third of the world output during this stage of the charcoal era. England encouraged the colonial production of pig iron and discouraged the manufacture of iron, but there is no evidence that these tactics relieved the situation of the ironmasters in the mother country. After the War of Independence American production declined and the new country did not regain its relative position for a century. Production was mostly in the form of cast iron produced in small charcoal furnaces making from a few tons up to 25 tons per week. In contrast with the contemporary progress in Great Britain there was little improvement in American smelting practise between 1790 and the introduction of anthracite in the 1830's. As late as 1825 the use of mineral fuel was unknown, and the census of 1850 enumerated only 4 furnaces burning coke. Throughout the charcoal era the iron industry was a rural one; the furnaces and forges were scattered in every state in the union, although the establishments were more numerous in areas where surface outcroppings of ores were readily available.

In the United States the first great improvement in the production of iron came with the introduction of anthracite in smelting, first used in 1812 but not an important factor until

1840. The use of this peculiarly American fuel in smelting enabled the furnace stack to bear a much heavier burden of ore, flux and fuel than had been possible with the fragile charcoal. Anthracite iron maintained its ascendancy until after the Civil War. A thriving iron industry concentrated in the anthracite fields of eastern Pennsylvania with easily accessible markets. The introduction of anthracite prepared the expansion of the American iron industry, which was stimulated by the manufacture of solid iron rails and the rapid growth of railroad construction. Railroads absorbed from one third to one half of the iron output; the demand from other industries was still small because of the relatively slow pace of industrialization. English competition was keen and the American industry insisted that its existence depended upon high tariffs. Nevertheless, in 1850 approximately 60 percent of American iron needs were supplied by imports. Despite continuous tariff protection the American iron industry in the years 1850 to 1860 was still a poor second to the British industry, but the Civil War gave the American output an enormous stimulus.

In Germany the industry forged rapidly ahead after 1840, mainly as a result of the rapid growth of railroads and of a series of inventions which improved materially the quality of cast iron and made it in some respects superior to the British product. The rise in the output of German iron was interrupted by the world crisis of 1857, after which the development was resumed at a more rapid rate, stimulated by the increasing manufacture of improved ordnance by the Krupp works. In 1860 Germany produced 522,000 tons of pig iron in comparison with 821,000 tons produced in the United States and 3,890,000 tons in Great Britain. In France the industry was also expanding rapidly, although on a much smaller scale than in the other major producing countries. At the outbreak of the Franco-Prussian War the iron industries of both Germany and France had reached approximately their maximum development with the ores and technical practises then prevalent.

In 1870 Great Britain was still the world's leading producer of iron; it produced 5,964,000 tons of pig iron while the American output was 1,665,000 tons and the German 1,240,000 tons. As the figures in Table II indicate, the situation was completely changed within thirty years. In the decades between 1860 and 1890 the American iron and steel industry began to outstrip the other major producing countries. The Amer-

TABLE II  
PRODUCTION OF PIG IRON IN PRINCIPAL PRODUCING  
COUNTRIES, 1740-1930  
(In thousands of gross tons)

| YEAR | UNITED KINGDOM | GERMANY* | UNITED STATES | WORLD TOTAL |
|------|----------------|----------|---------------|-------------|
| 1740 | 20             | 18       | 1             | 160         |
| 1790 | 68             | 30       | 30            | 280         |
| 1800 | 190            | 39       | 40            | 460         |
| 1810 | 250            | 45       | 55            | 620         |
| 1820 | 368            | 89       | 110           | 1,010       |
| 1830 | 677            | 118      | 180           | 1,590       |
| 1840 | 1,396          | 167      | 290           | 2,770       |
| 1850 | 2,249          | 396      | 564           | 4,470       |
| 1860 | 3,890          | 522      | 821           | 7,300       |
| 1870 | 5,964          | 1,240    | 1,665         | 11,840      |
| 1880 | 7,749          | 2,420    | 3,835         | 18,160      |
| 1890 | 7,904          | 4,035    | 9,203         | 26,750      |
| 1900 | 8,060          | 7,429    | 13,789        | 39,810      |
| 1910 | 10,012         | 12,095   | 27,304        | 64,760      |
| 1920 | 8,035          | 6,209    | 36,926        | 62,850      |
| 1930 | 6,192          | 9,542    | 31,752        | 79,400      |

\* Includes the Saar and Upper Silesia through 1910.

Source: Figures for 1740-1860, Iron Hull, George H., *Industrial Depressions* (rev. ed. New York 1926) p. 304-08. Figures for 1870-1930 compiled from *Statistics of the Iron and Steel Industries*.

ican producers, competing among themselves for new records, embarked upon a spectacular campaign of furnace driving; the reports of mounting daily output per furnace were greeted with incredulity in England. During each of these decades the annual production of American pig iron doubled. The British output increased considerably during the same period, but it could not meet the pace set in the United States. By 1890 American production exceeded the British, and the United States became thereafter the leading producer of iron and steel. This phenomenal growth took place in spite of seemingly insuperable obstacles to the use of ores mined thousands of miles from coal, manufacturing facilities and markets.

At the basis of the increasing output of American iron and steel was the amazingly swift tempo of the country's industrialization. Horse power in manufacturing rose from 2,346,000 in 1860 to 5,939,000 in 1889 and 10,098,000 in 1899, this rise reflecting an enormous increase in the use of machinery. Railroad mileage rose from 30,626 in 1860 to 163,597 in 1890, an unparalleled growth which would have been impossible except for the advance of cheaper tonnage steel. The expanding agricultural machinery industry also required large amounts of iron and steel; and the output of metal consumption goods mounted steadily. These demands the iron and steel industry was able easily to meet because of its large reserves of coal and iron,

increasing integration and efficiency of operation and almost prohibitive tariff duties.

In Germany also the industry developed rapidly. In the ten years after the annexation of Alsace and Lorraine with their great stores of iron ores the German output of pig iron doubled and continued to increase almost as rapidly as in the United States. This growth reflected the general expansion of industry in Germany (including railroad development) and progressive specialization in the manufacture of iron and steel products, such as cutlery and ordnance. By 1910 the German output of pig iron exceeded the British—12,995,000 tons as against 10,012,000 tons. The easy economy of production in Britain, where adjacent raw materials, iron and steel mills and consuming industries had long formed a fortuitous union, had apparently reached the elastic limit of expansion. The world's pioneer iron and steel industry was now unable to compete on even terms with the resources and technique of the United States and central Europe; this was an important factor in the relative decline of British manufactures and the decline of Britain as the workshop of the world. Meanwhile the iron and steel industry had been developing rapidly in France, Belgium and Sweden. In 1913 the per capita consumption of iron and steel (in pounds) was: United States 600, Germany 575, Great Britain 520, Belgium 419, France 333, Sweden 333, Italy 84.

These changes in the relative position of the great producing nations were bound up with the change from iron to steel as the industry's major product with the introduction of the Bessemer steel making process. Prior to 1870 steel was not a tonnage factor in the industry. The metal of the early industrial revolution was iron, cast and wrought. Steel was a high grade special product, relatively expensive, used for cutlery and edge tools. Since early times steel had been made by the cementation process, a variety of what is now called case hardening whereby small bars of iron embedded in charcoal are heated for days until they are impregnated with carbon. The crucible process of later origin is closely related to the cementation process. Steel making was a small scale industry, less spectacular than iron making, although fine steel cutting tools have been essential in the technology of all times. Industry required a cheaper steel and this was first provided by the Bessemer process. The new steel was not as fine as the old, yet for most purposes better than cast or wrought iron. Although there is no



concise and satisfactory definition of steel, which always includes carbon but varies widely in its chemical composition, the term has come to be applied to all refined ferrous products aside from pig iron, cast iron, malleable cast iron and wrought iron.

The pneumatic method of making steel was discovered independently by an Englishman, Henry Bessemer, and an American, William Kelly, but Bessemer developed the process more fully and pioneered in making its commercial application possible. Bessemer's epoch making discoveries in England in 1855 and 1856 arose out of his quest for a material with the qualities of malleable iron to be used in the casting of cannon. By driving a blast of air through a bath of molten pig iron he oxidized the metalloids without the use of fuel and obtained a metal purer than ordinary cast iron; unfortunately, however, the phosphorus which remained in the resulting metal rendered it practically useless and the process could be used only with pig iron containing very small quantities of that element. The Bessemer process was consequently hampered by the limited supply of non-phosphoric ores both in Britain and elsewhere. It was therefore an event of major importance when Thomas and Gilchrist in 1879 successfully introduced an adaptation of the Bessemer converter which for the first time rendered phosphoric iron ores completely available for the manufacture of steel. A premium was actually put on the use of phosphoric ores for the slag was found to be a by-product highly prized as a

fertilizer. The Lorraine iron region with its phosphoric ores was now ready to come into its own, and the final technical obstacle to the uninhibited and phenomenal rise of the world iron and steel industry was removed.

Bessemer steel was destined to yield early precedence to the product of the regenerative open hearth furnace. In 1856 before the Bessemer converter was widely accepted William Siemens demonstrated that the use of gas to heat the furnace hearth produced high temperatures and fuel economy, the gas being developed by the burning of coal in auxiliary producers prior to its combustion in the furnace. This process slightly improved by the Martin brothers of France was in commercial operation by 1865. The advantages of the Siemens-Martin regenerative furnace over the Bessemer process are as follows: the use of ore as an oxidizing agent and the external application of heat render the temperature of the bath independent of the chemical reactions, which gradually eliminate the impurities in such a manner that the temperature and composition of the boiling metal are under more precise control; a larger diversity of products from a greater variety of raw materials may be produced; a greater output of finished steel is obtained from the same amount of pig iron, thus reducing the number of blast furnaces required in the industry; phosphorus can be eliminated from Bessemer ores even more satisfactorily than by the Thomas-Gilchrist process. In the United States this latter fact is of great importance since immense ore deposits are

TABLE III  
PRODUCTION OF STEEL BY PROCESSES IN LEADING COUNTRIES, 1870-1930  
(In thousands of long tons)

| YEAR | WORLD TOTAL PRODUCTION | UNITED KINGDOM  |                   | UNITED STATES   |                   | GERMANY *       |                   |
|------|------------------------|-----------------|-------------------|-----------------|-------------------|-----------------|-------------------|
|      |                        | CONVERTER STEEL | OPEN HEARTH STEEL | CONVERTER STEEL | OPEN HEARTH STEEL | CONVERTER STEEL | OPEN HEARTH STEEL |
| 1870 | 510                    | 215             | —                 | 38              | 1                 |                 |                   |
| 1875 | 1,790                  | 620             | 88                | 335             | 8                 |                 |                   |
| 1880 | 4,180                  | 1,044           | 251               | 1,074           | 101               | 680             | 35                |
| 1885 | 6,190                  | 1,304           | 584               | 1,519           | 133               | 913             | 272               |
| 1890 | 12,280                 | 2,015           | 1,564             | 3,689           | 513               | 1,815           | 382               |
| 1895 | 16,650                 | 1,535           | 1,725             | 4,009           | 1,137             | 2,791           | 1,171             |
| 1900 | 27,830                 | 1,745           | 3,156             | 6,685           | 3,398             | 4,296           | 2,013             |
| 1905 | 44,220                 | 1,974           | 3,838             | 10,941          | 8,071             | 6,524           | 3,201             |
| 1910 | 59,330                 | 1,779           | 4,595             | 9,413           | 16,505            | 8,073           | 5,033             |
| 1915 | 65,570                 | 1,307           | 7,050             | 8,287           | 23,679            | 6,588           | 5,583             |
| 1920 | 71,300                 | 821             | 7,984             | 8,883           | 32,672            | 3,213           | 5,527             |
| 1925 | 88,630                 | 476             | 6,713             | 6,724           | 38,034            | 6,190           | 6,902             |
| 1930 | 93,330                 | 255             | 6,852             | 5,035           | 35,049            | 6,488           | 6,396             |

\*Includes the Saar throughout but excludes Lorraine and Luxemburg after 1915 and Upper Silesia after 1925.

rendered available which could not otherwise be utilized. The basic open hearth process has become the leading method in the United States and Great Britain; on the continent the Thomas converter is still used in refining most of the pig iron from the Lorraine deposits.

The statistics in Table III show not only the victory of open hearth over converter steel but also the enormous increase in the output of steel from 1870. The substitute for puddled iron resulted in an extremely rapid expansion of plant and of markets in the United States, England and other countries, as the new product offered a cheap, superior and plentiful supply of steel in a great variety of forms. The manufacture of wrought iron declined to the position of a minor branch of the industry. The Bessemer and open hearth processes laid the firm foundations of the modern steel age.

All finished iron and steel has once been pig iron, a semifinished material requiring further refinement before manufacture; hence the blast furnace is the common denominator of the iron and steel industries. There has been a revolution in scale and method of operation, in furnace design, in auxiliary equipment and in the economical use of raw materials, but the essential principles of the blast furnace have remained unchanged since the early furnaces. As the data in Table IV show, the productivity of blast furnaces has increased steadily and spectacularly, particularly in the United States. From 1740 to 1860 British furnaces were improved in efficiency by more than 200 percent and led all other nations in output. But British output was exceeded by American production in 1885 and by German production in 1890; since then Britain has fallen far behind the other leading producers in output per blast furnace. Improved smelting efficiency has lowered costs, consumption of coke and flux per ton have been reduced remarkably, and actual yields are more closely approaching theoretical yields even though the iron content of the available ores drops somewhat each year. Today the modern steelworks stack will make from 600 to 1000 tons in a single day with the same operating crew required by small furnaces, with a resulting large increase in the productivity of labor. According to estimates made by the writer average blast furnace crews in the United States have fluctuated within narrow limits since the 1880's, ranging from 116 men per furnace in 1884 to a high point of 185 men per furnace in 1908 and dropping again in recent years to a low

TABLE IV

AVERAGE ANNUAL OUTPUT PER BLAST FURNACE IN PRINCIPAL PRODUCING COUNTRIES, 1740-1930

| YEAR | UNITED STATES | GREAT BRITAIN | GERMANY AND LUXEMBURG* | FRANCE | SWEDEN |
|------|---------------|---------------|------------------------|--------|--------|
| 1740 |               | 204           |                        |        |        |
| 1788 |               | 804           |                        |        |        |
| 1806 |               | 1,515         |                        |        |        |
| 1840 |               | 3,473         |                        |        |        |
| 1860 |               | 6,683         |                        |        |        |
| 1865 |               |               |                        | 2,869  |        |
| 1870 |               |               |                        | 4,350  |        |
| 1875 |               | 10,120        | 7,159                  | 5,128  |        |
| 1880 |               | 13,667        | 10,019                 | 8,448  |        |
| 1885 | 21,439        | 17,086        | 15,848                 | 12,158 |        |
| 1890 | 31,067        | 19,092        | 20,653                 | 16,220 |        |
| 1895 | 52,302        | 22,394        | 25,309                 | 19,021 |        |
| 1900 | 58,282        | 22,232        | 30,606                 | 21,544 |        |
| 1905 | 85,432        | 27,850        | 38,640                 | 26,104 | 4,116  |
| 1910 | 102,208       | 29,835        | 48,053                 | 33,970 | 5,307  |
| 1915 | 128,534       | 30,351        | 44,291                 | 14,413 | 6,339  |
| 1920 | 126,872       | 28,241        | 43,763                 | 37,138 | 4,825  |
| 1925 | 167,606       | 41,381        | 87,535                 | 56,487 | 5,669  |
| 1930 | 211,727       | 49,407        | 115,152                | 72,095 | 7,939  |

\* Excluding the Saar and Upper Silesia after 1915.

Source: Computed from Statistics of the Iron and Steel Industries.

point of 121 men per furnace in 1929. Along with increased furnace output have come improvements in handling materials, until at present the electrically controlled stoking operations of modern furnaces are practically mindless.

There have been equally great gains in productivity in the steelworks and rolling mills. The most far reaching change has been the rise of the continuous process whereby the steel furnaces receive hot metal directly from the blast furnaces, and the time formerly required for reheating is eliminated. As shown in Table V, 82 tons of finished steel per man were pro-

TABLE V

AVERAGE ANNUAL OUTPUT PER WAGE EARNER, IRON AND STEEL INDUSTRY, UNITED STATES, 1879-1929

| YEAR | BLAST FURNACES |       | STEEL WORKS AND ROLLING MILLS |       | COMPOSITE INDEX |
|------|----------------|-------|-------------------------------|-------|-----------------|
|      | GROSS TONS     | INDEX | GROSS TONS                    | INDEX |                 |
| 1879 |                |       | 31                            | 57    |                 |
| 1889 | 240            | 100   | 54                            | 100   | 100             |
| 1899 | 370            | 154   | 82                            | 153   | 153             |
| 1909 | 671            | 280   | 111                           | 207   | 217             |
| 1919 | 716            | 298   | 97                            | 180   | 192             |
| 1929 | 1707           | 711   | 138                           | 257   | 284             |

Source: Computed by author on the basis of census and trade publication statistics.

duced in 1899, about three times the productivity of 1880. By 1910 the output per man had risen to 111 tons and to a still higher level in 1915 and 1916, when American steel plants began heavy shipments to war-ridden Europe. Productivity has since continued its upward march, reaching approximately 138 tons per man in 1929, probably five times the efficiency of fifty years ago. Hand charging of the open hearth furnace has disappeared; labor-saving equipment in all modern operations is now substantially uniform from plant to plant. The tendency of the large producers is toward the construction of open hearths with a tonnage capacity ranging from 150 to 200 tons per heat. The modal furnace for the industry has a capacity of from 75 to 90 tons, with the same operating crews required regardless of the size of the furnace. Higher indirect costs for the larger furnaces are counterbalanced by lower tonnage costs. The progress over this entire period has been due to increasingly effective combustion control; the construction of ever larger furnaces; the combination and elimination of occupations, especially after the partial introduction of the 8-hour day in 1923; and the universal adoption of the standard labor-saving devices, most of which were known as early as 1911.

Among the most important improvements yielding higher productivity are straight-line production and automatic control, which have reached their highest development in the rolling of steel. After Cort's original application of steam power to the rolling mill manual labor was still indispensable in the handling of the metal as it passed to and fro in the rolls. The modern specialty mills making highly standardized shapes or products are usually continuous automatic mills with series rolls arranged in tandem, automatically handling the glowing metal as it is transformed from ingot to finished shape without reheating. The scale of operation required by this continuous process is typical of all modern plants in the industry. Reduction of costs in rolling mills has been made possible by the increasing standardization of shapes and chemical requirements. Steel rails are highly standardized, for example, while there is little uniformity in the steel requirements of the automobile companies. In the rolling mills arduous manual labor has been reduced to a minimum in recent years as a result of electrification and standardization. The electrification of main roll drives and incidental controls has facilitated smooth operation and has saved maintenance

and indirect labor. In 1905 there were only 5 electric main roll drives in the iron and steel industry in the United States, while in 1931 there were 1806 such installations, with an aggregate capacity of 3,000,000 horse power out of the industry's total rated horse power of not much more than twice this figure. These developments are factors in the increased output of finished steel per worker.

The spectacular increase in blast furnace output would have been impossible without the employment of the fibrous coke, which supports the burden of larger and taller furnaces without impeding the blast. Despite its economic advantages coke at first was slow in supplanting the use of anthracite in the American industry. It was not until 1875 that the total output of coke burning furnaces exceeded that of anthracite stacks, but since that time the growth of production and the increasing efficiency of smelting have been due in large part to the exclusive use of better and better metallurgical coke. Coke has been an important factor in the integration of the steel industry; the Carnegie company became dominant in the industry only after it acquired the Frick coking interests in 1882. The making of metallurgical coke is now the most important auxiliary of the steel industry. Historically iron ore is almost always brought to coal rather than coal to the ore. The continuance of this tradition is explained not solely by the importance of coke in the blast furnace but by the large quantities of coal and of coke oven gas required to supplement blast furnace gas in providing power for the integrated steel plant, which owns and controls its own coal mines and coking ovens. The production of coke has been improved by the slow but steady adoption of the distillation process. In the old beehive process all of the constituents of coal aside from the coke itself were wasted, while distillation now yields such valuable by-products as the benzols, toluol, naphthalene, tar and ammonia. From 1913 to 1931 the total American coke production (including domestic coke) increased from 12,700,000 tons to more than 32,000,000 tons, 70 to 80 percent of which was manufactured by distillation in by-product plants operated in connection with steel-works or merchant blast furnaces. To supply a modern furnace plant with coke a sufficient supply of gas is produced, in combination with blast furnace gas itself, to operate all of the heavy machinery of the mills with a surplus left over for the market. In addition to its financial

advantages the integrated operation of coke plants guarantees a steady supply of uniform coke for the smelters. Practically the entire output of coke is now produced by steelworks or public utilities engaged in the manufacture and sale of artificial gas. This type of integration is now universal in steel plant operation in all countries.

With the growth of the steel industry the isolated merchant blast furnace of small capacity has permanently declined in the United States. This decline has been due to the steadily falling price of pig iron, to the high comparative costs of small scale operation and to the ruinous competition from steelworks furnaces which in slack times dump surplus iron on the market. What remains of the merchant iron industry is chiefly dependent upon the foundry trade. Except as casting is required for the internal operations of the basic industry, the foundry is a distinct industrial entity with two main branches, the gray and malleable iron foundries and the steel foundries, and with two distinct types of business concerns, the jobbing foundries and those operated in conjunction with machining and fabricating enterprises. The jobbing foundries are physically dissociated from other processes; the trade is loose and decentralized, composed principally of small scale units producing and selling a wide variety of products for local use. The growing importance of steel melting units, usually larger than the iron foundries, reflects the inroads of steel into the domain of the gray iron casting.

Perhaps the most far reaching recent change in steel manufacturing was the introduction in 1927 of a remarkable process of continuous strip sheet rolling. Largely because of the expansion of the automotive industry the production of steel plates and sheets (including tin plate) increased until by 1930 it absorbed 30 percent of the total steel output. Since the early days in Wales the bulk of the product has been produced on simple hand rolls; to roll sheets by a continuous process without reheating was considered an impossibility. In the United States in 1929 there were roughly 1400 of the old mills in the sheet and tin plate industry, with an aggregate annual capacity of 7,500,000 gross tons of sheets. One of the new continuous strip sheet mills has a yearly capacity of approximately 400,000 gross tons of uniform gauge, equivalent to the capacity of forty or fifty old style sheet or tin mills. According to present indications the "hot mills" may

become as obsolete as the bloomery and the forge. More than 10,000 workers may be displaced when both direct and indirect labor items are taken into account, and sheet production will be concentrated in the hands of a few concerns. Hitherto the steel sheet trade with its growing market has attracted a large number of small independent concerns into a highly competitive industry not physically integrated with the central processes and requiring comparatively little capital. A series of recent mergers again demonstrates the dual role of technology and unfavorable market conditions in stimulating concentration. By 1931 the continuous strip sheet process was adopted by 9 American producers, including the United States Steel Corporation, and by a number of foreign producers.

Increased productivity in the basic iron and steel making processes and in the production of coke has been paralleled by similar progress in the mining of iron ores. Ore mining is an auxiliary of the iron and steel industry; in 1922, according to the Federal Trade Commission, two American steel companies owned or controlled over one half of the available reserves of iron ore. Average daily output per man in ore mining has increased steadily, rising from  $3\frac{1}{2}$  tons in 1911 to 9 tons in 1929. Since the percentage of production from open pit mines has not materially changed, the explanation of improved efficiency must be sought in the operations of underground mines where mechanical slusher hoists have been extensively introduced, increasing shift production per man from 8 or 9 tons by the hand process to 15 or 18 tons with the new equipment.

In recent years there have been no marked technical advances in the American steel industry, which in comparison with many other industries is relatively backward in scientific research, devoting its attention primarily to the pursuit and consolidation of profits on the basis of past discoveries and inventions. Two interesting developments, however, have taken place in the manufacture of wrought iron and in the small scale production of sponge iron. Wrought iron has been displaced by the stronger Bessemer and open hearth steels, but the earlier product retains valuable physical properties because of its ropelike structure and its resistance to corrosion. The mechanical difficulties encountered in making wrought iron at low costs have been found in the puddling and not in the rolling processes, but now the Ashton mechanical puddling process has successfully produced in a

fraction of an hour an amount of wrought iron which from the time of Henry Cort had required a day's labor. Wrought iron still enjoys advantages in the manufacture of pipe, certain railroad accessories and other specialties, but it is not likely to become a serious competitor of tonnage steel. Recent experiments with direct methods of steel making have demonstrated that sponge iron can now be made directly from the ore without the introduction of impurities from the coke and flux of the blast furnace. This direct conversion is only practicable on a small scale at present, and its manufacture is too expensive for tonnage production; the new process can, however, readily provide iron for small concerns in outlying districts, where a large blast furnace would be impracticable, and it is effective in smelting ores not readily usable in the blast furnace.

More important is the recent growth of alloy steels in response to the increasingly exacting requirements of the steel trade. Alloys are useful especially in the manufacture of automobiles, airplanes, electrical machinery and other products which need steel of particularly fine quality. From 1925 to 1930 the alloy steels composed from 5 to 7 percent of the total American production of steel. The increasing production of fine steel is a counterinfluence against the development of extremely large furnaces and places a premium on the employment of highly skilled workers to supervise the necessarily careful operations in alloy production. Alloy steels are refined in the open hearth furnace or in the smaller electric furnace which replaces the costly crucible process for making finer steels and permits more precise control of temperatures and chemical reactions. In recent years the "electric" steels have provided between 1 and 2 percent of the total American production, but the figure obscures their real importance in the fine steel industry. One of the alloy products of the electric furnace is stainless steel, a combination of iron (customarily 74 percent), chromium and nickel. This alloy steel is practically impervious to rust, heat and acid and since 1927 has been improved and has assumed increasing importance. In 1931 the United States Steel Corporation purchased the rights to an improved method of manufacturing stainless steel perfected by the Friedrich Krupp A. G. of Germany, becoming the fourth American company to engage in the production of stainless steel. The price of the product is still very high, but increasing demand and vol-

ume production are expected to lower it materially. Alloys are not only providing a finer material for old products but are also opening up new uses for steel.

One of the important long time technical changes in the industry is the increased use of steel and iron scrap in steel making, as a result of which the annual output of steel now regularly exceeds the output of pig iron in all steel producing countries. In the United States in 1896 approximately 750,000 tons of scrap were remelted in making steel, in 1900 about 2,000,000 tons were used in this manner, and in 1929 the consumption of scrap reached the enormous total of 25,000,000 tons, about 45 percent of the total production of steel. If there were to be a scrap famine today, twice as many blast furnaces would be required to support the steel industry. The sources of the scrap metal are varied. It is estimated, for example, that the number of automobiles commercially scrapped has increased from about 794,000 in 1922 to 2,450,000 in 1928. The use of scrap supports a steel industry in areas where smelting is uneconomical and where freight rates for pig iron are prohibitive. It is not limited to the iron and steel industry itself; thus the Ford Motor Company provides much of its steel and foundry iron requirements by salvaging its own used cars on a large scale.

Technological and other changes in the iron and steel industry have been accompanied by increasing integration of operations and concentration of corporate control in all the producing countries. Concentration in iron and steel has advanced further and proceeded more rapidly than in any other manufacturing industry. The production of iron and steel has always required relatively large amounts of fixed capital; these were enormously increased by the technological transformation wrought by the industrial revolution and the subsequent integration of operations, which laid the physical basis for amalgamation and large scale combination. All developments since have emphasized the need of large fixed capital. In the United States the capital investment per wage earner in blast furnaces rose from \$6 in 1849 to \$150 in 1919, and in rolling mills and steelworks from \$30 to \$170. Since 1919 the investment has again greatly increased. The concentration arising from large investment of fixed capital and integration of operations has been supplemented by vertical and horizontal combination - by the ownership or control of sources of raw materials and of

transportation and by the diversification of output, including the manufacture of products not strictly within the domain of the heavy iron and steel industry. The concentration within the industry represents in an acute form the tendencies inherent in large scale production.

Adoption of the Bessemer process and the use of coke in smelting in the United States was accompanied by integration and concentration. In 1882 the Carnegie Steel Company acquired control of the H. C. Frick Coke Company, which dominated the Connellsville district of Pennsylvania; in 1897 it secured control of large Lake Superior ore reserves; by 1900 the company was entirely independent in its supply of raw materials and transportation facilities and manufactured a wide variety of products, including steel for naval vessels. The Carnegie profits were large—\$133,000,000 from 1875 to 1900, \$40,000,000 in 1900 alone, exclusive of reinvested profits. Stimulated by the sharp decline of prices and profits due to cut-throat competition and the depression of 1893-96, the industry put through a series of mergers which gave rise to a relatively small number of large companies. These companies fell into two definite classes, those which made pig iron, steel billets and other heavy products, and those which manufactured more highly finished materials. This movement toward consolidation had as its main objectives the restriction of competition, the physical integration of primary manufacturing processes (involving only the more standardized products), the control of raw materials and transportation and the flotation of securities in the expectation of large future profits. The chief of these objectives was the desire to limit competition, although the flotation of securities was most important to the promoters—at least \$150,000,000 in profits was realized by promoters in the series of mergers which culminated in the United States Steel Corporation. Despite mergers and concentration competition was still rampant by 1900 and threatened to flare up more disastrously. Companies manufacturing finished steel prepared to make their own crude steel, and the Carnegie Steel Company retaliated with plans to manufacture finished steel, build a competing railroad and wage ruthless competitive war. To forestall this threatened overexpansion and ruinous competition the Morgan interests organized the United States Steel Corporation in April, 1901. This great combination united most of the leading heavy producers with the principal concerns manufacturing finished steel

in the United States and comprised some twelve combinations (including the Carnegie Steel Company), which in their turn had been formed out of 200 or more independent enterprises. The corporation was heavily watered; a capitalization of \$1,384,000,000 was imposed on tangible property worth only \$676,000,000 according to the United States Bureau of Corporations. The water was subsequently squeezed out by the reinvestment of profits. At its inception the United States Steel Corporation controlled 45 percent of the blast furnace output, 65 percent of the crude steel and 51 percent of the finished steel production of the United States. With the exception of the purchase of the Tennessee Coal and Iron Company in 1907 the corporation has refrained from any major acquisition. This expansion and the corporation's restrictive influence in the industry led the federal government in 1911 to institute an action to dissolve it under the antitrust laws; in 1920 the United States Supreme Court decided the case against the government. The growth of the United States Steel Corporation has lagged behind the progress of the industry—its capacity declined from 65 percent of the total in 1901 to 40 percent in 1929. Other concerns, however, have integrated and combined. Between 1919 and 1929 no fewer than 270 mergers achieved consolidations among 690 individual concerns engaged in the manufacture of iron and steel and its products, while more than 1000 concerns totally disappeared. This expansion through mergers (and to a smaller degree extension of plant) has aimed at diversification of products, access to new markets and control of production and sales. In 1930 six great combinations controlled 75 percent of the industry's output in the United States.

Because of concentration and the reluctance of the United States Steel Corporation to affiliate with national groups, the American steel industry has not been fertile ground for the development of trade associations (which, however, flourish in the manufacture of metal products). The American Iron Association organized in 1855 was subsequently succeeded by the American Iron and Steel Association, which in 1911 became the American Iron and Steel Institute. The institute has been used to promote the stabilization of competitive practices and has provided a channel for discussion of business and technical problems and the compilation of trade statistics. A strong trade organization, the National Association of Flat Rolled Steel Manu-

facturers, has been organized among the independent sheet producers; and the Institute of Scrap Iron and Steel unites the ferrous scrap industry.

Under the influence of the United States Steel Corporation and because of increasing concentration among independents American steel production has been in a state of "monopolistic competition" in which prices and output are substantially controlled by a few cooperating producers. Beginning in 1907 there was an active effort to enforce a uniform price system by means of the informal Gary dinners, which were finally abandoned in 1911 as a result of widespread criticism. However, price stabilization was effectively supported by other means, particularly by the Pittsburgh-plus practise maintained under protection of the United States Steel Corporation—a practise whereby consumers were required to pay Pittsburgh base prices for steel plus the equivalent of the freight rates from Pittsburgh, regardless of the point of actual manufacture of the purchased steel and without reference to the costs of production in the various districts. After 1910 consumers of steel particularly in the middle west became restive under Pittsburgh-plus and in 1924 a group of associated western states secured a ruling from the Federal Trade Commission condemning the system "as an unfair method of competition" in violation of the federal laws prohibiting price discriminations. The subsequent breakdown of Pittsburgh-plus has given rise to a new multiple basing point system, but the leadership of Pittsburgh in the industry has been definitely impaired and an artificial barrier removed from the further development of the Chicago and Great Lakes districts as the natural economic centers of most efficient production and distribution.

In view of the huge fixed capital requirements of iron and steel manufacture the financing of the industry is more akin to that of railroads and public utilities than to that of the usual manufacturing enterprise. An analysis of financial ratios in various American industries has shown that steel ranked at the bottom of a list of eleven industries in the rate of turnover of fixed capital during the years 1914-21, showing a ratio of .7 as compared with approximately 3 for automobiles and 10 for slaughtering and meat packing. The larger companies ordinarily enjoy lower costs of production than the smaller concerns, but investigations have revealed that the larger enterprises generally

yield a smaller return on investment than is earned by the less thoroughly integrated firms in prosperous times. According to the Federal Trade Commission fourteen completely integrated steel companies had an average rate of return of 21.9 percent from 1915 to 1918, while the less integrated companies earned progressively higher rates, 42 rolling and finishing mills yielding an average rate of 36.8 percent on invested capital. Since most of the steel capacity is concentrated in the hands of the integrated companies, the industry is eager to stabilize prices and thus attain a secure and steady margin of profit above fixed and operating charges. Although a relatively high degree of price stability has been characteristic of the American steel market in recent years, there is no evidence that the achievement has increased the stability of production or employment.

Although the British iron industry was one of relatively high integration and concentration during and after the industrial revolution, it lagged behind the onward sweep of concentration after the introduction of the Bessemer and open hearth processes. This was due to the conservatism and independence characteristic of old family concerns with strongly developed pride of ownership and to the general relative decline of British industry after 1890. These influences inhibited the combination movement and hampered the efficiency of the industry, yet both vertical and horizontal combinations have been more extensively developed in iron and steel than in other British industries. In 1919, 30 companies controlled 80 percent of the iron and steel output. During and since the World War there has been a rapid extension of large plants in Britain and, although the physical make up of the industry continues to reflect the conservatism of earlier days, integration and concentration have considerably increased. Vickers, Ltd., have greatly enlarged the scope of their operations by means of mergers and new plant. In 1929 Bolekow, Vaughan and Company, Ltd., merged with Gorman, Long and Company, Ltd., and the new concern acquired control of four other companies; in addition it owns one half the share capital of five other companies, two of which are in South Africa. The Bolekow-Vaughan company has an annual capacity of 2,500,000 tons of steel ingots and 4,000,000 tons of coal. Most of the iron and steel companies own their own coal and iron mines; in 1925 it was estimated that they owned one fifth of the coal mines in Great Britain. Diversification of

output is increasing along with concentration and rationalization. The industry is still strongly competitive, however. British steel manufacturers are now closely banded together in the strong National Association of Iron and Steel Manufacturers organized in 1918 at the suggestion of the government; in 1932 it extended its membership to include representatives of the iron and steel industries of the empire.

The iron and steel industry in France is much less competitive than in Great Britain; integration and concentration are more highly developed, but they lag considerably behind the United States. Where there had been more than 1000 French metal works in 1864, integration and combination reduced the number to 208 in 1912. Competition was never really very active because of the work of the *comptoirs*, a form of cartel or unified selling agency, although these never had the extensive control of the American trusts or German cartels. The strong Comité des Forges, founded in 1864, has the legal status of an employers' association with no right to transact business, yet it has been the most active central influence in the industry, fostering the pre-war iron and steel cartels and exercising unified administrative authority over the entire metallurgical industry during the World War. *Comptoirs* began to appear at an early date in France. There was one for pig iron as early as 1876; in 1904 a *comptoir* for the export of metal products and in 1905 one for the export of pig iron were set up. During the war the *comptoirs* disappeared and efforts to revive some of them have been unsuccessful. But in their place integration has made considerable progress, especially vertical organization including all stages of production and distribution. These organizations tend to expand and absorb an increasing proportion of the blast furnace output. Horizontal combinations have not been important except in Lorraine, where five groups of associated companies acquired control of the former German iron and steel concern. This is an outstanding example of concentration, since the Lorraine enterprises now constitute the basis of the French industry. The major French producers have a diversified output, including the production of munitions.

Integration of operations and concentration of corporate control are more highly developed in Germany than in any other European country, almost as highly developed as in the United States. This was true also before the World War, although partly obscured by the prevalence of

cartels. The Krupps early adopted a policy of integration and diversification, which has been maintained; they acquired ownership or control of coal and iron mines as well as transportation facilities (including a fleet of ships to carry ores from Spain), combining all stages in the manufacture of a variety of products—many of them more within the scope of the metal or engineering industries—and in 1896 went into shipbuilding. During the post-war inflation period Hugo Stinnes formed a huge iron and steel combine, which disintegrated after his death and the restoration of a normal currency. Rationalization stimulated the movement of integration and concentration, which culminated in 1926 in the formation of the United Steel Works (Vereinigte Stahlwerke A. G.), a consolidation of the Rhein-Elbe Union, formerly in the Stinnes combine; the Thyssen and Phönix groups; and the Rheinische Stahlwerke A. G. The new combination had 40 percent of the German industry's capacity and it was increased in 1932 by absorption of the principal iron and steel works of central Germany; in 1929 the United Steel Works had assets of 2,145,000,000 marks and owned a large block of stock in one of the most important manufacturing of machinery. Within recent years six giant concerns have dominated the industry, their combined quotas in the cartels ranging from 55 percent in pig iron to 91 percent in plate. Cartels, partly a substitute for and partly a supplement to integration and concentration, flourished in Germany as early as the 1860's. Before the World War there were two main cartels—the pig iron cartel (Roheisenverband) and the steel cartel (Stahlwerksverband), the latter uniting 10 subsidiary cartels of manufacturers of semifinished products. All cartels except the pig iron were dissolved during the post-war inflation period, but many including the steel cartel have been subsequently revived. Since 1924 the raw steel syndicate (Rohstahlgemeinschaft) uniting companies, including Krupp, which could not or would not join the steel cartel, has imposed production quotas upon its members, although it does not allocate orders and sales or fix prices. There are a number of other cartels in the industry.

An extremely high degree of integration and concentration has characterized the iron and steel industry of Russia since the acceleration of the industrial evolution of that country after 1870. Before the World War there were several huge steel plants, such as the Pugachev Works in the Donets basin, each of which employed



over 10,000 workers. Soviet Russia, particularly since the adoption of the first Five-Year Plan, has concentrated on the building of an iron and steel industry as the indispensable basis of industrialization and consequently of the realization of socialism. The number of active blast furnaces increased from 45 in 1925 to 77 in 1929 and 92 in 1931; a total of 26 new blast furnaces, 65 open hearth furnaces, 7 electric furnaces and 27 rolling mills will be put in operation in 1932. A high degree of integration prevails in the iron and steel industry built up in the Soviet Union. The Ural-Kuznets combination of plants is to produce 6,500,000 tons of pig iron in 1933; 4,000,000 tons of Kuznets coal is to be transported 1400 miles by rail for the use of the Magnitogorsk steel plant, which rivals in size the American works at Gary, and on the return trip the cars will carry ores from Magneto Mountain to the secondary metallurgical base at Kuznets. The union's planned output of iron and steel in 1932 was placed at 9,500,000 tons, double the pre-war production. In Soviet Russia of course the iron and steel industry operates like the other industries under government direction and control. No other government participates directly in the industry except the German government, which in 1932 purchased a large block of stock in the United Steel Works.

In the capitalist countries the growth of integration and concentration has resulted in increasing control of the iron and steel industry by financial capitalists and the great banks. Steel stocks are ordinarily widely held; the multiplication of stockholders separates ownership and management; and control can be exercised by concentration of blocks of minority holdings in the hands of financial capitalists or banks or a combination of both. This control is unified and strengthened by means of interlocking directorates. Thus the United States Steel Corporation since its inception has been under the control of J. P. Morgan and Company, and most of the other large companies are in a similar position. In view of the industry's great capital requirements strong banking connections are indispensable. The general situation is the same in France and Germany. For example, the important French bank, Banque de l'Union Parisienne (which is closely allied with Schneider et Cie), has holdings in the important Longwy iron and steel companies and several other companies and finances the dominant group of Lorraine iron and steel producers

In Germany the large D banks are represented on the boards of directors of all the important iron and steel companies; the Deutsche Bank was active in the formation of the United Steel Works and two minor combinations, while the Disconto-Gesellschaft, the most important iron and steel bank (now merged with the Deutsche Bank), has engaged aggressively in the trustification of the industry. In this fusion of large scale industry and finance the iron and steel industry is once more typical of the modern development of capitalist enterprise. Here again, however, Great Britain lags behind, although recent mergers and consolidations are producing conditions of financial control similar to that in other major producing countries.

Although Japan is developing its own heavy industry (stimulated by the World War but hampered by lack of raw materials) and there is one giant integrated plant in India, iron and steel constitute an essentially European and American industry. In the principal producing countries the industry has expanded greatly since the war, particularly in capacity, but only in the United States has there been any

TABLE VI  
PER CAPITA CONSUMPTION OF IRON AND STEEL,  
1913-25  
(In pounds)

|               | 1913 | 1923  | 1924  | 1925  |
|---------------|------|-------|-------|-------|
| United States | 600  | 1032  | 853   | 1032  |
| Germany       | 575  | 276   | 384   | 434   |
| Great Britain | 520* | 456†  | 494†  | 441†  |
| Belgium       | 419  | 401** | 560** | 462** |
| France        | 333  | 375‡  | 503‡  | 448‡  |
| Sweden        | 333  | 176   | 203   | 262   |
| Italy         | 84   | 75    | 88    | 134   |

\* Including Ireland.

† Excluding Irish Free State.

\*\* Including the Duchy of Luxembourg.

‡ Including the Saar.

Source: Adapted from Osburn, W. F., and Jaffe, W., *The Economic Development of Post-war France*, p. 314.

considerable increase in per capita consumption (see Table vi), explained primarily by the unusual expansion in the American output of automobiles, machinery and metal products and in building activity. Italy's increase in 1925 was fortuitous; its post-war consumption was only slightly higher than pre-war. Great Britain's consumption was approximately stationary, while Germany's declined considerably. French consumption increased mainly because of reparations and acquisition of the Lorraine iron and steel industry, which temporarily stimulated industrialization. These developments express the

relative economic decline and crisis in Europe. The consumption of iron and steel rose only slightly among the non-producing countries. In 1929 the combined exports of Great Britain, the United States, Germany and France were 16,563,000 tons, a slight increase as compared with 14,608,000 in 1913; but the average for 1920-28 was slightly below the 1913 level.

The world's uneven rate of iron consumption and distribution of iron ores may result in important geographical shifts of the iron and steel industry in the immediate future. Knowledge regarding the amount and distribution of the world's ore resources (Table VII) is es-

sential to an understanding of the industry's growth, its geographical concentration and the producers' international competitive position. Estimates at any time are necessarily faulty, for information concerning available ores obviously depends upon the progress of the industry. According to estimates of the Eleventh International Geological Congress in 1910 the 30,000,000,000 or 35,000,000,000 tons of the world's actual and possible supplies of iron ore would last more than 1000 years at the rate of production of 1913. More recent surveys indicate that the 55,000,000,000 or 60,000,000,000 tons of known reserves will probably hold out for 333

TABLE VII  
ESTIMATED IRON ORE RESERVES OF THE WORLD

|                                 | IRON ORE RESERVES |          |         |                            | APPROXIMATE<br>IRON CONTENT<br>(PERCENTAGE) |
|---------------------------------|-------------------|----------|---------|----------------------------|---|
|                                 | ACTUAL            | POSSIBLE | TOTAL   | PERCENTAGE<br>DISTRIBUTION |   |
|                                 |                   |          |         |                            |   |
| World Total                     | 57,812            | 167,663  | 225,475 | 100.0                      | —   |
| Europe                          | 22,599            | 16,818   | 39,417  | 17.5                       | —   |
| France                          | 8,164             | 4,090    | 12,254  | 5.4                        | 40  |
| United Kingdom                  | 5,970             | 6,199    | 12,169  | 5.4                        | 30-35                                       |
| Germany                         | 1,317             | 2,843    | 4,160   | 1.8                        | 40  |
| Sweden                          | 2,203             | 674      | 2,877   | 1.3                        | 60-70                                       |
| U. S. S. R.                     | 2,057             | 617      | 2,674   | 1.2                        | 45-55                                       |
| Norway                          | 384               | 1,347    | 1,730   | 0.7                        | 25-35                                       |
| Spain                           | 1,115             | 273      | 1,388   | 0.6                        | 50-60                                       |
| Czechoslovakia                  | 336               | 201      | 537     | 0.3                        | 35  |
| Poland                          | 186               | 212      | 398     | 0.2                        | 25-30                                       |
| Austria                         | 242               | 150      | 392     | 0.2                        | 40  |
| Luxemburg                       | 270               | —        | 270     | 0.1                        | 26-40                                       |
| Belgium                         | 70                | 66       | 136     | 0.1                        | 35  |
| Italy                           | 18                | —        | 18      | —                          | 55-65                                       |
| North and Central America       | 18,666            | 119,947  | 138,613 | 61.5                       | —   |
| United States                   | 10,452            | 83,872   | 94,324  | 41.8                       | 50-60                                       |
| Canada and Newfoundland         | 4,244             | 24,000   | 28,244  | 12.5                       | 35-57                                       |
| Central America and West Indies | 3,680             | 12,075   | 15,755  | 7.0                        | 35-45                                       |
| South America                   | 8,200             | —        | 8,200   | 3.6                        | —   |
| Brazil                          | 7,000             | —        | 7,000   | 3.1                        | 60-70                                       |
| Chile                           | 441               | —        | 441     | 0.2                        | 60-70                                       |
| Asia                            | 4,401             | 20,855   | 25,248  | 11.2                       | —   |
| India                           | 3,326             | 20,500   | 23,826  | 10.6                       | 55-70                                       |
| China                           | 944               | 355      | 1,299   | 0.6                        | 50  |
| Japan                           | 85                | —        | 85      | —                          | 50  |
| Siberia                         | 33                | —        | 33      | —                          | 50  |
| Africa                          | 1,344             | 10,000   | 11,344  | 5.0                        | —   |
| Rhodesia                        | —                 | 6,000    | 6,000   | 2.7                        | 25  |
| Union of South Africa           | 1,095             | 2,000    | 3,095   | 1.4                        | 45-60                                       |
| British West Africa             | 3                 | 2,000    | 2,003   | 0.9                        | 50  |
| Algeria                         | 100               | —        | 100     | —                          | —   |
| Tunis                           | 88                | —        | 88      | —                          | —   |
| Australia                       | 920               | 42       | 962     | 0.4                        | 45-65                                       |
| East Indies                     | 817               | —        | 817     | 0.4                        | 50  |
| Philippine Islands              | 806               | —        | 805     | 0.4                        | 45-50                                       |
| New Zealand                     | 70                | —        | 70      | —                          | 45-60                                       |

years, and the total reserves of three times that amount should last for 1300 years if the world rate of production from 1926 to 1930 is maintained. New explorations hold promise of future increases in estimated reserves, but it must be remembered that geological availability is very different from commercial availability. According to present estimates the United States is richest in iron ores, with 41.8 percent of the world's total. The steel empire of the northern American states now rests solidly upon the unparalleled economy of the Lake Superior region, where the soft Mesabi ores of practically all grades are scooped by steam shovels directly into railroad cars, from which they are loaded by gravity into the ore boats of the Great Lakes. The reserves of this region are known to contain about 2,650,000,000 tons, most of which averages 55 to 60 percent iron; Kuhn estimates that the total possible reserves aggregate about 72,000,000,000 tons. Approximately one half of the Mesabi reserves are holdings of the United States Steel Corporation. Since 1910 Mesabi ores have provided more than half of the annual American output of 40,000,000 to 70,000,000 tons. In close proximity to coal and flux, the available Alabama ores are leaner but the known supplies are more extensive at present than the Lake Superior ores. The southern states contain known reserves of about 4,000,000,000 and possible reserves of about 10,710,000,000 tons. It is predicted by competent authorities that the high grade ores of the Mesabi region may be exhausted in about 30 years at the present rate of production and that the United States will begin to use large supplies of imported iron ores between 1945 and 1950. The American industry has already imported a small amount of ore—3,139,000 tons in 1929—the chief importer being the Bethlehem Steel Corporation, which because of its late entrance into the producing field was forced to go to Chile for the bulk of its iron reserves.

The large reserves widely distributed in Great Britain are ordinarily so lean that they require beneficiation before smelting; and for many years Britain has imported iron ores from various parts of the world, a fact which accounts in part for the backward state of its iron and steel industry. Germany's reserves were greatly reduced by the loss of the Lorraine ore fields in the World War, from which it must now import ores, while the French position has been correspondingly improved, with France now enjoying virtual monopoly of the iron mining industry

of western Europe. The Lorraine field, which yields from 30,000,000 to 40,000,000 tons annually, is the largest iron ore district in Europe and is estimated to contain over 6,000,000,000 tons of ore with an iron content of 25 to 48 percent. As in the Mesabi Range most of the Lorraine ore is mined by steam shovels directly from open pits. Large Spanish reserves exploited for more than two thousand years furnish valuable Bessemer ores for export to the iron and steel industries of other countries. In Soviet Russia the iron reserves are still largely unexplored and consequently seriously underestimated, as recent discoveries indicate; they include important deposits of rich ores at Krivoy Rog and Kerch in southern Russia and other ores in central Russia, the Caucasus and the Ural Mountains, with probable undiscovered reserves in Siberia. Contradictory to previous opinion in many quarters a recent survey in China indicates that the relatively small reserves of less than 1,000,000,000 tons of iron ore in that country cannot be regarded as a storehouse of future supplies.

While only Great Britain and Germany import ores to any considerable extent, all iron and steel producing countries must import a variety of commodities necessary in the fabrication of steel. The United States imports 40 of these commodities (one of the most important being manganese) from 57 different countries. The other producers are in a comparable situation. Most of the imported commodities come from colonial and other economically backward countries and constitute an important consideration in the politics of the imperialist powers.

Changes in the available reserves of iron ore as well as in the tempo of general industrialization have affected the relative distribution of the world's output of iron and steel between the leading producing countries. As indicated in Table VIII the expansion of the American share from less than 20 percent before 1880 to nearly 50 percent in the period 1921-30 contrasts sharply with the declining share of Great Britain, which in 1926-30 produced only 7 percent of the world's output compared with 50 percent before 1870. The solid position of central Europe (Germany, France, Belgium, Luxemburg and the Saar) is evident in the consistent progress of this region despite the bitter industrial and national rivalries which have hampered normal industrial operations. Central Europe on the whole has maintained its relative position; Great Britain's relative loss has been absorbed by the

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TABLE VIII

RELATIVE SHARE OF LEADING PRODUCING COUNTRIES IN WORLD'S OUTPUT OF IRON AND STEEL, 1871-1930

| PERIOD    | PERCENTAGE OF WORLD PRODUCTION OF |                |                  |                     |               |                |                  |                     |
|-----------|-----------------------------------|----------------|------------------|---------------------|---------------|----------------|------------------|---------------------|
|           | PIG IRON                          |                |                  |                     | STEEL         |                |                  |                     |
|           | UNITED STATES                     | UNITED KINGDOM | CENTRAL EUROPE * | ALL OTHER COUNTRIES | UNITED STATES | UNITED KINGDOM | CENTRAL EUROPE * | ALL OTHER COUNTRIES |
| 1871-75   | 16.3                              | 47.0           | 27.6             | 9.1                 | 14.5          | 42.9           | 34.4             | 8.2                 |
| 1876-80   | 17.4                              | 45.1           | 28.5             | 9.0                 | 27.7          | 34.0           | 29.8             | 8.5                 |
| 1881-85   | 20.3                              | 40.0           | 29.2             | 10.5                | 28.1          | 32.5           | 29.3             | 10.1                |
| 1886-90   | 21.6                              | 32.9           | 28.0             | 17.5                | 32.8          | 31.3           | 25.8             | 10.1                |
| 1891-95   | 31.4                              | 28.0           | 29.8             | 10.8                | 34.2          | 22.6           | 31.6             | 11.6                |
| 1896-1900 | 32.4                              | 25.1           | 30.5             | 12.0                | 35.5          | 19.3           | 31.7             | 13.5                |
| 1901-05   | 40.2                              | 19.3           | 28.0             | 11.6                | 42.7          | 14.3           | 30.4             | 12.6                |
| 1906-10   | 41.5                              | 16.9           | 30.5             | 11.1                | 43.3          | 11.9           | 31.5             | 13.3                |
| 1911-15   | 41.4                              | 13.9           | 31.2             | 13.5                | 42.7          | 11.3           | 31.2             | 14.8                |
| 1916-20   | 57.4                              | 13.3           | 20.1             | 9.2                 | 57.6          | 12.5           | 21.4             | 8.5                 |
| 1921-25   | 50.1                              | 9.4            | 30.8             | 9.7                 | 51.9          | 9.5            | 27.6             | 11.0                |
| 1926-30   | 44.3                              | 7.1            | 34.1             | 14.5                | 47.2          | 7.5            | 30.3             | 15.0                |

\* Germany, Saar, Luxemburg, France, Belgium.

Source: Computed from *Statistics of the Iron and Steel Industries*.

United States. Within central Europe, however, important national changes have taken place with the reconquest by France of Alsace-Lorraine. Germany is no longer dominant in European iron and steel production, while the French industry greatly exceeds its pre-war proportions.

The international competitive situation in the iron and steel industry is influenced not only by ore reserves and the output of the industry but also by the problem of excess capacity as determined by available home and foreign markets. Since the World War this problem has become acute in all the producing countries (except the Soviet Union), the result of new plant, higher productivity and the restriction of markets. American capacity has increased more than domestic demand; in the case of the United States Steel Corporation capacity rose from 22,700,000 tons in 1920 to 26,075,000 tons in 1930. It has been estimated that despite the great increase in consumption the American industry must rely upon foreign markets to absorb more than 25 percent of its annual output, largely in the form of finished steel and highly manufactured products, as compared with only 12 percent in 1905 and approximately the same in earlier years. For semifinished products the need of export markets is somewhat smaller. The export of crude steel in recent years has ranged from 7.8 percent of the total output in 1922 to 4.1 percent in 1931. The capacity of European producers also has increased greatly in recent years. The French industry has augmented its capacity both by higher productivity and by ac-

quisition of the Lorraine iron and steel plants; and while domestic consumption has risen considerably, mainly because of an accelerated pace of industrialization, exports are of ever greater importance to France. England and particularly Germany have likewise increased their capacity, while the growth of home markets has been restricted by national economic crisis and decline. According to a 1928 estimate, Belgium and Luxemburg must export 60 to 75 percent of their iron and steel output, France 40 to 60 percent of its output, and Great Britain and Germany 20 to 35 percent of theirs. Excess capacity and the desirability of continuous operation have forced down prices and profit margins and competition for world markets has been increased in consequence.

Because non-producing countries are not increasing their demands, the iron and steel exports of the world's leading producers in recent years have risen only slightly over those of 1913 (see Table IX on p. 314). The pre-war trend of American exports of iron and steel was distinctly upward; and although the post-war tendencies are somewhat confused, the trend since the Armistice has clearly been downward despite increasing capacity and the need for export markets. The position of the United States in the world trade in these products can be considered without reference to imports, which have remained practically constant for thirty years. American reliance on foreign trade in steel was stimulated by the abnormal wartime activities in the industry, and the aftermath of the war, which placed a premium on domestic production

TABLE IX  
EXPORTS OF IRON AND STEEL FROM LEADING COUNTRIES, 1913-30

|      | UNITED KINGDOM |                                  | UNITED STATES |                                  | GERMANY    |                                  | FRANCE *   |                                  |
|------|----------------|----------------------------------|---------------|----------------------------------|------------|----------------------------------|------------|----------------------------------|
|      | GROSS TONS     | PERCENTAGE OF CRUDE STEEL OUTPUT | GROSS TONS    | PERCENTAGE OF CRUDE STEEL OUTPUT | GROSS TONS | PERCENTAGE OF CRUDE STEEL OUTPUT | GROSS TONS | PERCENTAGE OF CRUDE STEEL OUTPUT |
| 1913 | 4,969,225      | 64.8                             | 2,907,684     | 9.3                              | 6,201,616  | 37.2                             | 619,757    | 13.4                             |
| 1920 | 3,251,225      | 35.9                             | 4,708,546     | 11.2                             | 1,723,029  | 18.9                             | 870,010    | 29.0                             |
| 1922 | 3,397,185      | 57.8                             | 1,930,577     | 5.4                              | 2,515,949  | 21.8                             | 1,936,497  | 43.4                             |
| 1923 | 4,317,537      | 59.9                             | 1,944,190     | 4.3                              | 1,306,678  | 21.1                             | 2,182,388  | 43.4                             |
| 1924 | 3,851,435      | 47.0                             | 1,708,515     | 4.5                              | 1,533,929  | 15.8                             | 2,772,536  | 47.7                             |
| 1925 | 3,731,366      | 50.5                             | 1,695,716     | 3.7                              | 3,211,101  | 26.8                             | 3,945,983  | 44.4                             |
| 1926 | 2,987,930      | 83.1                             | 2,065,118     | 4.3                              | 4,823,430  | 39.7                             | 4,220,452  | 42.2                             |
| 1927 | 4,196,206      | 46.1                             | 1,947,207     | 4.3                              | 4,254,525  | 26.5                             | 5,557,031  | 55.3                             |
| 1928 | 4,260,462      | 50.0                             | 2,356,038     | 4.6                              | 4,645,099  | 32.5                             | 4,960,533  | 43.6                             |
| 1929 | 4,379,405      | 45.4                             | 2,486,531     | 4.4                              | 5,487,654  | 34.3                             | 4,209,607  | 35.9                             |
| 1930 | 3,157,925      | 43.1                             | 1,634,826     | 4.0                              | 4,468,822  | 39.3                             | 4,003,584  | 35.7                             |

in the demoralized countries of Europe, left the United States unable to export the excess over normal domestic requirements. Germany exports about the same percentage as in 1913, but the total has shrunk considerably, while the exports of France have increased absolutely and relatively. The most serious decline is in British exports; the export of iron and steel continues to be much more vital to Great Britain than to the other major producing countries. Competition for foreign markets is aggravated by bounties and rising tariff barriers, including the British tariffs imposed in 1932 in the form of continuing tariffs on certain finished products and temporary duties on certain semifinished products. In the case of the United States the tariff on tonnage steel is now an anachronism, useful only in the protection of seaboard merchant iron producers, in fostering certain of the alloy steels and as an aid in maintaining stability of prices, particularly in the manufacture of specialty products such as tin plate.

Intensified competition for export markets has led in Europe to revivals of international cartels, such as prevailed before the World War. In 1926 an International Steel Entente was formed by the producers of Germany, France, Luxemburg, the Saar and Belgium. Czechoslovakia, Austria and Hungary subsequently joined the cartel. This agreement, scheduled to expire in 1931, proposed to adjust production to demand and to reorganize the market in central and western Europe. The terms of the cartel and the subsequent movement of prices furnish ample evidence that a price agreement underlay

the quotas arranged. The cartel has brought some degree of amity into the politically disunited industry, but its operations have been fraught with great difficulty, particularly in the allocation and enforcement of production and market quotas within the several countries. During 1931 and 1932 negotiations for the renewal of the cartel were delayed by the failure to agree upon quotas. On the other hand, some such international arrangement seems inevitable if the politically disunited industry is to function effectively. Cartels have been formed also among the continental tube, strip and wire industries. In Germany a movement has developed to curb the cartels on the ground that they maintain higher prices in the domestic market and lower prices in the export markets. The cartels answer that lower export prices are to secure foreign markets, and that exports by increasing output make domestic prices lower than they would be otherwise. Domestic attacks on international cartels have aggravated the instability resulting from the efforts of rival national producers to secure larger quotas.

The iron and steel industry has now reached comparative maturity. It seems unlikely that aluminum or any other metal will in the predictable future replace steel in its heavy uses; an iron and steel industry on approximately its present scale is indispensable for the maintenance and growth of material civilization under the conditions of technology now prevailing. The market, however, no longer expands as it did from 1870 to 1900, and production in recent years has remained relatively constant.

Meanwhile centralized organization, integration and concentration, a substantial degree of co-operative action and the availability of comprehensive trade information provide the managements of steel companies with an unusually adequate basis for effective planning. In addition to internal problems of organization and production there are two important international problems—the intensification of competition for export markets and the control and distribution of the raw materials scattered all over the world. What developments the future will bring in this vital industry is a matter of the utmost concern to every national community as well as to the society of nations.

MEREDITH GIVENS

**LABOR CONDITIONS.** *United States.* The largeness of capital units, the necessity of continuous processing in basic operations and the extensive mechanization characteristic of iron and steel production have been dominant factors in determining the status of labor in the industry. Labor is mainly unskilled or semi-skilled; hours are unusually long and the work arduous; and unionism has been effectively resisted by the giant corporations. In 1930 four large companies employed an overwhelming majority of the 577,000 iron and steel workers; nearly one half were employed by the United States Steel Corporation. The existence of large immigrant groups has complicated the work of organization, and craft separatism has played an important role in retarding unionism.

Although lifting and conveying machinery tended by "control workers" has largely replaced brawn in furnace operation, many unskilled workers, frequently recruited from immigrant groups, are still required for repairs, replacements and handling of materials. Many jobs involving high skill especially in heating processes have been abolished through technical changes. While the tasks of steel workers are not in general as monotonous as assembly work, except perhaps in the finishing trades, many men must labor in dirty, hot, drafty surroundings. The melting process involves an alternation of periods of intense activity and periods of less arduous work. Despite relatively high full time weekly earnings living conditions dominated by the long day or by irregularity of employment have been extremely poor. In many steel centers special problems have arisen in conjunction with the company town.

When the industry was first established in

America it used charcoal for fuel and was consequently localized in rural sections. Indentured Scottish prisoners taken by Cromwell, slaves, convicts and redemptioners were employed at various times and places. Skilled workers of the Saugus Iron Works of Massachusetts, established in 1643, were generally paid 2½ shillings (\$4.2) a day plus board valued at \$.94 a week. At the Stiegel furnaces in Pennsylvania in the first half of the eighteenth century prevailing daily rates were 1½ and 2 shillings (\$.19 and \$.266) and board. In 1795 South Carolina steel workers received the value of \$9.00 to \$11.90 a month in bar iron or castings, from which \$4.50 was deducted for board. A Treasury report in 1832 estimated average daily pay at \$1.00, with more highly skilled men in New York and Connecticut receiving \$2.00.

The trend of wages in recent years, as shown in Table 1, indicates an increase of 35 percent in real wages between 1890-99 and 1926, most of the increase appearing during the World War.

TABLE I

EARNINGS OF IRON AND STEEL WORKERS IN THE UNITED STATES, 1890-1926

| YEAR | AVERAGE ANNUAL<br>MONTHLY EARNINGS | INDEX OF<br>REAL EARNINGS<br>(1890-99 = 100) |
|------|------------------------------------|--|
| 1890 | \$ 550                             | 103  |
| 1900 | 567                                | 104  |
| 1910 | 697                                | 106  |
| 1920 | 2015                               | 137  |
| 1921 | 1394                               | 110  |
| 1922 | 1314                               | 111  |
| 1923 | 1640                               | 136  |
| 1924 | 1638                               | 136  |
| 1925 | 1659                               | 135  |
| 1926 | 1687                               | 136  |

Source: Douglas, P. H., *Real Wages in the United States, 1890-1926* (New York 1930) p. 271-72.

Between 1926, when the level was slightly below that of 1920, and March 31, 1931, hourly rates and full time weekly earnings turned slightly upward, the former rising from \$.637 to \$.663, the latter from \$34.41 to \$34.58. Wage cuts in 1931 and 1932 substantially reduced both rates. Rates for unskilled labor working a 10-hour day in United States Steel Corporation plants rose from \$2.00 in 1915 to \$5.06 in 1919. A series of reductions had brought the figure to \$3.00 in August, 1922. A rate of \$4.40 established in August, 1923, was continued for eight years. In the fall of 1931 a reduction of 10 percent was made; in May, 1932, another of 15 percent. Estimated full time earnings in 1931

for different branches of the industry are shown in Table II.

TABLE II  
ESTIMATED FULL TIME EARNINGS OF IRON AND STEEL  
WORKERS IN THE UNITED STATES, 1931

| DEPARTMENT           | AVERAGE<br>EARNINGS<br>PER<br>HOUR | AVERAGE<br>FULL TIME<br>HOURS<br>PER WEEK | AVERAGE<br>FULL TIME<br>EARNINGS<br>PER WEEK |
|----------------------|------------------------------------|---|--|
| Blast furnaces       | \$5.51                             | 57.2                                      | \$31.52                                      |
| Bessemer converters  | .664                               | 53.3                                      | 35.39  |
| Open hearth furnaces | .703                               | 53.8                                      | 37.82  |
| Puddling mills       | .592                               | 53.0                                      | 31.38  |
| Blooming mills       | .664                               | 52.6                                      | 34.93  |
| Plate mills          | .627                               | 56.7                                      | 35.55  |
| Bar mills            | .588                               | 55.0                                      | 32.34  |
| Sheet mills          | .747                               | 47.8                                      | 35.71  |
| Standard rail mills  | .613                               | 54.9                                      | 33.65  |
| Tin plate mills      | .714                               | 47.0                                      | 33.56  |

Source: *Monthly Labor Review*, vol. xxxiii (1931) 1184 and 1447-48, and vol. xx.

Technical improvements and in the last few years speed up methods displaced considerable steel labor prior to the 1930 crisis. Between 1926 and 1928, when production advanced about 7 percent, employment dropped 9.1 percent and actual pay rolls 7.3 percent. In 1930 employment was 15.5 and pay rolls were 20.2 percent below the 1926 level; in 1932 both were considerably lower. Employment in Pennsylvania, where about one third of the industry is located, was in March, 1932, about 25 percent below the figures for January, 1931, while pay rolls were more than 40 percent lower.

Hours, especially in the continuous processes, have always been long; marked reductions date only from 1922 and the change is still far from complete. In 1913 full time blast furnace workers in plants surveyed by the United States Bureau of Labor Statistics averaged 76.9 hours a week. This total was gradually reduced until in 1922 it reached 72.3. After an abrupt drop to 59.7 in 1924 it rose slightly but in 1931 receded to 57.2. The average hours of full time Bessemer converter workers dropped from 70 in 1913 to 53.3 in 1931, while those of open hearth furnace workers fell from 76.7 to 53.8. Beginning in 1919 public sentiment against the 12-hour day and 7-day week increased and was crystallized in part by the publications of the Inter-Church World Movement, the Federated American Engineering Societies and the Federal Council of Churches of Christ in America. Although in 1924 the American Iron and Steel Institute, an organization of steel manufacturers, was forced by this sentiment to promise the

gradual elimination of these conditions, they still exist for a considerable percentage of workers especially in basic processes. The study by Hartl and Ernst indicates that of 300,000 steel workers surveyed in 1929 more than half were working 10 hours or more a day and more than a quarter were on a 7-day week basis, which "remains the heaviest burden on the workers in the steel industry." Maintenance crews have lagged most in effecting a reduction of working hours.

According to the United States Bureau of Labor Statistics accidents in the iron and steel industry have declined materially since 1907 (Table III). In that year workers were killed or injured at the rate of 80.8 for every million man hours of exposure (frequency rate), and for every thousand man hours of exposure 7.2 days were lost as a result of accidents (severity rate). In 1930 the frequency rate had been reduced to 18.6, a decrease of 77 percent, and the severity rate to 2.5, a decrease of 65.3 percent."

TABLE III  
ACCIDENT RATES IN IRON AND STEEL IN THE UNITED  
STATES, 1907-11 AND 1926-30

| DEPARTMENT          | FREQUENCY RATE<br>(PER 1,000,000<br>MAN HOURS) |         | SEVERITY RATE<br>(PER 1,000<br>MAN HOURS) |         |
|---------------------|--|---------|---|---------|
|                     | 1907-11  | 1926-30 | 1907-11                                   | 1926-30 |
| Blast furnaces      | 76.1   | 23.1    | 10.6                                      | 4.2     |
| Bessemer converters | 101.5  | 10.4    | 7.6                                       | 3.8     |
| Open hearths        | 84.2   | 17.6    | 7.5                                       | 4.4     |
| Heavy rolling mills | 61.0   | 10.0    | 4.4                                       | 2.1     |
| Plate mills         | 69.4   | 15.2    | 5.1                                       | 2.1     |
| Sheet mills         | 44.1   | 19.4    | 3.1                                       | 1.4     |
| All departments     | 69.2   | 21.9    | 5.0                                       | 2.4     |

Source: *Monthly Labor Review*, vol. xxxiii (1931) 1035.

The bureau reports that in a selected group of plants where safety work has been stressed the reduction in accident frequency since 1913 has been 87.2 percent as against 15 percent for plants in which such work has not been emphasized.

Many iron and steel workers are subjected to wide and rapid variations of temperature. United States Public Health reports show that pneumonia occurs at almost twice the frequency among such workers as it does among those in a group of miscellaneous industries. The effect of radiant furnace energy upon health has been studied, but conclusions of such research are of uncertain value because of the probability that

workers continuing in these trades have superior physique and are more likely to resist disease.

Leaders in the steel industry, wielding arbitrary authority over a large number of unskilled workers, have not chosen to be innovators in welfare work, except possibly in safety work. The United States Steel Corporation was one of the first large companies to launch a plan of stock sales to employees. On December 31, 1926, after twenty-three years of sales, 47,647 employees were reported to own 163,802 shares of its preferred stock and 501,999 of its common stock. The plan has not resulted in transferring any control to labor, and in the long market decline beginning in 1929 many of the employees' stockholdings were wiped out. Housing and recreational programs have been developed by the United States Steel Corporation, especially for skilled workers. Pensions have been established out of a fund created jointly by Carnegie and the corporation. A considerable number of workers, chiefly in the Bethlehem Steel Company and the Colorado Fuel and Iron Company, have been given "employee representation," otherwise known as the company union. The workers are frequently afraid to bring important grievances before their "representatives" or the latter are afraid to fight for them. Wage cuts are often readily endorsed by company unions on the grounds that they cannot expect more than is paid by the largest industrial unit, the United States Steel Corporation, which is an open shop.

As in other countries the metal workers of the United States were early among the most advanced elements of the working class. They organized with vigor and persistence, experimented boldly and conducted many important and successful strikes. But with the displacement of many skilled workers by technical developments and with the failure of the unions to abandon with sufficient rapidity their craft basis unionism ceased to be a power. American steel corporations increasingly hostile toward labor organizations have used violence, spy systems, political pressure and economic controls to resist even conservative trade unionism. The industry was being organized into ever stronger units capable of putting up a hard fight against organization by the workers. Once unionism was broken in the leading plants it was doomed throughout the industry, and today less than 5 percent of the workers are organized.

The United Sons of Vulcan, the union of skilled iron puddlers organized in 1858 to resist

wage reductions following the panic of 1857, won in 1864 a sliding scale wage agreement based on the price of pig iron. In 1866 it wrote the first national agreement in American history and seven years later its membership reached a peak of 3331. In 1876 it joined with the Associated Brotherhood of Rail Heaters of the United States (founded in 1861 and later known as the Associated Brotherhood of Iron and Steel Heaters, Rollers and Roughers) and the Iron and Steel Roll Hands Union (founded in 1870), organizations of skilled workers, to form the Amalgamated Association of Iron and Steel Workers of the United States with 3000 members. Skilled tin workers were admitted in 1881. By 1891 the Amalgamated included 24,068 workers, about one quarter of those eligible, and had become a most powerful union. Its strongholds were the Pittsburgh and Youngstown districts, especially the iron mills, where as late as 1889 it was able to dominate the wage negotiations with employers. Because of the constant introduction of new processes, however, agreements with manufacturers were unstable and increasingly difficult to reach. Moreover in the 1880's the Knights of Labor challenged the power of the Amalgamated through National District Assembly 217, Iron, Steel and Blast Furnacemen, especially by taking in the unskilled workers barred from the Amalgamated. This threat soon died, but jurisdictional friction was rife among craft groups in the Amalgamated. Puddlers, roll turners, tin plate and rod mill workers successively threatened secession and some elements split off. In the Homestead strike of 1892 Andrew Carnegie and H. C. Frick employed private detectives and the state militia in a bitter union breaking campaign; as a consequence the Amalgamated lost control of the Carnegie shops and began to decline rapidly. In August, 1901, it made a vigorous but unsuccessful attempt to unionize workers of the hostile United States Steel Corporation and as a result lost its agreement with three of the corporation's large constituent companies. Minor strikes at McKees Rocks in 1909, Bethlehem in 1910 and Youngstown in 1916 were likewise unsuccessful. After 1910 insurgent movements led by the Industrial Workers of the World both within and without the organization helped to democratize the Amalgamated and in 1911 unskilled workers were nominally admitted to membership. The organization continued to seek out only the skilled workers, however, and in strikes of 1909 and 1919, in the latter case aided by several al-



lies, it was defeated by the fierce opposition of giant corporations.

An attempt to organize steel workers on a broad basis was launched on September 22, 1919, by a National Committee for Organizing Iron and Steel Workers. Led by William Z. Foster, it was backed at the outset by the American Federation of Labor and by twenty-four co-operating unions with jurisdictional rights in the industry. According to the union estimate 365,000 workers were brought on strike by an intensive campaign. Their demands were: the right of collective bargaining, the 8-hour day, one day's rest in seven, wage increases "sufficient to guarantee American standards of living," double pay for overtime and Sunday and holiday work, seniority, abolition of physical examination of applicants for employment and reinstatement of those discharged for union activity. The strike was met by a campaign of terrorism conducted by burgesses, magistrates, police and constabulary. Gangs of Negro strike breakers were imported from the south. The failure of the strike in December, 1919, was due not only to the terrorism but also to lack of coordination arising from the weakness of the craft structure, to the action of the steel companies in raising wages and allowing overtime pay in the months just preceding the strike call, to a "Red" scare initiated by the press, to the ability of highly integrated companies to shift production to areas in which the walkout was not fully effective and to the failure of the American Federation of Labor to stand by at critical junctures.

Largely by sufferance of a few employers the Amalgamated lingers as a conservative relic with a declining membership in wrought iron and a few sheet, plate and bar mills. Its jurisdiction is challenged by the Metal Workers' Industrial League, an affiliate of the Trade Union Unity League, which is attempting to organize the steel industry as part of the campaign to unionize the unorganized basic industries.

COLSTON E. WARNE

*Other Countries.* Because of the tendency to concentrate in certain relatively restricted areas and the general similarity of the processes involved, there is less variation from country to country in labor conditions in the iron and steel industry, including blast furnaces, steel works and rolling mills, than in many other industries. While American and European wages differ markedly, wages and hours in European

countries tend to move together since the large producing areas depend on export markets for their very existence; 20 to 75 percent of their output must be exported to utilize capacity fully. At the same time many important differences exist, and nowhere more than in the field of labor organization.

THE NUMBER OF WAGE EARNERS EMPLOYED IN THE IRON AND STEEL INDUSTRY IN THE PRINCIPAL PRODUCING COUNTRIES\*

| COUNTRY       | YEAR    | WAGE EARNERS<br>(In thousands) |
|---------------|---------|--------------------------------|
| United States | 1930    | 577                            |
| Great Britain | 1929    | 252                            |
| U. S. S. R.   | 1920    | 202                            |
| Germany       | 1925    | 139                            |
| France        | 1926    | 114                            |
| Belgium       | 1926    | 40                             |
| India         | 1929-30 | 29                             |
| Sweden        | 1925    | 25                             |
| Spain         | 1924    | 21                             |
| Luxemburg     | 1930    | 17                             |
| Canada        | 1929    | 11                             |

\* Although care has been taken to include all wage earners employed in blast furnaces, steelworks and rolling mills and no other workers, differences in classification may render the figures not strictly comparable.

Sources: United States, Bureau of the Census, *Fifteenth Census of the United States: 1930; Population* (1932) vol. III, pt. I, p. 22; Union of Soviet Socialist Republics, *Tsentralnoe Statisticheskoe Upravlenie, Narodnoe khozyaystvo SSSR. Statisticheskoye spravochnik* (National economy of the U. S. S. R. Statistical guide) (Moscow 1932) p. 425, 438; Great Britain, *Ministry of Labour Gazette*, vol. xxxviii (1930) 29; Germany, *Verein deutscher Eisen und Stahl-Industrieller, Nordwestliche Gruppe, Statistisches Jahrbuch für die Eisen- und Stahlindustrie* (Düsseldorf 1930); France, Bureau de la Statistique Générale, *Statistique générale de la France: Résultats statistiques du recensement général de la population effectué le 7 mars 1926*, 3 vols. (Paris 1928-31) vol. I, pt. III, p. 40, 130; Belgium, *Ministère de l'Industrie, du Travail et de la Prévoyance sociale, Enquête sur la situation des industries 31 octobre 1926*, 2 vols. (Brussels 1927-28) vol. II, p. 23; Great Britain, Royal Commission on Labour in India, *Report*, Cmd. 3883 (1931) p. 33; International Economic Conference, *Documentation. Memorandum on the Iron and Steel Industry*, League of Nations publication, 1927, II, 8 (Geneva 1927) p. 37; Luxemburg, *Chambre de Commerce du Grand-Duché de Luxembourg, Rapport sur la situation de l'industrie et du commerce en 1930* (Luxemburg 1931) p. 18-20; Canada, Bureau of Statistics, *Iron and Steel and Their Products in Canada, 1929* (Ottawa 1931) p. 27.

In the leading iron and steel countries, which together produced 86 percent of the world's pig iron and raw steel in 1930, more than 1,425,000 wage earners are normally employed in the industry. This is a minimum estimate; for Belgium, Sweden, Spain, Luxemburg and Canada the number of workers is probably underestimated. Since 1929 because of the depression the trend of employment has been seriously downward in all countries except the Soviet Union, where reports as of January, 1931, show an increase to 230,300 workers. The number employed in the Soviet Union has apparently

approached the number employed in Great Britain, where the figures compiled for July, 1931, from the live registers of the employment exchanges showed a total of 239,410 wage earners in the iron and steel industry.

Up to the time of the World War it was customary for iron and steel workers on continuous processes to work the two-shift system, which has now given way to the three-shift system in all the countries. The bulk of the British blast furnaces have been on three shifts since 1898, as have at least two British open hearth plants since 1905. The rest of the British industry adopted three shifts in 1919. Germany adopted three shifts in the immediate post-war period, but after the Ruhr occupation the employers were permitted to reintroduce the two shifts in order to recoup their finances; in 1925 and 1927 official decrees restored the three-shift system. Luxemburg legally adopted the 8-hour day in 1918. The decree introducing the three-shift system into the French industry was promulgated in 1920, and Belgium followed the next year. In India the great plant of the Tata Iron and Steel Company at Jamshedpur, which opened six years before the war on a three-shift basis, still retains it. Japan is apparently the only producing country of any importance in which the 12-hour day in continuous processes is still the rule. The change to three shifts has been made for social rather than economic reasons under pressure of labor and public opinion and the reduction of hours in other industries.

The 7-day week in blast furnace and some continuous steelworks operations was still common in 1932 in all the leading producing countries except the Soviet Union. In the maintenance and other non-continuous processes the 57-hour week is the rule in Germany, and the 8-hour day and 44 or 48-hour week in England; but workers in American plants often work 10 hours a day 6 days a week and in the smaller plants they usually work from 1 to 3 hours longer when there are rush orders. The French decree regulating hours in heavy industry permits work longer than 8 hours "in case of emergency," but most maintenance work may be classed as emergency work. Overtime is supposed to be paid at extra rates in France, but only for the first 140 hours of such excess per year. In the Soviet Union departures from the 8-hour day are officially prohibited, and the 7-hour day is the rule in many cases.

Comparisons of money wages in different countries can best be carried out by taking the

starting rate for unskilled adult male labor; it should be noted, however, that in Germany 86 percent of the heavy industry workers are paid on piecework or bonus systems, that in England piecework is also common and that in general the common labor rate does not have in Europe the preponderating importance it assumes in the United States. At the beginning of 1930 unskilled labor was receiving an average "normal" weekly wage, including family allowances and other social allowances, of \$7.77 in France, \$7.40 in Belgium, \$7.68 in Luxemburg and \$11.28 in Germany (this figure includes some pieceworkers). Unskilled British workers were earning about \$10.00 a week when steadily employed. Common labor in the Birmingham, Alabama, plants of the United States Steel Corporation were paid \$18.60 per week for maintenance work, and in the Pittsburgh area \$26.40. Unskilled male industrial labor in India earned in 1930 from 10 to 15 rupees (\$3.65 to \$5.48) per month, but the rate at the Jamshedpur steelworks has always been above the prevailing rate in other industries. Men's wages in Japan before 1929 ranged from \$.50 per day upward, supplemented usually by bonuses and allowances in kind. In the Soviet Union after the 40 percent increase of October 1, 1931, the day rate for the lowest grade of unskilled labor was 3½ rubles a day, which at the official quotation of foreign exchange is equivalent to \$1.80; in addition more than 20 percent is added to wages by social benefits, or "socialized wages" as the Russians call them.

The trend of real wages, defined as the power of full time money wages to buy goods and services, has been downward since 1929 in all countries except the Soviet Union. In the period from 1923 to 1929 real wages were highest in the United States, followed by England, Germany, France and Belgium. But the prevalence of unemployment in the first three countries raises doubts as to the value of estimates based on full time wages, and the apparent differential in favor of the American iron and steel workers is materially lessened in fact by the failure of the United States to provide unemployment insurance.

The differential between the lowest and highest wage rates paid in the industry appears to be greatest in the United States, where some wage earners (rollers) earned in 1929 as much as \$450 a month. It is also great in India and South Africa, where the unskilled workers are natives while the skilled workers are imported mainly

from England and are paid higher wages than they would earn at home. The differential is greater in England than on the continent of Europe. In the Soviet Union the differential was recently increased. Since October 1, 1931, workers are divided into eight earnings groups, and the ratio of earnings in the highest to those in the lowest groups is 3.7 to 1 instead of 2.8 to 1 as formerly.

Figures are lacking for a satisfactory comparison of the accident risk in the iron and steel industry of the several countries. Examination of such material as is available leads to the conclusion that accident rates have been reduced in all countries, partly through planned safety work undertaken under the stimulus of workmen's compensation laws and partly through revision of the industry's technique, but that the reduction has not been as rapid in Europe as in the large plants of the United States. Since the accident risk in the United States and Germany seems now to be roughly the same, one may infer that the American risk before the beginning of the safety campaign in 1907 was inordinately high. It is noteworthy that the early American compensation laws were modeled largely on the European, whereas the technique of safety campaigns as developed in the United States, largely on the initiative of the iron and steel industry, is now serving as a model for both public and private bodies in Europe. The advance of mechanical improvement has caused a diminution of the excessively hot work, which has made iron and steel workers especially subject to respiratory ailments, and has diminished the danger from such special occupational diseases as "hot mill cramps."

Major shifts in the relative importance of different producing areas since the war coupled with rapid technical advance in the midst of the general economic crisis have produced in Germany and England a chronically unemployed group of iron and steel workers. This group included in Great Britain about 25 percent of the wage earners in the industry during the five years beginning with 1925. But while the British blast furnace industry has been declining, and the industry in general has failed to produce more steel in any post-war year than in 1917, certain branches, such as tube manufacture, have expanded employment. In France, Belgium and Luxemburg, however, the expansion of the iron and steel industry (partly responsible for the German and British decline) necessitated recruiting labor from abroad. The depression

which began in 1929 caused unemployment in all countries except Soviet Russia, where production and employment continued to increase.

In contradistinction to the United States, where it is almost wholly absent, collective bargaining prevails to a certain extent in the European iron and steel industry. Although the industry participates in the various national plans for labor-capital cooperation, particularly in Germany, the employers usually resist unionism, which is not as highly developed as in most other industries. In the resistance to unionism the same methods are employed as in the United States—spy systems, terrorization of workers and organizers, pressure through company housing, and similar measures.

Trade unions have flourished in the British heavy industry ever since its inception. A number of these unions amalgamated in 1916 in the British Iron and Steel Trades Confederation, organized largely on an industrial union basis. Twelve years later this union claimed 53,328 members, most of them in the affiliated union known as the British Iron, Steel and Kindred Trades Association, covering skilled and semi-skilled workers in the steelworks, rolling mills and tin plate works of the whole country and the blast furnace industry of Scotland. The trend toward industrial unionism is, however, not complete; there exists an independent organization, the National Union of Blastfurnacemen, Ore Miners, Coke Workers and Kindred Trades with 15,000 members in 1928, and in addition some thousands of laborers from the heavy industry are affiliated with the National Union of General and Municipal Workers and other unions of unskilled workers. Since the war union membership has not held its own and the depression which began in 1929 precipitated a marked decline. Working conditions are regulated by collective agreements and by joint wage boards set up by government intervention. Most of the agreements contain provisions for some form of wage sliding scale regulated by the selling price of the product. This plan was formerly used quite generally in the coal and iron industries of Great Britain and the United States but has passed out of favor in the coal industry, although it persists in the unionized section of the American iron and steel industry. Since 1865, when unionism was first firmly established in the British industry, there has never been a strike (other than local stoppages) except for the walkout of the iron and steel workers during the general strike of 1926.

In England the unions of iron and steel workers are distinct from the unions of machinists and other workers in the engineering trades. On the continent, however, the organized iron and steel workers usually belong to larger unions of metal workers, which include machinists and other workers in the engineering trades. The problem of organizing the iron and steel workers in Germany has been largely the problem of penetrating the mammoth plants of Rhineland-Westphalia, which operated on a non-union basis until the outbreak of the war. The German Metal Workers' Federation claimed jurisdiction over the iron and steel industry and carried out repeated propaganda and organization campaigns in the Ruhr and Saar valleys without much success. The growth of organization during the war was rapid; in November, 1918, the first general collective agreement was signed with the organized employers in the iron and steel industry. The works councils for a time threatened the supremacy of the unions, but were finally subordinated to the unions. Many steel workers in the Ruhr participated in the miniature insurrection of 1920, which followed the Kapp Putsch and had for its object the overthrow of the capitalist government. The unions and employers have had frequent recourse to the machinery of arbitration set up under the new labor code. In 1928 the employers defied an arbitral decision and a lockout of about a month ensued, resulting in a compromise. The German Metal Workers' Federation in the Ruhr had about 50,000 members in 1928; an equal number of iron and steel workers are organized in the Christian Metal Workers' Federation, which rejects the socialism of the "free" unions.

The French metal workers' federation has always been industrial in form, but the unions are still largely localistic in spirit and their benefit system is relatively undeveloped. From 1905 to 1907, only a few years after the rapid development of the Briey basin had begun, the union conducted a series of bitterly fought strikes in the Longwy district of French Lorraine but was defeated. During the war the fact that the bulk of the French plants were behind the German lines and were not running prevented the growth of unionism. After the war the plants were rebuilt and greatly extended but on a non-union basis. For a number of years after the union split of 1921 neither the half which remained in the Confédération Générale du Travail nor the half which went over to the Con-

fédération Générale du Travail Unitaire (affiliated with the Red International of Labor Unions) made much progress in the Lorraine iron and steel industry, although both applied themselves to the task. As in the United States the problem of labor organization has been complicated since the World War by the fact that more than half of the iron and steel workers are immigrants, a large number of them from Poland and Italy.

About 60 percent of the workers in Belgian industry were organized in 1930, the majority in the Centrale des Métallurgistes de Belgique. The Centrale, which has a very well rounded system of benefits, was able to carry on a strike (precipitated by a lockout) of about 15,000 in the iron and steel industry of the Charleroi district for more than eight months ending in February, 1926. Since the war collective bargaining has been carried on through a national mixed commission, consisting of a president, nominated by the state, and representatives of the employers and workers, including among the latter all the unions in the industry; but the recommendations of the commission are not binding. A somewhat similar system of bargaining prevails in Luxemburg, where unionism was first established on a firm footing during the World War. It has been estimated recently that 38 percent of the heavy industry workers in Luxemburg are members of the labor union, which comprises both miners and iron and steel workers.

The history of unionism in the various countries suggests that a most important factor influencing the success of labor organization is the degree of concentration of control in industry. When one employer or a close federation of employers dominates the field, the task of the unions is very difficult. Thus the Carnegie interests in the United States were able to drive the unions out of their plants within a few years after they had emerged as the dominant steel makers of the country. All the French employers accepted the leadership of Robert Pinot in the strike of 1905-06 and have since formed very closely knit trade and employers' associations which have successfully resisted unionism. It is significant that the German employers did not lock out the workers in the post-war period until after the formation of the United Steel Works, a dominant firm with a productive capacity of 40 percent of the country's total. In England, where unionism is most strongly established, a single firm has never

dominated the industry. In India, however, the Tata Iron and Steel Company, one of the largest concerns in the country, has seen the establishment of unions among its imported skilled workers, as well as among the native workers, who put their organization to the test of a strike in 1928 after having maintained it for some years previously.

Unionization has been hampered in countries where development has been most rapid and great numbers of workers have been drawn suddenly into the industry from a rural or semi-rural background. In cases where these newcomers speak a different language, as in the United States before the war and in France, Belgium and Luxemburg after the war the problem of unionization is further complicated. Isolation from other industries has seemed to work against unions in the Saar, Luxemburg and Lorraine and in the American industry with its company towns. On the other hand the steel workers of Jamshedpur, India, have achieved organizational results despite the fact that they were for the most part recruited from an agricultural population scattered through all parts of a large and polyglot country.

In all countries, even where industrial unionism prevails, labor organization is based on the skilled workers. The unskilled have usually followed the lead of the skilled and have been unable to establish organizations of their own except where the skilled workers were already organized or organizing.

The success of unionism in the iron and steel industry of Great Britain, as compared with that of the United States, is to be explained largely on the basis of the different degree of technical development in the two countries and indirectly by the different geographical conditions that led to mass production in the one country and to relatively small scale competitive production in the other. The industrial unions of the continent have demonstrated their capacity to penetrate heavy industry, but it is not yet clear that the penetration is permanent; nevertheless, the comparative absence of craft separatism in Europe makes the problem of organization more easily solvable than in the United States. The experience of Europe has shown also the great usefulness of labor political parties in stimulating and maintaining trade union organization in the large scale trustified industries.

HORACE B. DAVIS

See: METALS; INDUSTRIAL REVOLUTION; INDUSTRIAL-

ISM; MACHINES AND TOOLS; CONTINUOUS INDUSTRY; LARGE SCALE PRODUCTION; BASING POINT PRICES; COMBINATIONS, INDUSTRIAL; CARTEL; DUMPING; INDUSTRIAL HAZARDS; ACCIDENTS, INDUSTRIAL; SAFETY MOVEMENT; COMPANY TOWNS; COMPANY UNIONS; MACHINERY, INDUSTRIAL; MUNITIONS INDUSTRIES; AUTOMOBILE INDUSTRY; CONSTRUCTION INDUSTRY; TRANSPORTATION; COAL INDUSTRY.

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**IRREDENTISM.** The term irredentism is derived from the Italian *irredenta* (unredeemed). The concept originated in the nineteenth century in connection with the Italian movement which after the unification of Italy aimed at the annexation of Italian speaking regions still under Austrian or Swiss rule, such as Trent, Dalmatia, Istria, Trieste and Fiume. The concept, however, has become detached from its concrete and specific connotation and has come to denote any movement which aims to unite politically with its co-national mother state a region under foreign rule. Since national and political frontiers seldom coincide, irredentism belongs to those movements which since the nineteenth century have been especially directed against the political status quo.

At the basis of irredentism lies that principle of nationality which was developed by Mazzini and Mancini and which was a popular slogan of European politics at the time of Napoleon III; namely, the principle that national and political frontiers should coincide. In the field of foreign affairs this principle gives rise to irredentism; applied to domestic politics it sanctions the assimilation by the dominant majority of the subject minorities differing from it in language and race. Irredentism also finds justification in the principle of democracy, for it takes its starting point from the principle of self-determination of peoples and from the conviction that the sovereignty of a state over a given territory is legitimized not by dominion or international treaties but by the homogeneity of the population and by the consensus of opinion resulting from this homogeneity. Since democratic doctrine regards the state as an institution of national self-organization, ethnic homogeneity and national completeness of the population are decisive guarantees for the stability of the state. All other motives, such as regard for the sacredness of treaties and of the oath of allegiance, are sacrificed for the sake of this supreme principle. Accordingly Masaryk proclaimed the primacy of national loyalty over state loyalty, thus virtually sanctioning high treason.

The development of these principles provided a moral and psychological basis for revolutionary nationalism, which with the aid of modern methods of organization and propaganda supplied the border populations with a technique of rebellion against their political sovereigns. This propaganda is, on the one hand, carried on by organizations consisting of the dissatisfied elements of the irredentist population who appeal

to the mother state for help; and, on the other hand, by the press, associations and parties in the neighboring state, which working secretly and generally also as indirect organs of the state are interested in the fate of the co-national region and in preparing for its future annexation. This often gives rise to serious international friction, as in the case of the Austro-Serbian relations during the period before the World War and in the German-Italian friction over the German population in the Tyrol. In the decades that preceded the war the extremist elements of the irredentist regions in Italy developed a technique which enabled them to keep in constant touch with the influential spokesmen of the masses in the mother state. The Italian government, however, in view of its alliance with Austria-Hungary kept aloof from these tendencies of national solidarity and sometimes even disavowed them; but after the interventionists carried the day in the World War it formally gave up its dualistic policy in favor of an outspoken policy of conquest, which it carried even beyond the irredentist regions in the proper sense of the term, extending its claims to purely German and purely Slav provinces.

Within the territories inhabited by the irredentist groups irredentism does not find active support among those elements whose interests may be adversely affected by a change in the status quo or by any revolutionary and military convulsions. This is particularly true of those persons who are prevented by professional and business interests or by social position from embarking upon a policy of open national partisanship and of opposition to the existing state power and its organs. Irredentism is championed most passionately by the youth, by academic circles, by certain liberal professions and by the press in so far as any articulate expressions are permitted by the state. The majority of the population is usually ready to compromise and to accept the traditional rule and the customary boundaries, restricting its activities to seeking more favorable national-cultural and economic conditions. Very often its attitude is opportunistic and it is the first to join the irredentist movement as soon as it gives promise of achieving success. The differences, however, between the groups and classes which keep aloof from irredentism and those which actively support it tend to become more relative and less rigid as the state and the nationalism of the dominant majority begin to interfere with the life of the individual.

The history of Europe even before the World



War shows that wars are never a remedy for irredentism. Some border territories, like Macedonia, contain populations whose ethnic and national make up is most difficult to determine; and in very large territories of mixed population it is impossible to draw a sharp line of territorial demarcation between the various ethnic communities. New national frontiers set up by peace treaties almost invariably leave some elements dissatisfied and merely serve to call forth new irredentist movements. The difficulties of solving irredentist problems in this way are clearly illustrated in the treaties of Versailles, Saint-Germain and the Trianon, which represent the most far reaching attempt ever made to reorganize large territories on the principle of nationality. Although official sanction was given to the principle of national self-determination and an important aspect of irredentism was thus recognized as a basis for the new order, the Paris Peace Conference was unable to carry out this principle in a practical way because of the selfishness of the victorious nations as well as the obstacles offered by geo-political and economic factors. As a result foreign rule was extended not only over outlying scattered settlements but also over territories compactly inhabited by subject peoples; and thus germs for new irredentist movements were planted. German border regions came under the dominion of France, Belgium, Denmark, Lithuania, Poland, Hungary, Czechoslovakia, Rumania, Yugoslavia and Italy; strong irredentist tendencies have developed among the Magyars in the territories which Hungary had to cede to Czechoslovakia, Rumania and Yugoslavia; there is a Bulgarian irredentism which is directed against Rumania in Dobruja and against Yugoslavia in Macedonia; the Ukrainian, White Russian and Flemish questions are still unsolved or unsatisfactorily settled. In all about 40,000,000 people belonging to ethnic minorities remain in a state of national discontent.

As counter-remedies for irredentist difficulties three methods have been suggested: the rectification of frontiers, assimilation and accord of interests. A state that rules over a foreign territory against the will of its inhabitants may voluntarily renounce for higher reasons of state or under military or revolutionary compulsion the exercise of its sovereignty and allow the territory either to become independent or to join the co-national state. Generally a union of this sort, even though it might redound to the benefit of the renouncing state, is prevented by reasons of

prestige or by the possibility of repercussion upon domestic and international politics.

Instead of regarding the seat of sovereignty as variable and adapting state affiliations to the ethnic structure and the racial will, the method of assimilation is often attempted. The dominant national group tries to destroy the roots of irredentism through the denationalization of minorities by assimilating the heterogeneous groups with the dominant national majority. The degree of compulsion which is applied is determined by various factors. It depends upon whether and how far the racial minorities are prompted by extra-ethnic interests to remain within the original state union and how far the assimilatory tendencies of the state have been furthered by the existence of self-assimilatory tendencies in the subject racial groups or in certain social elements. It is also true that it is not always possible to change the political affiliations of a group without calling forth religious, economic, social and cultural transformations. If these changes signify a new form of suppression, the process of assimilation is rendered difficult. Other factors, such as economic enrichment, a rise in the educational level and social advance, indirectly further assimilation.

If the attempt to change both the dominant sovereignty and the ethnic character of the racial groups is abandoned, then a compromise must be found outside the alternative between irredentism and assimilation—between revolt against the state on the one hand and extermination of nationality on the other. Tolerance on the part of the state and loyalty on the part of the racial groups are here in a relationship of natural reciprocity in so far as tolerance is not a sign of weakness and loyalty is not an expression of national indifference. The aim must be to find political and national forms which would enable the members of the subject racial minorities to participate in the general life of the state without affecting their national ideals and to take an interest in the life of their groups without interfering with their patriotism toward the state. A harmony must be established between loyalty to the state and adherence to the life of the national group, although the two do not coincide. If the attempt is made to satisfy the members of the minorities upon a more individualistic basis, then the state must above all give them full rights both *de facto* and *de jure* in all walks of life. Moreover the state must guarantee the individual a sufficiently extensive private sphere either as a matter of general policy or as a special

privilege for the subject minorities. One of the chief causes of irredentism lies precisely in the attempt on the part of the state to interfere with spheres which formerly were outside state jurisdiction. The corporative forms of satisfying the various national groups involve the granting of national autonomy either on a personal or on a territorial basis. This enables the minorities to develop special co-national spheres, either objective or locally delimited, which do not interfere with the sovereignty of the dominant state. In the former case the danger of irredentism for a given state is mitigated by the mutual isolation of the members of the minorities. In the latter case the autonomistic method with general decentralization, regional self-government and cultural autonomy offers through the segregation of minorities as wholes an excellent means of avoiding conflicts between the will of the groups and the authority of the state or of confining possible frictions to isolated cases.

During the post-war period no steps have been taken to redraw obviously unpractical boundary lines to satisfy ethnic discords. Even in the case of Eupen-Malmédy, where both Belgium and Germany as well as the affected population itself have been friendly to a revision, nothing has been done because of the objections made by France. Only in exceptional cases have states displayed a readiness to abandon assimilatory policies. The situation of the minorities has been made especially precarious by such important contemporary tendencies as plebiscitary democracy, state socialism in the economic and cultural fields, fascism and national socialism, collectivism and mass terror. On the other hand, the task of assimilation is rendered equally difficult by the general state of education, by the general increase of national consciousness and by the wide diffusion of the theories of political nationalism. The failure of the revision of frontiers combined with an intensified assimilatory pressure consequently tends to foster the discontent of the minorities and in this way to further irredentism.

Two types of method have been resorted to in the post-war period in order to counteract national oppression and irredentism. One method is the international legal protection of minorities provided for by the Treaty of Versailles, whereby provisions were made for possible appeal to the Permanent Court of International Justice at The Hague. The starting point of this method is thoroughly individualistic. Its aim is essentially to guarantee through international supervision

equality in civic and political rights to the individual members of the minorities even in opposition to the parliament and the administration. The tendency is here to transform political conflicts into juridical procedures upon the basis of international law and in this way to check the irredentism of the racial groups. The protective procedure is of a schematic and general nature; it clings, however, to positive treaties and declarations. But on the one hand it does not go deeply enough into the principles upon which the relation between state and nation is based, and on the other hand it fails to do justice to the concrete relations obtaining between individual states and national groups. This method has proved to be entirely ineffective for righting wrongs committed by states. Its chief significance is prophylactic; its function probably lies in the prevention of further acts of violence, whose extent naturally cannot be estimated with exactness. As shown by the examples of Italy and France it has scarcely any effect upon the domestic policies of those states which although they are members of the League of Nations and partners in protective treaties are not formally obliged to protect minorities.

More promising and effective are the attempts made by individual states, such as Prussia, Estonia, Czechoslovakia and others, to regulate the question of minorities legally and within the sphere of domestic politics. In these instances the state has exhibited a more tolerant and just attitude toward its minorities, and the state legislature and administration have recognized and stimulated the latter's autonomous institutions. Whether and to what extent these attempts will check irredentist developments cannot yet be foreseen. The future of irredentism will depend upon how far the consciousness of the age will be affected by the principle of nationality and consequently by the ideal of a national state in which national and political frontiers coincide. As long as the belief is current that the function of the state is to enable a particular ethnic individuality to assert itself and to exercise power, it inevitably follows that the state territory must be completed in accordance with ethnic frontiers and that all ethnically homogeneous territories must be united in one political whole.

MAX HILDEBERT BOEHM

See: NATIONALISM; MINORITIES, NATIONAL; COMITADJ; AUTONOMY; BOUNDARIES.

Consult: Boehm, Max H., *Europa irredenta* (Berlin 1923), and *Das eigenständige Volk* (Göttingen 1932);

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**IRRIGATION** is the process of artificially supplying water for agriculture in regions where rainfall is deficient or lacking. From remote antiquity the peoples of the tropics have cultivated food and fiber crops by its aid, and many of their institutions have arisen in part from the cooperative nature of this undertaking. In the modern world irrigation has often been motivated by purposes other than the conservation of the food supply or the cultivation of industrial plants for local needs. In the United States and throughout large areas of the British dominions irrigation projects have been inaugurated upon territory of small or no population, with the aim of establishing in these regions communities of agricultural farmers. A nucleus of such farming families eventually becomes a township; other industries are attracted and the result is a commercial agricultural economy in which crops are grown for export, and transport and banking facilities soon appear. Irrigation thus aids in the settlement of a formerly barren region, frequently by emigrants from congested areas.

The modern irrigation works installed by the British in Egypt and by the French in northern Africa have as one of their objects the desire to assure the necessary food supply for the native peoples; of equal importance, however, is the wish to provide water for capitalistic enterprise. In Egypt the latter is concerned with cotton; in northern Africa with fruit, especially dates. In sparsely populated Mesopotamia native irrigation methods suffice for local needs, but the soil and temperature are preeminently suitable for cotton, a raw material in which the British Empire is deficient. At present in Mesopotamia several small irrigation projects are already in operation, although more ambitious schemes have been under consideration and in the future may become possible.

A few European countries practise some seasonal irrigation. A summer irrigation in the Po plain provides for rice and for the mulberry, which is cultivated for silkworms. Irrigation in the Roman Campagna now furnishes both good

pasture and forage for fattening livestock in winter and a summer harvest of fruit and is leading to the replacement of a temporary by a permanent population. The terrace and *huerta* gardening of Spain provides for oranges (of which there is a considerable export), other fruits and esparto grass as well as cereals for home consumption. Although irrigation is of long standing in Asiatic, it is in its infancy in European, Russia. The reorganization of agriculture under the Five-Year Plan embodies an elaborate program of irrigation for the wheat, forage and other crops in the Ukraine and the Caucasus. The dense populations of the Far East could not raise sufficient food without irrigation; in India it has largely banished famine; in China the system of multiple cropping and intertillage raises enormous harvests by utilizing field ditches for rice cultivation in water which through seepage irrigates the other crops grown upon the intervening banks.

The recovery of underground water by sinking wells early supported a little agriculture among tribes that were preponderantly pastoral. Surer results were obtained where rivers crossing arid territory could be dammed by a crude barrier of earth or stones, forming reservoirs from which simple channels might be led out to the fields. The corn and food crops of ancient Mexico were thus irrigated from mountain streams, and the early Mormon irrigation was of the same type. This method is still in use upon the Deccan of India and elsewhere in the East.

Taking advantage of the fact that inundation of riverine lands might be considerable when floods were heavy, the pharaohs of ancient Egypt elaborated the "basin," or "flood," system of irrigation. A longitudinal dike parallel to the bank of the river secured the left side of the valley from the exceptionally high floods that swept down it every eight or ten years. Shorter, transverse dikes stretched from the long dike to the Libyan hills, thus dividing the country into compartments or basins with an average area of 7000 acres. Where the valley was narrow these basins were not more than 2000 acres in size; where it was wide they averaged 20,000 acres. Groups of seven or eight basins were served by a feeding canal fitted with regulators, which led the turbid flood waters into one basin after another beginning at the lowest, the furthest from the intake on the Nile. The waters stood on the land for about forty or forty-five days and then returned to the subsiding Nile through breaches

in the embankment walls and through escape channels in the tail basins. Each flood deposited fertile alluvium, and the ground was ready for sowing in November. This process of reclamation was eventually repeated on the right side of the valley; and since the double longitudinal dike might cause inundations throughout Lower Egypt in years of exceptional flood, natural channels enlarged for the purpose diverted these waters to the Faiyum depression to form the so-called Lake Moeris. Similar channels took the excess back to the Nile when the flood season was over; but ultimately the river widened and built up its own trough, in which it remained. Thus Lake Moeris, now no longer required as a safety valve, has been reclaimed for agriculture.

The contemporaneous irrigation of Babylonia involved two rivers, each carrying about five times as much silt as the Nile. The floods occurred too late for winter and rather early for summer cultivation, so that Babylonia evolved what may be called the perennial system of irrigation, which made agriculture possible at practically all seasons. The salt deposit resulting from a temporary overflow of the Euphrates as well as the liability of the flooded Tigris to excessive inundation necessitated careful drainage. Powerful escapes took the Euphrates floods into two depressions northwest of Babylon, thus providing reservoirs for feeding the river when low. The Tigris had two large canals, one on each bank and more or less parallel to it. The more important left bank canal possessed three heads, so that when one was closed for desilting, the system was still in working order. The canals filled naturally in flood time; but when the river was low, sections were flooded with reserves stored behind huge storage dams of rubble or brickwork. Gigantic regulators for filling and emptying the canals and thousands of miles of subsidiary channels were part of this system, which resulted in flourishing cities and a phenomenal agricultural return.

A species of basin irrigation (more accurately called overflow irrigation) was a feature of the Ganges and Damodar deltas more than 3000 years ago. Shallow channels were constructed at right angles to the river in order to draw off the upper layers of the flood waters, where the silt was finest. Breaches in the canal walls, closed after use, supplied the cultivable tracts. Irrigation took place during the monsoon rains for the double purpose of manuring soil exhausted by rice crops and of combating malaria, because silted water destroys the mosquito. When the

Chola kings of Bengal conquered southern India they imposed this system on the country, where it is still in use although it has vanished from its original home.

The ancient form of irrigation in Ceylon was the tank, constructed for the irrigation of rice. The larger tanks occupied natural depressions, whose walls were heightened by earthworks. They were fed by canals drawing from reservoirs created in a river by means of barrages of masonry or brickwork, the more permanent of which were fitted with valves and sluice gates. The largest tanks covered from 4000 to 6000 acres, although the general magnitude was much less; the heavy constructional expenses were met by the royal exchequer. Similar tanks were built in Madras; two of these, one irrigating 3000 and the other 4000 acres, are still in working order although over eleven hundred years old. In peninsular India and Ceylon small tanks, constructed by the cooperative labor of the village community and generally filled by the monsoon run-off, have been in use since remote times.

The earliest monster irrigation project in China was the ingenious dike by which the Min River floods spread out laterally in numerous channels, carrying irrigation to the Red Basin of Szechwan. The scheme was planned and installed by two successive hereditary governors of Cheng-tu between 250 and 200 B.C. Extensively repaired in the thirteenth century, this great work still furnishes the major part of the irrigation in the Chengtu plain.

Stupendous engineering feats necessitated by adverse topography were a feature of the Inca irrigation. Massive masonry dams, cisterns carved in solid rock, canals and subterranean aqueducts lined with freestone slabs were the characteristics of these irrigation constructions effected by a people living in its stone age.

The "terrace" irrigation practised by the Moors in the Old World and the Amerinds in the New World deserves special mention. In this system water drawn from either mountain streams or reservoirs filled by rain or water lifts flows over successive terraces constructed on a hillside. Primitive harrowing or a low outer wall allows a small amount of water to remain after the sheet has passed. Terrace irrigation spread in the wake of the conquering Arabs westward across Africa and into Spain in the eighth century and eastward to India and the Far East where it still flourishes. It is also highly developed in the intermontane valleys of the Andes ranges.

Generally speaking the king or the state working through him was responsible for the larger engineering constructions, while local boards of magnates, as in Egypt, or of peasants, as in Bengal, adjusted the individual amounts of water and settled disputes between users. In Egypt the law exercised a general control with regard to the dikes, while the basins and their canals were kept in order by local *corvée*. Slaves and captives were employed for the diking, for which local quarries supplied stone. The small state expenses were met by the land tax, and the water was otherwise free. The efficacy of the Mesopotamian irrigation depended upon the power wielded by the central authority and was greatest when one king held the whole of the Tigris-Euphrates trough. The labor of desilting the canals was so arduous that it could be undertaken only by royal *corvée*, and probably much of the Babylonian aggression arose from the need to obtain captives for this purpose. Townships and landowners along the course of the river dealt with local silt and drainage difficulties.

Apart from its aid to agriculture irrigation conferred other benefits. The mutual interest of the cultivators in the available water developed a spirit of association which went far in promoting common action for the attainment of a common aim. In the ancient world the irrigation empires were the most coherent and the strongest, as they were also the most advanced in the learning and science of the times. When irrigation produced surplus crops, a medium of exchange was provided leading to overseas trade and a cultural link with other lands. Egyptian grain was of special value to countries with fewer agricultural advantages, a factor which undoubtedly contributed to its many invasions. Particularly was this true of the conquest of the country by Caesar Augustus: with a failing Italian food supply the Egyptian fields were vital to the maintenance of the Roman Empire.

In modern times irrigation on the pioneer fringe has been a cooperative venture; the necessary dams and ditches have been constructed by the water users. The earliest of these pioneer enterprises was the Mormon irrigation in Utah, where there sprang up flourishing settlements based on an agriculture fed from the diverted waters of the mountain streams. These early experiments in Utah showed that harvests could be gathered from the by no means infertile soil of the far west; irrigation companies were formed for profit, with the result that the actual cultivators became mere purchasers of water rights. But

such schemes were never really successful, because settlement was slow and the original estimates of possible revenues for shareholders could not be realized; again, western states enacted laws rendering illegal the demand for the payment of a water service charge (over and above the original purchase price of the water right). Cooperative and commercial enterprises are still to be found, but irrigation has very generally entered upon a third phase, in which reclamation on a large scale and in the more difficult regions has become the concern of public authority. Such projects in the United States are carried out under the supervision of the federal Reclamation Bureau; similar bodies function in the Union of South Africa and the separate states of Australia and provinces of Canada.

Irrigation sometimes gives rise to problems of more than local significance. One of the most frequently recurring of these is the equitable use of a river supplying a number of jurisdictions. In the United States, for example, recourse to interstate compacts has been necessary; typical are the one governing the use of the waters of the South Platte River, entered into by Nebraska and Colorado, and the Colorado River compact, to which six southwestern states are parties. A similar problem arises when rivers suitable for irrigation cross countries under different governments. The state possessing the source waters may divert needed water downstream. Difficulties sometimes spring up when a river technically navigable becomes too shallow through excessive use of its waters for irrigation.

By 1930 some 200,000,000 acres throughout the world were under irrigation. In North America the United States led with 20,471,000 acres, in Mexico there were 5,700,000 acres, in Canada 400,000 acres. In South America, Argentina was the principal user of the method with 3,000,000 acres being watered by ditches, Chile had 2,458,000 acres and Peru 1,000,000 acres. In Europe, France led with 6,000,000 acres, Italy had 3,900,000 acres, Spain 3,500,000 acres and Portugal 1,200,000 acres. In Asia and Oceania, India had 55,800,000 acres artificially watered, China had 50,000,000 acres, Java had 8,350,000 acres, Asiatic Russia had 8,000,000 acres, Japan had 6,675,000 acres, French Indo-China had 3,470,000 acres, Siam had 1,750,000 acres, Mesopotamia had 1,500,000 acres, Australia had 1,000,000 acres, the Philippine Islands had 750,000 acres, Ceylon had 350,000 acres. In Africa, Egypt led with 6,000,000 acres, while Morocco

had 1,500,000 acres, South Africa 800,000 acres and Algeria 400,000 acres.

The value of irrigation may be considered under three heads: local needs, cash crops for export and the maintenance of the livestock industry. In the first category belongs most oasis irrigation. In Iran and Soviet Turkestan such irrigation depends upon glacier fed streams; and cereals, fruit and cotton crops (some of which are exported) are the main products. In general the Saharan oases are fed from underground water, although some depend on mountain streams. In Egypt, India and the Far East as well as in Spain, Italy and other countries of Europe irrigation is employed largely to fulfil domestic requirements. Terrace agriculture largely serves local needs, although at times it provides exports to neighboring mining centers and other nearby settlements. In the second category are the cereals, temperate fruits and cotton crops of the newly developed lands of America and the British dominions as well as the date crops of the recently created oases in northern Africa. Irrigation belonging to the third category may be used to promote good alpine grazing grounds and valley pastures, where at the appropriate season the natural grassland can be abundantly cropped or cut for winter forage. Such irrigated pastures are a feature of the pastoral economy of southern Europe and are also to be met with in the Netherlands. In other cases the irrigation is supplied to meadows created by the deliberate sowing of one or more forage grasses of special excellence. The marcite fields of the Po valley and the "made meadows" of the Provençal plains and a number of mountain valleys of Europe have revolutionized the pastoral life of these countries. The large crops of irrigated alfalfa and hay grasses raised in western North America, southern Australia and South Africa are utilized in fattening stock for the meat industry or in feeding dairy cattle.

The effects of government programs for irrigation have at times been very unexpected. In the Old World the chief aim was the securing of sufficient food for the native peoples, but the magnitude of the operations have made other developments possible. In Egypt water is now provided for the growing of cotton, and the natives sell their crops to the state domains or private companies. New storage dams are being projected and the existing irrigation area is likely to be considerably increased. In the French Sahara the creation of oases is winning over some of the nomads to an agricultural life and at the

same time provides centers of order which will assist in checking the depredations of the wandering tribesmen.

The advance of irrigation does not go on unchecked, nor is it without its drawbacks. The transformation of Mesopotamia is likely to be delayed by difficulties arising from sparse population, political unrest and the nomadic tendencies of a large part of the inhabitants. In the French colonies the natives persist in clinging to their primitive modes of agriculture and succeed in disregarding, sometimes quite effectively, the advantages brought by an increase of water and new transport facilities. Deficient drainage is a great menace wherever there is irrigation on a large scale. Underground accumulation of unused irrigation water may lead to waterlogging, which destroys crops and may even cause the formation of swamps. Such underground water is likely to bring up to the surface deposits of mineral matter, which form infertile salty tracts. A delicate situation arises when modern works assuring a perennial irrigation are imposed upon a densely populated country accustomed only to seasonal irrigation. The absence of fallow causes soil exhaustion which can be remedied only by expensive manuring, a condition which has manifested itself in Egypt. Moreover the increased production of cereals and fiber crops through the opening by irrigation of marginal and submarginal lands has already proved to be by no means wholly advantageous. These additional crops have merely succeeded in increasing large world carryovers and have depressed prices to such a point that since 1930 the growing of grains and industrial plants has, except where acreage has been drastically restricted, seemed on the whole commercially unprofitable.

E. H. CARRIER

*See:* AGRICULTURE; FOOD SUPPLY; LAND SETTLEMENT; RECLAMATION; FLOODS AND FLOOD CONTROL; AGRICULTURE, GOVERNMENT SERVICES FOR; WATER LAW; COMPACTS, INTERSTATE; DRY FARMING.

*Consult:* Carrier, E. H., *The Thirsty Earth* (London 1928), and *Water and Grass* (London 1932) ch. iii; Halbfuss, Wilhelm, *Das Wasser im Wirtschaftsleben des Menschen* (Frankfurt 1911) ch. iv; Willcocks, William, and Craig, J. L., *Egyptian Irrigation*, 2 vols. (3rd ed. London 1913); Willcocks, William, *The Restoration of the Ancient Irrigation Works on the Tigris* (Cairo 1903), and *Lectures on the Ancient System of Irrigation in Bengal* (Calcutta 1930); Deakin, Alfred, *Irrigated India . . . and Ceylon* (London 1893); Bligh, W. G., "The Ancient Irrigation and Water-supply Tanks or Reservoirs of Ceylon" in *Engineering News*, vol. lxiv (1910) 297-303; Peet, Stephen D., "Prehistoric Irriga-

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ISABELLA OF CASTILE. See FERDINAND V AND ISABELLA.

ISELIN, ISAAK (1728-82), Swiss historian and economist. Iselin's works are all animated by the optimistic eudaemonism of the Enlightenment and the endeavor to trace the process whereby mankind developed from barbarism to higher perfection. As a disciple of Leibniz and Wolff he emphasized the predominance of reason. He protested against Rousseau's glorification of the natural man and looked for the stage of man's perfection not in the past but in the future. He classified historical eras into periods of youth, maturity and decay and considered the phase represented by maturity as the climax of development. Unlike Herder he denied any cultural values to the non-western peoples and to the whole period of the Middle Ages. He gave particular emphasis to the cultural significance of the ancient world.

In his theory of the state Iselin opposed the contract theory and called it chimerical and a fiction. His theory was closer to that of the *consensus tacitus* which served as a transition form from the social contract theory to the organic concept of the state. The motives which led to the rise of the state were the gregarious instinct, the habit of obedience and the desire to command. In accord with his ideas of progress and perfectibility he was also a disciple of Basedow in his interest in education and philanthropy.

In his economic views Iselin was influenced by the physiocrats. Like them he distinguished between the actual and the normative ideal orders. From the standpoint of a theory of imputation he also favored the physiocratic classi-

fication of individuals as advantageous for a distinct evaluation of the economic value of the several classes. This, however, was but an abstracting process, and a certain balance of classes and occupations was necessary as a guaranty of a well functioning economic society. Iselin also favored an international economic balance of power, in the sense of an international division of labor, in order that the process of economic circulation be not impeded. Although from the purely economic standpoint "net proceeds" are attributed to the landowner alone, a part thereof in the form of taxes belongs to the state which assures the owner peaceful possession. Iselin opposed all forms of constraint and considered freedom of commerce and trade as the best regulator of prices. He also advocated the classic principle of preestablished harmony according to which the happiness of the individual is closely bound up with that of his fellow men.

LOUIS SOMMER

*Chief works:* *Philosophische und patriotische Träume eines Menschenfreundes* (Zurich 1759, 3rd ed. 1760); *Geschichte der Menschheit*, 2 vols. (Leipzig 1764, new ed. Karlsruhe 1791); *Versuch über die gesellige Ordnung* (Basel 1772); *Vermischte Schriften*, 2 vols. (Zurich 1770); *Pädagogische Schriften*, ed. by Hugo Göring (Langensalza 1882).

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ISIDORE OF SEVILLE (Isidorus Hispaniensis) (c. 560-636), mediæval Spanish encyclopaedist. Isidore was both the last of the early Christian philosophers, the direct descendant of Boethius and Cassiodorus, and the forerunner of the scholastics, the pioneer of the great revival of learning in the thirteenth century. He is the originator of the encyclopaedia, the first to compile a *summa* of all available knowledge. The greatest of his works, the *Etymologiarum sive originum* (ed. by W. M. Lindsay, 2 vols., Oxford 1911), with its twenty books subdivided into more than three hundred chapters, is a compendium of seventh century scholarship and a library of information. Isidore drew freely from the classic Latin writers, from St. Augustine and St. Jerome and from Boethius, Gregory the Great and the Latin fathers of the Christian church. His work enjoyed a wide popularity among students throughout the early Middle

Ages and was translated into the vernacular not only of his native land but of other European countries. In the progress of learning the influence of Isidore is discerned in shaping the form of knowledge and directing the mind to universals rather than to special subjects. He anticipated the work of Peter Lombard, Albertus Magnus and Thomas Aquinas. All that could be saved of Greek and Latin culture in the break up of the Roman Empire was carefully guarded by Isidore and he is credited, perhaps justly, with introducing the writings of Aristotle to the west.

In Spain as archbishop of Seville, Isidore was conspicuously an instrument of reconciliation in fusing the ancient civilization of Rome with the Visigothic elements. No less was he an active force in the education of the clergy. The Fourth National Council of Toledo (633-34), held during Isidore's archepiscopate, ordered the establishment of seminaries for clerical students—a reform in the standard of learning that had to wait for the Council of Trent before it was generally enjoined. Isidore's educational policy also required that Hebrew and Greek must be taught and fresh incentive given to Biblical studies.

JOSEPH CLAYTON

*Works: Opera omnia* in Migne, J. P., *Patrologia latina*, vols. lxxxii-lxxxiv (Paris 1862). Isidore's historical works have been edited by Theodor Mommsen in the *Monumenta Germaniae historica*, Auctorum Antiquissimorum, vol. xi (Berlin 1894) p. 241-506.

*Consult: Brehaut, Ernest, An Encyclopedist of the Dark Ages: Isidore of Seville*, Columbia University, Studies in History, Economics and Public Law, whole no. cxx (New York 1912); Schmuckel, August, *Isidorus von Sevilla* (Berlin 1914).

ISLAM is the name of the youngest of the great world religions. The word itself means submission—that is, submission of believers to Allah and his prophet—and may denote the primitive preaching of Mohammed (*q.v.*) as well as the sensibly different later orthodox system or the folk religion of the modern Moslems. Islam is, however, more than a religion; it represents also a political and juristic theory which has been at least partially realized in one of the greatest oriental world empires and in numerous separate states extending down to the Moslem states of the present day. Finally, Islam signifies a cultural whole, encompassing religion and state, since the concept of Islamic state and the tenets of Islamic civilization derive their authority solely from their foundation in religion. The ideal of Islam is the rule of religion over all of life; as a religion it is at the same time the

*Weltanschauung* and way of life of its believers. In its foundations and in numerous features Islamic culture is closely related to the Christian culture of the Middle Ages and is derived from the same roots.

Islam arose in Arabia, where in Mohammed's time paganism had ceased to exercise any spiritual sway and where pagan rites were practised as a part of tradition or, as in the annual pilgrimage to Mecca and the observance of the holy months, chiefly because of their economic value. Even before the days of Mohammed some Arabs, the so-called Hanifs, had turned from paganism but without embracing either Judaism or Christianity. The evolution of monotheistic tendencies was aided by the influence of these two religions, both of which had numerous adherents in Arabia. Jews, chiefly converts of Arab descent, dwelt in compact groups in the oases of western Arabia. Christianity had spread, although as a rule superficially, toward the north and east from the Christian-Arab buffer states set up by the Roman and Persian empires. In the period immediately preceding Mohammed, Allah had begun to be recognized among the mass of individual gods as a supreme deity of universal character, so that Mohammed's preaching aroused contradiction not because of his cult of Allah but because of his insistence on the exclusive worship of Allah. Thus Mohammed could restrict himself to Islamizing the cult of Mecca, while retaining its essential ancient forms; that is, the cult of the Caaba and the adjacent shrines and the so-called *hajj* of Arafat, which together form the principal elements of the Islamic pilgrimage. From its very beginnings in the seventh century Islam was not a desert cult but a typically civilized or urban religion, which was only externally influenced by Arab paganism. It was, however, profoundly affected by Arab society, especially by its dominant tribal spirit strongly bound in tradition.

The main religious tenets of Islam were derived from Judaism and heretical gnostic Christianity, although it cannot be assumed that Mohammed possessed any exact knowledge of either religion. He felt himself called upon, however, to proclaim to the Arabs the divine revelation which the Jewish and Christian peoples had already received through Moses and Jesus; and the Koran is the Arabic edition of the earlier Scriptures, with which it agrees in content. When the Jews refused to acknowledge him as a prophet, Mohammed became convinced that their Scriptures had been falsified. He accord-



ingly invoked Abraham against them and proposed to restore and propagate Islamism, Abraham's uncorrupted religion; the institutions retained from Arab paganism were also ascribed to the religion of Abraham. These steps marked a definite break with Judaism and Christianity. Mohammed ceased to regard Islam as a form of revelation ranking equally with them and proclaimed it the only true religion.

The starting point of Mohammed's teachings is the idea of the day of judgment, which he at first considered imminent and which was to put an end to the materialistic activities of the inhabitants of Mecca if they did not do penance; the judge is Allah himself. There results from this eschatology a belief in monotheism. Man is a slave in his relationship to Allah, who is omnipotent but kind. In the Koran predestination and free will are emphasized alternately, depending upon the situation; this gave rise later to the problem of the freedom of the will. Within the prophetology of the Koran, which is related to the gnostic concept of the cyclical renewal of unitary original revelation, there appears a special form of Christology in content resembling the apocryphal Gospels, which is basically Docetic and which denies the divinity of Jesus. For Mohammed the conviction of his prophetic mission was at first simply the presupposition of his teachings, but later it developed into a fundamental dogma. He considered the essential elements of a revealed religion the possession of a holy scripture and the use of that scripture in divine services. From this doctrine is derived the significance of the Koran, whose authenticity and completeness are unquestioned. The Koran is Allah's uncreated word in the sense that in its actual form, in its Arabic language, it is supposed to be the identical reproduction of the celestial original. The use of the Arabic tongue in the Koran is important in that it determines the essentially Arabic coloring of Islam. As a source of religious doctrine it is supplemented by the way of life (Sunna) of the prophet, as laid down in the tradition (Hadith). The role of the Sunna is best illustrated by the fact that in Islam Sunnite is synonymous with orthodox. Mohammed's religious authority, even beyond the statements of the Koran, could not be questioned, and soon after his death people began to cite him as a model. In the meanwhile religious institutions and doctrines continued to develop under Jewish, Christian and Persian influences. If Islam was to maintain its position as an independent

religion it had no choice but to pretend that these elements were traditions emanating from the prophet himself. Finally, there was no better way of establishing disputed points of view than to ascribe them to the words of Mohammed. Thus everything absorbed by Islam during the course of its first few centuries had to be stamped by a gigantic fiction as the Sunna of the prophet and put into the form of the Hadith, as a result of which the true kernel of tradition was almost entirely concealed. In the ninth century canonical collections were made from the huge mass of orally transmitted traditions.

Originally Islamic dogmatics not only served as apologetics toward non-Moslems but were also directed against the literalness of the old fashioned orthodoxy. Questions of dogma were raised also in connection with political issues. The first theological school, which dates from the eighth century, was that of the so-called Motazilites, whose endeavors centered about a number of detailed problems. In part these were of a purely dogmatic nature—questions concerning the unity of God, the uncreated nature of the word of God and the freedom of the will—and their treatment revealed the influence of dogmatic discussions among Christians. Other problems, such as the attitude toward authority and the consequences of grave sins, were of political importance. The problem of the freedom of the will and semipolitical questions had been treated in a similar fashion even earlier by the schools of the so-called Quadarites and Murjiites, but Islamic theology did not attain full development until the tenth century, when the intellectual labors of the Motazilites were reconciled with traditional orthodoxy through a refined dialectical technique of Greek origin. By the eleventh century Islam had attained in all its essentials the definitive form which was to determine its future course. The orthodox system had been developed and, although evolution did not cease entirely, an increasing degree of rigidity and stagnation became evident in intellectual life. The development attained at that time was generally regarded as both elemental and final; all innovations were looked upon as abhorrent.

The legalism and rigidity which characterized orthodox Islamic doctrine led at an early period to a reaction in the direction of mysticism. The classical development of mysticism (Sufism), which took place principally during the ninth century, represents the infiltration into Islam of the Christian-gnostic type of piety with its

characteristic ascetic features, retirement from the world and the love of God, which lead to a renunciation of worldly goods and activities. Three principal trends were evident in its later evolution: first, there is a striving for mystical union through the renunciation of personality and through ecstasy; secondly, there is the desire for individual salvation, which leads to an esotericism of the holy and to an easy disregard of the law intended for the masses of the people; and, finally, there is the association with the philosophy of late antiquity, as a result of which mysticism becomes gnostic. The reconciliation of moderate mysticism with orthodox dogma and law was effected by al-Ghazzālī (1058-1111), whose influence has persisted down to the present day. Non-orthodox mysticism tended toward excesses and exaggeration. In the twelfth century arose the religious orders which popularized mysticism. They were the heirs of the worship associations of late antiquity and together with the veneration of saints give popular Islam its local color.

At the opposite pole from mysticism there existed a traditional school that was dissatisfied even with the orthodox doctrine; this school proposed in the name of a rigid concept of the Sunna to restore Islam to its early purity—that is, to the teachings of the prophet and the practises of his associates—not of course with any historical accuracy but as they appeared in the embellishments of tradition. A vigorous advocate of this school, Ibn-ʿAynīya (1263-1328), thundered against the formulæ of dogma and the teachings of mysticism as well as against the worship of the prophet and the saints, which he denounced as a departure from monotheism. His doctrine was taken up by the religious-political movement of the Wahhābites.

In addition to these general religious tendencies, which in the course of time have transformed Islam, there arose numerous sects which from an early period threatened its spiritual and political unity. They were impelled, as was natural enough in a theocracy, by religious-political motives. The first sect was that of the Kharijites (secessionists), which developed soon after the death of Mohammed and which demanded the free election of the most worthy man as caliph regardless of whether or not he belonged to the tribe of the Quraysh, Mohammed's tribe, and which also insisted on the rights of the community continually to check the leader and to depose him if he violated his obligations. Like all Islamic sects it broke up into

several separate branches, whose rebellions continued to give the state serious concern. For a time the Kharijites dominated north Africa and established communities of their own; today their scant survivors, the Ibadites, live in north Africa, Oman and Zanzibar.

At the opposite pole from the democratic Kharijites there was the legitimist Shīʿa, the "party" of 'Alī, the son-in-law of the prophet, which included all degrees of 'Alī veneration, ranging from an almost orthodox esteem to an un-Islamic idolatry. At an early date the opinion began to prevail among the adherents of 'Alī that 'Alī, as the son-in-law of the prophet, was alone entitled to the caliphate; this was to become the fundamental Shīʿite dogma and to separate the Shīʿites from Sunnite Islam. The misfortunes of 'Alī and his descendants, which were largely of their own making, merely increased the veneration for the "family of the prophet." Among the countless Shīʿite groups the very moderate Zaidites, who are just at the boundary of orthodoxy, represent the old Arabic Shīʿa. They acknowledge the caliphate of the first three caliphs and restrict subsequent caliphates to 'Alī and his descendants, but they repudiate the more extreme imam theory. They have persisted in southern Arabia since the ninth century. Outside Arabia the Shīʿites have become a rallying point for all revolutionary and heterodox tendencies among the Islamic peoples. Their fundamental doctrine is the imam theory. The first imam, as they prefer to call the leader of the community, was 'Alī, named by the prophet himself but deprived of his rights by the first three caliphs. The imamate is handed down to his descendants, and the problem of the line of this succession has given rise to numerous party splits. The imams are without sin and infallible and, as the bearers of a special inspiration, the authoritative interpreters of the divine will. The Sunna of the imams takes the place of the Sunna of the prophet's associates, who sinned against 'Alī.

As opposed to Sunnism, which is governed by universal agreement, Shīʿism represents an authoritarian church. Persecutions limited the Shīʿa chiefly to secret propaganda and gave it an air of martyrdom. The concept of the suffering of the imam and of the salvation of the faithful thus achieved assumed a dominant role. After the failure of all the Shīʿite rebellions there arose the conviction that the last imam had vanished in a miraculous manner and that he awaits the time when he will return as the

Mahdi, "he who is guided aright" to restore order in Islam. The split between the "Twelvers," or Imamites, who have the largest number of adherents, chiefly in Persia, Iraq and India, and the "Seveners," or Ismaelites, was the chief break in the ranks of the Shiites; they are differentiated by the number of imams whom they acknowledge. The Seveners champion the doctrine that the Mahdi, as the last of the prophets, carries on and completes the work of Mohammed; in conflict with this doctrine stands the Islamic conviction of the ultimate nature of Mohammed's mission. The Assassins and the Bohras as well as the Khojas, who still exist in India under the Agha Khān, are branches of the Seveners. Other Shiite sects, which are so extreme and which diverge so far from common doctrine that they can scarcely be reckoned as part of Islam, are the Druses; the Nusairites, or Alawites; and the Ali-ilahis.

Although the sectarian movements were not direct expressions of national traits they were nevertheless the forms in which national or economic opposition was frequently expressed. Among the Persians this opposition was expressed chiefly in Shiitism, while among the Berbers of north Africa it took on entirely different forms. The spread of Kharijite ideas as well as the success of the Shiite Idrisites and the growth of Almoravide and Almohade movements were considerably influenced by Berber reactions.

From the Shiites, who first acquired a Messiah, the concept of the Mahdi has been taken over in a modified form by the Sunnites. For them he is simply a descendant of Mohammed, who will fulfil the ideal of the caliphate at the end of time and carry on the tradition of the rightly guided caliphs. The figure of the Mahdi has gradually passed from the realm of politics to that of eschatology; nevertheless, the history of Islam is full of Shiite and orthodox Mahdi rebellions. In its expectation of the Mahdi orthodox theory has expressed most vigorously its condemnation of the entire political history of Islam since the first four caliphs. But the repudiation of any state not entirely dominated by religion was accompanied by the most far reaching toleration in practise. This departure developed under the constraint of actual conditions, particularly in the political field, and was nourished by historical pessimism and veneration for the inscrutable will of Allah. Thus one is expressly commanded to obey any ruler, even if he obtains and exercises power illegally.

The majority of Moslems have for centuries

considered the orthodox system and still regard it today as the only legitimate form of Islam. It embraces the entire religious doctrine of Islam and is the expression of both the religious consciousness of the Islamic community and its "catholic instinct." Even though certain views and customs were initially rejected with violence, once they had infiltrated a considerable section of the community they were acknowledged without difficulty as orthodox. Thus a person who held that an expression of the Islamic spirit which the convictions of the community had stamped as orthodox was inadmissible would himself be guilty of a breach of orthodoxy. The content of orthodoxy is identical with that of the universal agreement (*ijmā'*), which is considered infallible and upon which not only Islamic law but the entire Islamic religion is based. Its exponents are the theologians of every age, for Islam has no councils or other organs to establish the *ijmā'*. Its role is retrospective and confirmative; the *ijmā'* serves to legitimize innovations although it does not introduce them; it tolerates a certain evolution of Islam but at the same time keeps it within definite limits. Thus it has recognized as orthodox both moderate mysticism and the veneration of the prophet and saints. As the expression of the consciousness of the community the concept of orthodoxy is subject to fluctuations and cannot be delimited logically. The fundamental doctrines, however, are anchored in the community consciousness with particular firmness, even though they have never been officially defined.

The essential dogma of Islam is belief in the absolute unity of Allah, the creator of the world, who neither begot nor was begotten and whom nothing resembles. Allah causes all the actions of men as well as every happening in the world according to his eternal predestination. At the same time men are capable of free actions, for which they are rewarded or punished. Among the prophets accredited by miracles the last and most eminent was Mohammed; the others were Adam, Abraham, Moses, David and Jesus. In addition to the prophets there are the saints. The theoretical compromise by which orthodox Islam acknowledged the worship of saints, which was originally quite foreign to Islam and which came from the preexisting folk religion, was due to the religious needs of the masses of the people. Such a compromise was possible only after the figure of Mohammed, in contradiction to the Koran, had become en-

dowed with superhuman attributes. This process began at a very early date and was furthered by mysticism and by the popular belief in miracles. Since then the prophet has stood at the head of all the saints. Magic and amulets, which have religious sanction, form an important element of the popular world of ideas. The principal signs of the day of judgment are the appearance of the Antichrist, of the Mahdi and the return of Jesus. The day of judgment, with the prophet interceding for the members of his congregation, as well as paradise and hell are described in detail. The believer who commits grave sins does not necessarily become an infidel, and while unbelief is punished by eternal hell, heinous sinners who are believers will not remain in hell forever.

The chief religious commandments, the so-called "pillars of Islam," are five in number: the profession of faith (*shahāda*), the ritual prayer (*ṣalāt*), fasting (*ṣawm*), the payment of the alms tax (*zakāt*) and the pilgrimage (*ḥujj*). One becomes a Moslem by reciting the profession of the faith: "There is no god but Allah, Mohammed is the apostle of Allah." Circumcision although generally practised is not obligatory. The faith consists in belief and profession of the creed. Islam is decidedly a religion of laws and on the whole compliance with commandments is emphasized rather than "faith." The ritual prayer as distinct from the individual prayer has become the chief outward characteristic of the Moslem. It consists of movements of the body, recitations of the Koran and religious phrases and must be performed five times a day in the direction of the Caaba in Mecca. On Friday the midday *ṣalāt* takes place as a communal service under the leadership of a president (*imam*), who reads two sermons. Except for this, Friday is a day of work like any other. Fasting is obligatory from dawn to sunset during the month of Ramadan and involves complete abstinence from food, drink, perfume, tobacco and sexual intercourse. The alms tax, a sort of capital tax in kind, is levied once a year and its proceeds are supposed to be employed only for certain charitable purposes. It developed during Mohammed's lifetime from the earlier duty of giving alms and is a church and poor tax rather than a state tax in the western sense of the term. In addition private charity is warmly recommended and widely practised. Every adult Moslem is obligated to make a pilgrimage to Mecca once during his lifetime if he is able to do so. The duty to carry on the jihad, the holy war against unbelievers, was almost

accepted as a sixth pillar and has a wide popular appeal to the present day. It is based on the assumption that the relationship of the Islamic community to all non-Islamic communities is one of war, which may be interrupted by an armistice solely for reasons of momentary advantage and which ends only with Islam's subjugation of the entire world. As a reaction against the dominance of the spirit of battle in Islam's early days there was later developed the doctrine of the "great holy war," consisting of the struggle against one's own passions.

Islam has no clergy, no church organization and no liturgy in the true sense of the term. The theologians are merely those who know the divine law; they do not compose a real clerical caste. Nevertheless, they possess considerable influence, because the ordinary Moslem, even though it is impossible for him to live in accordance with the law, expresses his respect for it by the deference he shows its representatives. Orthodoxy moreover disputes the necessity of guiding the individual soul and dislikes the activity of the Sufite sheiks, who play the roles of spiritual directors; nor can Islam acknowledge any dispensation of divine mercy through men.

Although like mediæval Christianity Islam is a religion of the hereafter and as such has an ascetic element, it has not been able to suppress a characteristic elemental love of the world. The latter appears in the rejection of monasticism, in the natural respect for marriage and in the positive attitude toward trade and worldly goods. But in the main a spirit of renunciation prevails and is indicated by the warnings against woman, the prohibition of nudity, the repudiation of splendid buildings except as houses of worship, an economic ethics based upon religion, the condemnation of speculation in commodities and the praise of manual labor and of poverty. Other religious prescriptions are the frequently violated prohibitions of music and the portrayal of living beings and the absolute prohibition of wine and pork. The obligations to live simply and continently, to direct all activity with a view only to God and to bear up under misfortune arise from the feeling that one is a mere visitor in this world. The widespread fatalism of the Orient, however, is not based upon religion but is a matter of education and of temperament. The consciousness that all men are slaves of Allah is of great social importance, as is the strong feeling of religious brotherhood. Outwardly this corre-

sponds to a rigid separatism and a pronounced religious pride.

The political character which has marked Islam down to the present day is largely dependent upon the fact that Mohammed was not merely a prophet but also from the time of his migration from Mecca to Medina the undisputed secular leader of his congregation. During his Mecca period the spread of Islam as a religion was due solely to the prophet's religious energy and to the conviction of his associates. But during his Medina period emphasis was placed less upon conversion to the religion of Allah than upon submission to his prophet. Numerous conversions of individuals and even more so the conversion of entire tribes were of a political nature. With the spread of the religion of Islam Medina's hegemony was extended. This political structure upset the Arab tribal units by tending to make the acknowledgment of the prophet rather than membership in the tribe the distinctive criterion. Nevertheless, tribal feeling remained very strong and it was only Mohammed's personality that held the community together. The chieftains considered themselves bound only to Mohammed and after his death both the state and the religion were threatened with dissolution. Thereupon certain influential associates of the prophet succeeded in effecting the maintenance of the monarchical principle and under it one of them was chosen the first caliph; that is, the successor to Mohammed in all the latter's functions except the specifically prophetic. The political leaders succeeded in focusing the lust of the various tribes for booty upon a common goal, the holy war for the spread of Islam. The extensive development of the doctrine of the jihad at an early period indicates that the spirit of battle was fostered at the expense of everything else.

The expansion of the Islamic state cannot, however, be attributed to religious enthusiasm but must be explained rather in terms of the great migrations of peoples who time and again spread from Arabia to the surrounding civilized countries. This was the last of such migrations. Because of economic and political conditions in Arabia the tribes had been in a state of unrest for centuries before the advent of Mohammed. Islam united them. The religion made possible the political organization of Medina, so that a state grew out of a congregation. Later, however, it was the state and not the congregation that employed the Arab migration, which had begun independently of it, for its own political

aims. The surprising success of the Arabs is explained by the combination of a program which unified the nation, the will to power of a young state led by eminent men and conditions in the Persian and Byzantine empires, which practically invited conquest. The soldiers were stimulated by their share of the booty, four fifths of which was divided among them.

The thirty-year reign of the four first caliphs, abu-Bekr, Omar, Osman and 'Ali, all associates of the prophet and members of his tribe, was later looked upon as the golden age of Islam. It marked the first great stage of the expansion of the Arab-Islamic state, which took place under Omar and Osman and during which Syria, Iraq, Persia and Egypt were conquered. But already tribal and personal dissensions were making themselves felt. Disturbances under the reign of Osman resulted in the assassination of the caliph. The new caliph, 'Ali, was engaged in continuous battle with his opponents, the most formidable of whom was Mu'awiya, a relative of Osman, who claimed the caliphate himself; but before the struggle against Mu'awiya had been decided 'Ali was assassinated and Mu'awiya obtained general recognition as the first of the Omniad caliphs.

Under the Omniads, during the second stage of Arab-Islamic expansion, Armenia, Transoxiana, Afghanistan and the Indus area were subjugated in the East and north Africa and Spain in the West. As a result large areas of the Christian world came under Islamic rule. Their Islamization and that of other conquered territories did not, however, keep pace with their subjugation. As long as Islam remained confined to Arabia, the overwhelming majority of the adherents of the new state accepted its religion no matter how superficially. But as soon as the civilized countries of the Near East and north Africa were conquered, the expansion of the Islamic state was sharply differentiated from that of the Islamic religion. With certain exceptions the Arabs did not want to convert the vanquished but desired rather to maintain themselves as an upper class with special economic privileges above the masses. The nationalist Arab factor tended to outweigh the universal religious factor and the Arabs did not attempt to press their religion upon the Near East at the point of the sword. Believers in scriptural religions who submitted to the conquering Arabs were given protection and retained the freedom to exercise their religion upon payment of tribute. At an early date the concept of privileged

religions based upon scriptures was extended beyond Judaism and Christianity to include practically all important beliefs with which Islam came in contact; only the extinct Arab paganism was excluded. The *dhimmi*, or non-Moslem subject, was a citizen with lesser rights, whose most important disability was that he was not privileged to appear as a witness in an Islamic court. The tribute (*jizya*) paid by the *dhimmi* and the *kharāj*, a tax on the conquered lands left in the possession of their former owners, became the chief source of income of the state Treasury. Pensions were paid from it to the fighting Moslems and their families, varying according to their station in the theocracy. Because religion and government were then essentially Arabic in character the conversion of non-Arabs was possible only by means of affiliation with the Arab tribes. Non-Arab Moslems inherited the position and the name (*mawla*) of the tribe's foreign associates. The spread of the Islamic religion within the Arab-Islamic empire signified the growth of the ruling class and a decrease in the number of tributary subjects, for the payment of tribute ceased with the acceptance of Islam. Hence Islamization was not even desired and was certainly not an end in itself. Nevertheless, the ruling class could not but exert an ever increasing attraction if the vanquished could rise to its level and merely by changing their religion insure for themselves considerable economic and social advantages. To forbid conversion was to contradict the religious tendency of Islam, and ultimately the idea of the universal religion overcame the national principle of a state which had originally been identical with this religion. During the closing period of the Omniad empire an endeavor was made to reconcile increasing Islamization with this national principle, partly by means of a reform of taxation which greatly reduced the economic incentive to conversion.

Alidic propaganda, supported by other factors, such as the dissatisfaction of the *mawla*, finally led to the downfall of the Omniads in 750. But it was not the Alides, the descendants of the prophet, but the Abbassides, their cousins, who succeeded to power as a result of the revolution. Using the Shiite propaganda for their own ends and carrying on intensive propaganda of their own they pushed the Alides aside and their victory marked the end of the Arab kingdom of Islam. A member of the destroyed dynasty succeeded in founding an independent kingdom in Spain, which later developed into the

caliphate of Cordova. Like the caliphate of the Abbassides it was orthodox in religion and was opposed to the latter only in the political field.

During the first century of the rule of the Abbasside dynasty the social differentiation based upon nationality vanished entirely. When the Arabs entered into closer contact and economic competition with the native populations, the latter proved themselves far superior both materially and intellectually. To this superiority the Arabs were able to oppose as their own distinction only their religion, which was therefore strongly emphasized. The government was characterized by oriental despotism with all its auxiliary manifestations, instead of by the Arab aristocratic form of rule. There was no longer a ruling people dominating the vanquished but one mass of slaves on the same footing under a master. With the completion of the process of social leveling the Arabic language and with it the religion spread at a faster rate. At bottom the Arabs had been but little interested in religion; the new converts or their descendants, who possessed quite different religious traditions, now began missionary work. With despotism there also entered the concept of a state church, which had been quite foreign to the Arabs despite the emphasis upon their own religious superiority. The conversion of the non-Moslems now lay in the interest of governmental authority, to which religion became a necessary prop. The rulers endeavored to obtain the support of the theologians, and the latter fired by religious zeal began to work intensively for conversion. As a result the caliph's empire was extensively Islamized.

In the unified near eastern state represented by the Omniad-Abbaside caliphates there developed upon a Hellenistic basis an integrated civilization with Arabic and an increasing number of Asiatic traits showing the influence of all the various countries involved. Islam then permeated both state and civilization, impressing them with a unified religious stamp. At the same time Islam entered upon its close link with a definite ideal of the state and a culture that characterized its future, while in turn it underwent considerable changes as a result of the assimilation of the spiritual heritage of former religions. This occurred as much externally, through religious discussion with its resultant borrowings and its polemics, as it did inwardly, because the converts from other faiths simply continued within Islam their former religious life with its customs, interests and problems.

Now for the first time Islam became a combination of a religion and an ideal of a state and of a civilization; and despite all local peculiarities and political splits it formed a great spiritual unit reaching from the Atlantic Ocean to China. The religion did not create the state and the corresponding civilization, but Islam as a whole arose from the combination of these three factors. Later, when the state and the civilization decayed, their ideal based upon religion remained a part of Islamic doctrine.

After a century of brilliant splendor the Abbasside empire began to break up in a way that has been characteristic of all great Islamic states. The weakening of the centralized government led to the political autonomy of the provinces under practically independent rulers and dynasties. At the same time the latter endeavored to legitimize themselves by establishing a relationship of mutual recognition with the caliph; he invested them with the administration of the areas over which they ruled and in return he was acknowledged as overlord. Thus there arose the differentiation between the caliphate and the sultanate, which dominates all later Islamic history. Besides the Omniads in Spain it was principally the Fatimites in north Africa and Egypt who refused to recognize the supremacy of the Abbassides and set up in opposition a caliphate of their own, the most significant political expression of Seveners. The founders of the Fatimite dynasty were closely linked to the religious-social movement of the Karmatians, a movement which was stimulated by the contemporaneous slave rebellions and which temporarily developed a type of communist society. Like the Ismaelite movement, with which it was originally connected, it had political and social revolutionary aims, which its leaders endeavored to realize by means of a vast conspirative activity within a hierarchical organization, in which the subordinates were completely under the spiritual and moral rule of the master. Ultimately the Fatimite caliph al-Hakim claimed to be the incarnation of God Himself. Some twenty years before the rise of the Fatimites another Shiite state had arisen in Morocco with the establishment of the kingdom of the Idrisites.

In the eleventh century there was a reaction directed against the political dismemberment and the threatened religious dissolution of Sunnite Islam, and for a time religious and political unity were restored both in the east and in the west. In the west this unity was achieved

by Almoravides, who were soon succeeded by the Mahdist movement of Almohades. The latter in turn departed from pure orthodoxy in their very strict enforcement of monotheism and in the magnification of the Mahdi's attributes. In the east the reorganization of Sunnite Islam was the work of the Seljuks, who like the Abbassides were the chief exponents of the old Persian concept of the state with its official religiosity embodied in Islam. They parceled out most of Mesopotamia, Syria and Asia Minor in military fiefs, which toward the end of the twelfth century were practically independent. After the Seljuks had been greatly weakened by the First Crusade, their role as champions of Islamic orthodoxy was taken over by Saladin, who put an end to the Fatimite caliphate of Egypt, and his Ayubite dynasty. From Islam's point of view the crusades were a mere episode. Shortly thereafter the entire eastern Islamic world was deluged by the Mongol conquest, which came to a stop only at the frontier of Egypt and which destroyed the caliphate of Bagdad together with numerous smaller states. Sultan Baibars, the most eminent representative of the Mamelukes in Egypt, who had succeeded the Ayubites there, gave shelter to an alleged member of the caliph's house; and from that time the caliphate was practically only an office in the court of the Egyptian sultan, whose occupants exercised the function of granting their sovereigns a formal investiture. The hopes which the Christians centered in the Mongols were rendered vain by the latter's conversion to Islam, which penetrated the new Mongol states with unexpected rapidity.

Upon the ruins of one of the little Seljuk states which continued to exist in Asia Minor as Mongol dependencies the Ottoman state developed, struggling continuously against the Byzantines. Warriors' leagues established upon a religious basis played a dominant part in its foundation. It recovered with astonishing ease from the blow dealt it by the Sunnite Turk Timur (Tamerlane), who for a time united politically most of western Asia. About 1500 the Shiite Twelvers also found their political center, which has persisted down to the present, in the Alide family of the Safawides in Persia. The new dynasty, which reached its pinnacle a century later, energetically opposed the Ottomans. The intensification and embitterment of the conflict between the Sunnites and the Shiite Twelvers dates from this period of religious and political struggle. The third great Islamic em-

pire of modern times, that of the Moguls in India, which also arose about 1500, experienced a period of brilliant splendor during the sixteenth and seventeenth centuries, then declined steadily until its last shadow vanished in 1857. The Ottomans continued to spread in Europe and Asia and with the conquest of Egypt and the holy places gained undisputed predominance in Sunnite Islam. At the time of its greatest extent in the early sixteenth century and even later the Ottoman Empire restored the political and religious unity of Islam to a considerable degree and the claim of the Ottoman sultan, as the most powerful Islamic ruler, to the caliphate was widely acknowledged. Among the Ottomans Islam is characterized by the synthesis of strict orthodox dogma and a strongly mystical piety with a certain Shiite cast. The Ottoman advance made an even stronger impression upon Christendom than had the initial expansion of Islam. But the serious even though essentially temporary losses of the Christian world resulted neither in the defeat of the modern occidental civilization, which had developed in the interval, nor in a decline of the Christian religion comparable to the Islamization of western Asia and north Africa.

Islam added by political boundaries mainly through trade channels as a result of its cultural superiority over primitive peoples. Both within and without the Islamic state the spread of the new religion took place as a rule peacefully and naturally; conversions by force and persecutions, which are contrary to the spirit of Islam, were comparatively rare. The same factors account for the peaceful expansion of Islam as for its strong hold over those whom it has once converted. Because of the absence of a clergy and of any ecclesiastical organization the feeling of responsibility rests upon the individual believer. Accordingly he tends to give his religion an important place in his life and is unusually energetic in his endeavors to spread it. Not only the religious teachers, who devoted their lives to this task, but all classes of the Moslem population participated actively in the propaganda for their faith, particularly the merchants, who had many opportunities and who were not subject to the distrust with which primitive peoples often regard the foreigner and the professional missionary. Chief among the inherent qualities of Islam which have aided its successful expansion are the simplicity of its principal dogma of the unity of Allah and of his relation to the prophet Mo-

ammed and the rationalist nature of the entire doctrine. The eschatological factor, the strong emphasis upon the hereafter, and most of all the fearful threat of the punishment of eternal hell for unbelievers are also effective. Then there are the simple and definite religious obligations, among them the ritual prayer, which must be recited five times a day by the believer; and the pilgrimage, which represents an imposing and inspiring manifestation of Islamic unity. Another factor contributing to the strength of Islam is its ability to assimilate folk beliefs as well as its theoretically tolerant, syncretic attitude toward the earlier revealed religions. These tendencies have been aided by certain external circumstances: in most of its missionary fields Islam appeared as the religion of a ruling class, of a powerful state and of a fascinating civilization; it insured a rise to a higher social and cultural status and often attracted the more progressive elements of the population. The pious life of its believers, which becomes a permanent missionary message, and the virtues attendant upon it made a profound impression, even upon the Christians at the time of the crusades and the wars against the Turks. The various movements for religious reform in modern Islam and the missionary activity

of Islam.

During the past fifty years there have been endeavors at reform through the further development of Islam. One of these was made by the Ahmadiya, founded in the 1880's and since become a separate sect. Its founder, Mirza Ghulam Ahmad, claimed to be a returned Jesus as well as the Mohammedan Mahdi; repudiating the holy war he addressed his preaching to Moslems, Christians and Hindus. The more moderate of the two schools which later developed from his doctrines had its seat at Lahore and devoted itself to intensive missionary work in India, in Moslem Africa and in Europe, where it gained adherents chiefly in England and Germany. Despite the endeavors to ally itself with Sunnite Islam it is rejected by practically all the schools. More important for the development within Islam has been the modernist movement.

In Asia the territory of the Moslem state was Islamized at a relatively early date; only later, with the rule of the Seljuks and Ottomans, did the religion penetrate Asia Minor as well. Large areas in India were added in the eleventh century. Islam had reached China even earlier, through Turkestan, Islamized from Transoxiana, and by the ocean route. The Mongol move-



ment resulted in larger gains in China. The Malay islands were Islamized from India and later directly from Arabia. Islam also gained adherents in the Philippine Islands. The northern coast of Africa was conquered at an early date and through trade Islam penetrated beyond the borders of the empire into north and central Africa, starting from Upper Egypt and Morocco and passing along the oasis routes of the Sahara. After about the ninth century this was supplemented by an Arab settlement and the Islamization of the Zanzibar coast as far as Madagascar. Islam also gained a foothold in western, southern and eastern Europe, but was completely driven out of Spain in the fifteenth century. The appearance of the Normans turned the tide in southern Italy and the Mediterranean islands, which had been conquered and Islamized from the African shores. In the east the Ottomans carried their religion as far as Hungary and Greece, but it gained a firm footing only in the Balkan Peninsula. In Russia it was spread chiefly through the Mongol movement; the Islamization of the Golden Horde was a great victory; the Kirghiz were converted to the Islamic faith in the eighteenth century by the Russian government, which regarded them as backward Moslems.

From the end of the seventeenth century the great Islamic empire of the Ottomans fought a losing battle with the west. During the nineteenth century the process was greatly accelerated, but until the beginning of the twentieth century the military and political defeats of Turkey in Europe resulted neither in a weakening of Turkey's position in the Islamic world nor in a reorientation of the religious-political forces within Islam. On the contrary, these defeats led to the promotion, particularly by Abdul-Hamid II, of a defensive movement known as pan-Islamism (*q.v.*), which was directed against Europe and which aimed at strengthening and expanding the traditional Islamic religious and political unity. The impact of the West tended, however, to create more particularistic nationalist movements, which after 1900 became popular and spread extensively among the peoples of the Near East. Among the Ottoman Turks nationalism temporarily took the form of pan-Turanism, a tendency toward union with racially allied Turkish peoples. As a consequence of the World War nationalist sentiments aided by foreign propaganda developed enormous strength. After the war the new Turkish government, although confined to Turkish

territory, carried nationalism to its logical conclusion and effected a complete break with the Islamic cultural past. Religion was eliminated from public life and was subordinated to the interests of the state. The sultanate was abolished in 1922; this was followed in 1924 by the abolition of the caliphate and in 1928 by the abolition of Islam as the state religion. The orders of dervishes were also suppressed. Among the Arabs, however, the nationalist movement, which led to the downfall of the Ottoman Empire, has entered into a union with Islam, conceived as a religious and spiritual force, while repudiating religious fanaticism. Arab nationalism is local in its nature and consists of Syrian, Iraq and other local movements; for the moment it has renounced political pan-Arab ambitions. The disappearance of the caliphate has furthered the idea of international religious congresses in Islam but not of a pan-Islamic movement in the proper sense. Thus the end of the political evolution of Islam is marked by the renunciation of the practicability of the political ideal; despite the political disintegration of the Islamic area and the abolition of the caliphate, however, a strong common feeling exists against European domination, although without any serious threat of a holy war.

At the present time the religious aspect of Islam has again become the most effective; the bonds between Mohammedans are based upon their common faith and the unity of their ideals. With the modernization of public education traditional theological training is declining, but a greater revival of actual religious activity is being manifested. The mark of real Islamic unity is the common acknowledgment of the Koran, which although losing some of its dominion is still venerated and upheld by the people. The movements of modernism and nationalism which have arisen under the influence of occidental ideas involve a new and profound change in the cultural environment of the Moslems affected by them. Under their influence the political and cultural elements of the Islamic ideal are beginning to be consciously abandoned and to be replaced by modern occidental ideas. Even the traditional forms of the religious ideal are being measured by critical standards. This retreat to the real religious domains of Islam, which to its advocates seems to be a return to what is original and basic, may revive its central religious forces, which are still energetic, and thus offset the losses sustained by Islam in the political and cultural fields.

A modernist wing has arisen, with its principal centers in India, Egypt and Turkey. Common to all of its tendencies is the realization that Islam has stood still for centuries and is in need of a renaissance. Opinions differ as to how this is to be brought about. Many nuances of opinion are represented: from an absolute lack of understanding of the spirit of the west to its complete adoption; from an almost Wahhabite traditionalism to the flat rejection of Islamic law; from the attribution of all modern achievements to the Koran and the Sunna, to a critical insight into the history of Islam. Behind these trends is the thought that the real Islam is not hostile to civilization but on the contrary looks with favor upon progress; that the true core of the religion must be freed from the human structure which has been superimposed upon it, and which is responsible for Islam's decline; and that Moslems are entitled to take an unfettered stand upon modern problems with a view to the common good. From this there follows the rejection of the orthodox system and the endeavor to reduce Islam to a core of religious-ethical truths. The tendency to base the interpretation of the Koran and of those traditions which are acknowledged as genuine upon modern ethical and social ideas usually leads to views which are historically incorrect. Even within the most narrow orthodox groups there is an unmistakable striving for a religious revival. The various currents, which in part overlap one another, are the expression of the present crisis in Islam. It is quite possible that Islam will be even further differentiated — through the formation of national churches rather than by the rise of sects. It is to be expected that the mass of the population will cling to its traditional forms, while modernism will continue to spread among the educated. But the advance of modernism will not mean any weakening of religious convictions and it is very unlikely that the present grave crisis, marked by the conflict with western ideas, will destroy Islam.

According to estimates made in 1929 Islam has about 246,000,000 adherents, of whom 64,000,000 are Indians, 51,000,000 Malays, 38,000,000 Arabized races including 12,000,000 pure Arabs, 34,000,000 Turks, 26,000,000 Iranians, 23,000,000 Negroes, 7,000,000 Chinese and 3,000,000 members of Balkan nationalities. Only about 50,000,000 are formally independent of western powers, including Egypt (12,800,000), Turkey (13,000,000), Persia (9,000,000), Afghanistan,

Arabia and China. From a study made in 1923 it appears that at that time more than 90,000,000 Moslems were under British, 39,000,000 under Dutch and 32,000,000 under French rule in colonies, protectorates or mandated territories. There are over 15,000,000 in Russia. The vast majority of Mohammedans inhabit Asia and Africa; in Europe they are confined to Russia and the Balkan Peninsula; while in Central and South America they total about 193,000, and in the United States, including the Philippines, about 598,000. Sunnites constitute 91 percent, or 223,000,000, of all Moslems, while 8 percent, or 22,000,000, are Shiites; of the latter 1,000,000 are Zaidites and 17,000,000 Twelver Imamites. There are about 1,500,000 Ibadites. At the present time the number of Moslems is increasing principally in the countries which have been or are now under European rule and is stationary in the rest of the world. There is no apparent expansion of Islam into new fields, but the decline noticeable in Central Africa, India and the Dutch East Indies is very slight. No reliable data are available on the situation of Islam in the Soviet Union. Islam still exerts attraction as a social force. The majority of the new converts come from the "colonial proletariat," who through Islamization obtain civil recognition and the consciousness of human dignity; for most Mohammedans do not look upon their community as merely a juridic unit but as the ecclesiastical and almost ontological reality of a society of supernatural origin.

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See: CALIPHATE; ISLAMIC LAW; HOLY PLACES; PILGRIMAGES; JIHAD; RELIGIOUS ORDERS; FEUDALISM, section on SARACEN and OTTOMAN; EMPIRE; PAN-ISLAMISM; PAN-TURANISM; GOVERNMENT, section on TURKEY; INDIAN QUESTION; EGYPTIAN PROBLEM; NEAR EASTERN PROBLEM; CRUSADES; GUILDS, section on ISLAMIC GUILDS.

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ISLAMIC LAW, called *Shari'a*, embraces all of Allah's rules for the conduct of man. It is supposed, however, to govern only the external relations of the Moslem to his fellow men and to Allah as distinct from the individual's conscience and feeling of religious responsibility. Since Islam has been from its beginnings a political entity as well as a religion, its law is theoretically an infallible doctrine of moral obligations encompassing without limitation not only the entire religious and domestic life of believers in Islam but also their political and social activity. Alongside prescriptions governing religion and ritual duties it comprises equally authoritative rules of a juridical and political nature and provisions for matters of all kinds, such as legitimate and prohibited musical instruments, sexual intercourse, archers' matches and racing, the portrayal of living beings, clothing and adornment. Islamic law, which evolved historically as the result of the combination of several factors, is a col-

lection of precepts rather than a system based on broad general principles in the western sense; it demands that its adherents accept it as inscrutable wisdom without criticism. The chief tendency in its evolution was the religious evaluation of all the conditions of life; juridical considerations were secondary. The *Shari'a* is a typical example of sacred law in a religion based upon prophetic scriptures and hence it is specifically jurists' law, a product of scholastic doctrine dominated by casuistry. It is of a non-formal character, since it does not aim at regulating conflicts of interests but at enforcing material postulates of religious ethics. Chiefly because of the close fundamental relationship between state and religion the theocratic link between religious-ritual duties, legal norms and moral admonitions could not be dissolved. The *Shari'a* differs from the canon law of the Middle Ages in that the latter was much more rationally developed and much more formal from the juridical standpoint. In the canon law rational precepts under centralized authority took the place of interpretative evolution, while secular law stands alongside the canon law with a clear distinction between their spheres of authority.

The prophet Mohammed did not intend to establish a system to regulate the entire life of his adherents. On the contrary, during his lifetime there continued to exist as a matter of course the old Arabic customary law, which although based mainly on Semitic tribal law was considerably modified in the course of adaptation to different social conditions (e.g., the commercial law of Mecca, the agricultural law of oases like Medina) and contained numerous foreign elements of provincial Roman and perhaps Iraq and south Arabic origin. Mohammed confined himself to the issuance of various religious-ritual and military-political prescriptions and to the modification on religious grounds of the law on individual questions—inheritance, for example—as they arose. This was not always done through the Koran; important sections of religious legislation, such as the ritual of divine service, and various separate points were settled simply by the prophet's example and command. With his death this Koranic and extra-Koranic legislation ceased. The first few caliphs endeavored in agreement with the most distinguished associates of the prophet to direct the community as its founder desired; but they nevertheless considered themselves empowered to enact legislation upon their own authority and when advisable they even changed the decisions

of Mohammed. The relationship between the Islamic legislation and the customary law remained the same as before, even after the latter had been increasingly exposed to foreign influences as a result of the vast conquests. This was absolutely inevitable, for in the conquered territories with their more complex civilizations the law which the Arabs brought with them proved inadequate and frequently inapplicable. At the same time legal practise was being continually developed and modified by decisions of Moslem administrators and judges.

With the rise of the Omniad dynasty and the transfer of the capital to Damascus the pious circles of the former capital, Medina, lost their influence upon the government and began to construct an ideal picture of what conditions should be in contrast with actual circumstances, trying to systematize the existing legal material and to infuse it with Islamic religious principles. It was this group which laid the foundations of Islamic jurisprudence (*fiqh*). To emphasize the authority of Medina they gave particular weight to the sayings and actions of their predecessors, Mohammed's associates, especially to majority decisions. This deference to majority opinion (*ijmā'*) favored the development of common doctrine and the elimination of isolated viewpoints. The results of this speculation were largely formulated into traditions and attributed to the prophet himself. In this process many new elements, especially those of Jewish origin, were again introduced. The beginning of Islamic law already reveals some of its characteristic features—its interpretative nature, the restriction of legislative activity to the prophet, the acknowledgment of Mohammed's real or fictitious practices (*Sunna*) embodied in the traditions as the principal source of law in addition to the Koran. The customary law was still recognized as fundamental.

The earliest theoretical disputations occurred during the first half of the eighth century over the role of the activity of the human mind (*ra'y*) in jurisprudence. They ended with acknowledging the *ra'y* in principle, the various schools of opinion giving the traditions more or less weight. Toward the middle of the eighth century special tendencies in jurisprudence were evident in the spiritual centers, Hejaz and Iraq. The chief representative of the Hejaz school, Mālik ibn-Anas (d. 795), acknowledged the *Sunna* of Medina as authoritative and devoted much care to determining the content of *ijmā'*, which he defined as the decisions of an almost

unanimous majority of the learned men of Medina. His doctrine represented the final Islamization of juridical material achieved at that time. Al-Shaybānī (d. 804) personified a corresponding stage of evolution for Iraq.

But the founder of Islamic jurisprudence as a Mohammedan science was al-Shāfi'i (d. 820), who did not limit his argumentation to special occasions or to single decisions but established definite principles. Moreover he investigated the points of departure and the methods of juristic argument themselves. He finally fixed the concept of the Sunna as meaning the prophet's own practises. He explained the *ijmā'* as the opinion of the majority of all Moslems and employed it as a source of law supplementary to the Koran and the Sunna. He also did much to advance the systematization of legal material but departed to some extent from the path of building up juristic concepts, in which a start had already been made. Rather he developed principles for the use of analogy (*qiyās*) and employed them extensively; analogy was in essence the old method of the *ra'y*, for which al-Shāfi'i endeavored to establish definite norms. He had but little success in this, however, and the methodology for employing the *qiyās* has remained indefinite. Al-Shāfi'i rejected a variant of the *ra'y*, the so-called *istihsān* (the departure from analogy upon grounds of equity and other grounds), because he regarded it as purely subjective.

After the great personal achievement of al-Shāfi'i had led to the establishment of a Shafiite school, the older principal trends of opinion were also forced to organize into definite schools. Typical representatives, such as abu-Ilanifa (d. 767) in Iraq and Mālik in Hejaz, were acknowledged as the heads of these schools. Finally the old traditional wing, which viewed all speculative extension of religion with suspicion, also organized itself into a school of law named after ibn-Ilanbal (d. 855). These are the four Sunnite schools which have persisted down to the present day; others which arose at the same time or later are now extinct. The non-Sunnite communities of Moslems have their own systems of *fiqh* which, however, have been strongly influenced by Sunnite jurisprudence; although based on different principles their peculiarities are no greater than those distinguishing one Sunnite school from another. The most important of these communities, the Shiites, recognize as their main source of law in addition to the Koran the Sunna of the prophet and of his successors, the inams, the chief among whom was the

caliph 'Ali. All religious doctrine is traced by means of traditions to their paramount authority. Only in the absence of the last inam—who is hidden—is the community guided by the learned interpreters of the law, the *mujtahids*. They are authorized to draw conclusions from the Koran and the Sunna by using the human reason (*'aql*); their unanimous opinion (*ijmā'*) is considered valid.

There are no fundamental differences between the orthodox schools. They all recognize the same principles of law and differ merely in their application; their juridical thinking and the results achieved are practically alike. They recognize each other as orthodox and as of equal authority; mutual intolerance has always been disapproved by their authoritative representatives. The school of the Zahirites, founded by Dā'ūd (d. 883), rejected all *qiyās*, acknowledged *ijmā'* only in so far as it had been reached by the prophet's associates and insisted upon being guided solely by the literal interpretation (*zāhir*) of the Koran and the Sunna. It did not, however, exert any permanent influence. The spread of the various schools was determined chiefly by secondary factors, such as the influence of their representatives, their geographical location and the attitudes of rulers. Today about 30,000,000 Moslems in Upper Egypt and the Sudan, north and central Africa are Malikite; this school also predominated in Moslem Spain. There are approximately 118,000,000 Hanifites in Turkey, central Asia and India and areas formerly under Ottoman rule. Lower Egypt, east Africa, western and southern Arabia, the coastal regions of India and the Dutch East Indies are Shafiite, embracing some 73,000,000 adherents. Perhaps 3,000,000 Ianbalites are found in central and eastern Arabia.

The establishment of the schools of law represented the end of the creative periods of the *fiqh*; only details were increasingly elaborated later on. Evolution after al-Shāfi'i, while recognizing the Koran, the Sunna, *ijmā'* and *qiyās* equally as the four roots (*uṣūl*) of *fiqh*, emphasized the Sunna at the expense of the Koran, which could be modified by the former. The *ijmā'*, in the sense of the agreement of the learned men of any period, came to be regarded as infallible and binding for the entire future. Originally a mere supplement to the Koran and Sunna, it thus evolved into an instrument for their confirmation and even for their abrogation, as when it permitted the worship of saints and introduced the doctrine of the prophet's personal infalli-

bility. Important portions of the law—the caliphate, for example—are based solely upon this *ijmāʿ*. In the last analysis the entire system of the *fiqh* owes its authority to the *ijmāʿ*, which vouches for its correctness and for its agreement with the true meaning of the divine sources. Although the *ijmāʿ* really procured official recognition for important elements of practise, its significance as a source for progressive development in Islamic law should not be overestimated, since it is at least as likely to hinder as to aid the introduction of new ideas. Unsuccessful attempts have been made to add 'urf—that is, general usage—to the other four foundations of the *fiqh*. Theoretically the customary law is not acknowledged as binding even when the *fiqh* affords no rule. Despite the fact that the influence of customary law and of foreign legal practise, although not of foreign legal theory, was very important and was taken for granted in the early period of Islamic law, their further infiltration grew extremely difficult after the acceptance of the concept of the *uṣūl* in its final form.

The formal systematization of the legal material was ended by the eleventh century. The works of that period mark the high point for the evolution of juristic concepts. Subsequently casuistry again achieved undisputed predominance; and Islamic law grew more and more inflexible. In the early period and down to the tenth century a knowledge of the *Sharīʿa* could be obtained directly by a study of the Koran and tradition. Later, however, there prevailed among the Sunnites the conviction that nobody was authorized to undertake an independent examination of these sources by personal effort (*ijtihād*) but that all are bound to the unquestioning acceptance of what the preceding authorities have regularly established as the law (*taqlīd*). Thus the *Sharīʿa* is authoritatively represented to the later generations by the system of *fiqh*, elaborated to cover most trifling details, whose authority rests ultimately on the infallible *ijmāʿ* of the community. These doctrines have not gone unquestioned. They are denied by the Shiites. The Wahhabites, who arose in the eighteenth century out of a much older trend of thought within the Hanbalite school, reject them and restrict the *ijmāʿ* to the agreement of the prophet's associates. As a result there were important departures in doctrine, with the purpose of restoring those of original Islam. But like the traditional system the Wahhabite soon reached the stage where further development was impossible.

The first significant theoretical incursion into

the *fiqh* system is that effected by the recent modernist movement, which does not acknowledge the *fiqh* as binding, since it is only the product of the human mind, and which considers it now obsolete as the expression of a prior epoch. It proposes instead to revise Islamic law in conformity with new ideas, on the basis of the most modern interpretation of the Koran and with a corresponding critique of traditions, maintaining at the same time that it attempts a return to the true principles of Islam. The modernist movement in Egypt has quite recently gone beyond a general criticism of the *fiqh* system to the creation of a family law in which an attempt is made to justify formally, by older authorities of the *fiqh*, materially radical innovations. After having been denounced at first as unorthodox the modernist movement is now struggling with an increasing measure of success for recognition within Islam; it promises, in its own sphere of influence, a development of those parts of Islamic law which still retain practical significance. But by their very nature both *Sharīʿa* and *fiqh* are hostile to change. Learned jurists are the strongest conservative element in Islam and in spite of the successes of modernism the spiritual power of the traditional *Sharīʿa* throughout Islam must not be underestimated. It is a great educational factor and has always been studied most diligently. In most circles it is still considered the sole subject of true learning, despite the warnings of the religious against exaggerating its importance.

The evolution of the *fiqh* as a progressing interpretation of the sources of law, with legislative activity theoretically confined to the prophet, has resulted in the absence of a real codification of the law in the modern sense. But each school of law has its own authoritative *fiqh* works and these have actually become the codes of the orthodox Moslem. In them he finds the *Sharīʿa* expounded in the form binding upon him in accordance with the doctrines of that school to which he belongs. Since not everyone is capable of using the books of the *fiqh*, laymen generally require instruction by experts. This is done by means of *fatwa* (opinion, information) handed down by savants called mufti. The "codifications" compiled by Moslems influenced by European ideas, of which the most famous is the Turkish *Mecelle*, are not intended to replace the volumes of the *fiqh* even where they possess official character but have been worked out in order to make the latter's contents more accessible to the layman. The codifications which have been

planned or carried out by European authorities cannot be considered as representative of the pure *Shari'a* if only because of the innovations in their content. The French project for Algeria is the best known.

According to their traditional, unsystematic arrangement, the books of the *fiqh* devote the first chapters to the five principal religious-ritual obligations: ritual purification, divine service (*ṣalāt*), the alms tax (*ṣakāt*), fasting and the pilgrimage to Mecca. This is usually followed by contracts, inheritance law, marriage and family law, criminal law, the holy war (*jihad*) and relations with the unbelievers in general, dietary laws, sacrificial and slaughter regulations, oaths and vows, court procedure and the freeing of slaves. Not all of these involve obligatory prohibitions or commandments; in many cases it is merely advisable or reprehensible from the religious standpoint to omit or to do something. Finally, the law also regulates actions which it leaves open as permissible or neutral. Thus actions fall into five classes. This religious valuation has largely superseded the juridical categories proper.

The *Shari'a* never succeeded in translating its claim of absolute validity into practise. It arose essentially as a protest against reality and as the delineation of an ideal, which was looked for only in the bygone early period of Islam and the return of which could be hoped for only under the Mahdi in the indefinite future. As the pious, who laid the foundations of the *fiqh* under the Ommiads, were not bound by actualities, the doctrine of obligations evolved by them became largely incompatible with actual practise. After the failure of repeated endeavors to put the *Shari'a* into practise, of which the most notable example was the attempt under the first Abbasides who accorded much influence to the jurists, the pious yielded to the conditions of the time. They obeyed state regulations, retaining, however, full freedom to voice their theoretical criticism. In theory the state acknowledged the *Shari'a* and the learned men as its interpreters, but although it claimed no right of legislation upon the basis of the *Shari'a* in practise it ignored the latter whenever it saw fit. Since all Moslems could not avoid violating the law continually, this state of affairs had to be accepted as willed by Allah; and savants went so far as to declare that it had been foretold by the prophet. The *Shari'a* itself enjoins the acknowledgment of the de facto ruler and the doctrine was developed that necessity transcends the laws. In

situations where conditions made the *Shari'a* difficult to observe ways were found to elude its provisions. An evasion of the prohibition against interest was taken over from the mediaeval West under its Arabic name, *mohatra*. The cadis, whose authority deriving from the *Shari'a* had to be recognized by the government, found their competence gradually curtailed. In this way the law in so far as it was not workable eliminated itself from legal practise, although theoretically it could not accord recognition to differing legal customs but must at best suffer them in silence. Nevertheless, there was no sharply defined boundary between the theoretical system and the state power. This is shown most clearly by legal documents and by the office of the cadi, who was a state official as well as a judge on the basis of the sacred law. Eventually there remained under his jurisdiction only public worship, marriage, personal law, inheritance and in part pious endowments (*waqf*), all of which are in the popular consciousness closely connected with religion. The *Shari'a* never really applied to the field of commercial law, even though practise endeavored to avoid violating in form such fundamental provisions as that which forbade the taking of interest. The secular powers increasingly assumed jurisdiction in matters of constitutional, criminal, military and taxation law as well as the more important property cases. This led to separate legislation alongside the *Shari'a*, of which the best known example is the Ottoman *Kanunnames*, and resulted in codes along European lines, as in Turkey since the epoch of the *Tanzimat* and more recently in Egypt. Thus throughout Islam there has arisen a twofold administration of justice, the religious and the so-called secular, quite independent of western influence.

Periods of the more or less correct observance of the *Shari'a* have alternated with epochs in which it was violated or totally ignored. The last great wave of its observance began with the rise of the Ottomans. In practise the *Shari'a* is everywhere observed solely because and in so far as it has become customary to do so. The stricter or more lax observance of the law bears no relationship to the degree of religious intolerance; nor is it always the theoretically most important obligations which are complied with, but rather those customs through which the Moslems differentiate themselves from the followers of other faiths. Even in marriage, family and inheritance law the *Shari'a* is restricted by the *ada*, the customary law. In the Dutch East Indies the

'*ada* is even theoretically recognized, outside of the theological circles, upon the same footing as the *Shari'a*. In British India and in general throughout the Mohammedan areas under British administration the application of the *Shari'a* in its restricted sphere has been influenced noticeably by special rules of judicial procedure as well as by British legal thought. In Turkey the last stage of the influence of the *Shari'a* on commercial law had been marked by the *Mejelle*, which in some territories detached from the Ottoman Empire is still in force; but already the family law decreed in 1917 involved considerable encroachment upon the *Shari'a* family law, and in 1926, while Islam was still the official religion, Islamic law was entirely abolished. In Egypt family law has been revised since 1920 and the new regulations governing religious jurisdiction have transformed fundamentally the judicial procedure of the *Shari'a*; finally, Parliament has discussed profound changes in the law governing pious endowments. In Algeria and in Morocco, France has officially recognized or allowed the recognition of the Berber common law, which differs from the *Shari'a*, and has in part revised it with the intention of improving the position of women.

In conformity with its character as a religious ethic the *Shari'a* applies in general to Moslems only; the adherents of other tolerated religions, chiefly Jews and Christians, who were considered citizens of a lower class (*dhimmi*), retain in addition to autonomous administration of their cultural and religious affairs their own internal jurisdiction with recourse to the *cadi*, who decides according to Islamic law. This logical conclusion of the Islamic concept of the state has persisted in Mohammedan countries to the present time for those matters which are still regulated by the *Shari'a*. In the Ottoman Empire a community of those professing another faith within the Islamic state was called a *millet*. With the extermination of some non-Mohammedan minorities and the progressive assimilation of others to their Moslem neighbors the *millet* system has been slowly disappearing. In addition to the *millet* system there were the so-called Capitulations, which guaranteed subjects of foreign, non-Moslem states the enjoyment of their own consular jurisdiction. The Capitulations fitted without difficulty into the *Shari'a* doctrine of the protection of foreigners and were from the Islamic point of view a mere extension of the concept of the personal nature of law which held for the *dhimmi*. This like the *millet*

is disappearing or has already disappeared from Islamic territory.

JOSEPH SCHACHT

**See:** ISLAM; CALIPHATE. See also biographies of important Islamic jurists.

**Consult:** Comprehensive expositions such as: Macdonald, D. B., *Development of Muslim Theology, Jurisprudence and Constitutional Theory* (New York 1903) pt. ii; Juynboll, T. W., Introduction to his *Handbuch des islamischen Gesetzes* (Leyden 1910; 3rd ed. in Dutch, Leyden 1925) p. 1-51; Levy, R., *An Introduction to the Sociology of Islam*, vol. i- (London 1931- ). Important monographic investigations: Goldziher, I., *Die Zähriten* (Leipzig 1884), *Muhammedanische Studien*, 2 vols. (Halle 1889-90) vol. ii, ch. i, and "Muhammedanisches Recht in Theorie und Wirklichkeit" in *Zeitschrift für vergleichende Rechtswissenschaft*, vol. viii (1889) 406-23; Snouck Hurgronje, C., *Verspreide geschriften*, 7 vols. (Leyden 1923-27) vols. ii and iv; Bengtsträsser, G., "Anfänge und Charakter des juristischen Denkens im Islam" in *Islam*, vol. xiv (1924-25) 76-81, and "Zur Methode der Fiqh-Forschung" in *Islamica*, vol. iv (1929-31) 283-94; Ducati, B., "Rationalismus und Tradition im mohammedanischen Recht" in *Islamica*, vol. iii (1927-28) 214-28.

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**ISMAIL KEMAL BEY** (1844-1918), Albanian statesman. A member of the feudal family of Vlorë, which owned large estates in southern Albania, Ismail belonged by descent and education to the Turcophile ruling class. After his more or less voluntary flight from Turkey in 1900, however, he joined the Albanian nationalist movement. He first cooperated with Faik Konitza in the publication of his paper, *Albania*, in Brussels, then edited his own paper, *Salut de l'Albanie*, and later became the leader of the Liberal opposition in the Turkish parliament. He is important historically chiefly for his proclamation of Albanian independence on November 28, 1912. He recognized the necessity of this step in the spring of 1912, a half year before the outbreak of the First Balkan War, in order to prevent the otherwise inevitable partition of the country. He prepared the proclamation through negotiations with the leaders of the great Albanian colony in Bucharest and with the support of Austria-Hungary and finally seized the right moment for its promulgation after the outbreak of war.

Ismail directed the government of Albania until January 22, 1914, when he surrendered his full powers to the International Commission of Control. His rule was marked by fundamental reforms, especially in the religious field. He was also active in endeavoring to preserve the territorial integrity of Albania by means of personal negotiations at Rome, Vienna, Paris and especially at the London Balkan Conference. His career as a statesman was finally terminated when after the accession of Prince Wilhelm of Wied he demanded the division of the country into three cantons after the Swiss model, the creation of Italian and Austro-Hungarian spheres of influence and the departure of the prince. The storm of opposition to these proposals forced him to flee to Italy, where he remained until his death. Although Ismail has been frequently accused of betraying his country for money, this charge has been proved to be entirely without foundation.

NORBERT JOKL

*Consult: The Memoirs of Ismail Kemal Bey*, ed. by Sommerville Story (London 1920); Swire, J., *Albania* (London 1929).

**ISMAY, THOMAS HENRY** (1837-1899), British shipowner. Ismay was the son of a shipbuilder and was apprenticed to Imrie and Tomlinson, a Liverpool shipping firm, at the age of sixteen. After traveling to South America he

became in 1860 junior partner in Nelson and Company. In 1867 he purchased the flag of the White Star Line, an Australian sailing fleet, and built iron clippers. In 1869 he founded the Oceanic Steam Navigation Company (White Star Line), running between England and the United States, which developed one of the world's leading merchant fleets. Together with the shipbuilding firm of Harland and Wolff of Belfast, Ismay produced a faster and more comfortable type of Atlantic liner than hitherto known, beginning with the *Oceanic* in 1871. Although Ismay refused to enter Parliament he was a staunch Liberal, was interested in public affairs and served on important government commissions relating to military and naval administrative questions. During the crisis of the Russo-Turkish War in 1878 he put the White Star fleet at the disposal of the government for war purposes. This tender led to the practise of state subsidy for the building of large, swift steamships transformable into auxiliary fighting cruisers or transports, and in 1897 the White Star *Teutonic* participated in a naval review as a small cruiser. Ismay contributed \$100,000 to the establishment of a sailors' pension fund. He left an estate worth more than \$5,000,000.

A. W. KIRKALDY

**ISOLATION.** The stability or instability of isolation depends upon the characteristics of the existing culture which forms the basis for individual and social behavior. The isolation of castes and ranks in early historical ages, for example, was relatively stable; that of social classes in later individualistic forms of civilization has been relatively unstable. A group may seek and emphasize isolation by aristocratic exclusiveness, while external egalitarian countertendencies of democracy may endeavor to abolish the isolation. Conversely, an expelled group with pariah status may try to avoid the isolation which has been imposed upon it. A voluntary isolation, which is also emotionally conditioned by hostile sentiments, has a powerful integrating effect; it turns the isolated group into a closed community and makes it tenacious and enduring. An involuntary isolation based on feelings of strangeness and indifference exerts only an associative effect and results merely in a loose and temporary external community of interests. Even under conditions of spatial symbiosis extensive isolation may exist when the demarcation of the group from its surroundings is due to psychological barriers. On the other hand, spatial

separations may be overcome by sociological and psychological bonds that transcend them. Natural topographic features, artificial national and administrative boundaries, military fortifications and prison walls furnish frames for spatial isolation. The attitude of the isolated group toward the isolation thus achieved determines whether and to what extent the available means of communication may be utilized to break down the boundaries. In some cases occasional visits of tourists to isolated communities may inspire the natives with a desire to emigrate by making them conscious of their isolation. A group of prisoners of war thrown together in involuntary isolation may be integrated by a spirit of camaraderie as a result of joint plans for escape.

The sociological composition and structure of the isolated group determines its degree of self-sufficiency and power of survival as well as its capacity for adaptation to changed temporal and cultural conditions. The self-sufficiency of an isolated group may increase—either in respect to its needs, as, for example, by the habituation of the group to primitive conditions or to solitude, or in respect to the satisfaction of its needs through a change in the economic situation or in the conditions of communication. The character of the biological results of isolation, such as inbreeding, susceptibility to certain diseases and the effect on birth and death rates, as well as the nature of the effects of tradition and habit, such as peculiar customs and handicrafts, is also dependent upon the composition and structure of the isolated group. Social, religious and ethnic uniformity or multiplicity, the possibility of changing one's mode of life within the isolated group, the normal or abnormal ratio of the sexes or of different ages, the variability of the size of the group and the possibility of territorial extension are among the decisive factors involved. Both the absolute size of the group and its numerical ratio to its immediate environment are also important in determining the specific effects of isolation.

The sociological basis of isolation may change: religious isolation may turn into national or national into economic. Often the basic legal reason for isolation is eliminated as a result of historical changes, but the isolation may continue either because of political or economic privileges or because of mere habit. Involuntary isolation may change into voluntary isolation and vice versa, or an isolation originally spatial may become independent of such barriers. Barracks,

boarding schools, college dormitories and sanatoria are examples of forms of temporary isolation which are widely used as community measures to increase individual and collective efficiency. Religious struggles and nationalist movements may result in the isolation, by mass emigration or demarcation, of certain groups, which may become integrated in ethnic communities. Only after the original cause of the isolation is no longer effective can it be determined whether and under what conditions the isolation will be maintained and whether a return to and merging with the old condition of life or a separation and dissolution into a new will follow. The abolition of the ghetto, for example, has had national, cultural and religious assimilatory effects; it has also resulted in the formation of special religious and political groups, such as that of the Zionists.

Isolation may be on one side only, as when a group is expelled from a society and is avoided or when the group isolates itself; in both cases it lies in the discretion of the society to maintain the isolation or at least to make an endeavor to break through it. Component states of a federative empire and church parishes, on the other hand, are examples of mutual forms of isolation. Most forms of specific isolation presuppose complementary behavior in other respects. A troop of prisoners of war isolated by military authority requires measures of supervision and feeding which in part annul the isolation. An aristocracy which isolates itself permanently requires an extensive servant class, which it trains in order to be able to separate itself from the mass of the people. Thus any kind of isolationist action is accompanied by associatory auxiliary activity directed toward attaining the ends of isolation; often these auxiliary factors contain the germs of the forces which are destined to burst the bonds of the isolation.

Problems arising from isolation are to a certain extent related to differentiation and individualization on the one hand and to integration and leveling on the other. Cultures in which agriculture predominates are characterized by isolation; while nomadic, hunting and military cultures counteract isolation by communication and mobility. Mutual isolation aids the continuity of cultural forms but also results in the gradual differentiation of originally homogeneous social elements because of differences in the tempo of development; for example, in the field of language where ancient and undeveloped forms of speech and dialects persist. Isolation

tends to dissolve and hinder the development of large units, societies and groups; but it may be to the advantage of a people to maintain reserve forces which are removed from the cultural effects of urbanization through the isolation of its rural population or the inhabitants of its remote districts. This may have a negative, narrowing, stunting and one-sided effect upon the isolated group but it may also exert a positive effect through intensifying characteristic features of its culture. Social institutions which serve to isolate certain subgroups may in this way lead to the accumulation of outstanding achievements of a political, scientific or technical nature in these subgroups through specialized tradition which benefits the entire culture.

The spread of world religions; the rapid advance of techniques of communication; the opening of remote and sparsely settled regions; movements involving democratization, urbanization and industrialization; the present interrelations of world economy; the formation of huge empires; and the mobilization of the earth's population in the World War, have resulted in the pronounced decline of the tendency toward voluntary isolation. The isolation which still exists is in a very unstable condition. The trend away from the land, the movement of populations from high mountain zones, are phenomena which favor association and intermixture rather than isolation. On the other hand, during the present world economic crisis there is a revival of the phenomena of isolation resulting from protective tariff policies, trends toward economic self-sufficiency and the development of nationalism of small countries. Likewise there is in many places a countertendency against cosmopolitanism and against the obliteration of denominational, social and national peculiarities which is using isolation as a method rather than as a permanent form.

MAX HILDEBERT BOHIM

See: ISOLATION, DIPLOMATIC; SEGREGATION; ETHNIC COMMUNITIES; GHETTO; MOBILITY, SOCIAL; ASSIMILATION, SOCIAL; COMMUNICATION; LANGUAGE, DIALECT; LITERACY AND ILLITERACY; FEUDS; ETHNOCENTRISM; RACE; RURAL SOCIOLOGY; URBANIZATION; COSMOPOLITANISM.

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**ISOLATION, DIPLOMATIC.** Diplomatic isolation involves the enforced exclusion or the voluntary and deliberate abstention of a state from the councils of the powers or from participation in affairs of general interest. From the sixteenth to the nineteenth century international affairs centered largely upon the relations of the great powers of Europe to one another. The guiding principle was balance of power, a principle which involved action to prevent the concentration of undue influence and power in any one state. It was therefore a common practise for powers which felt themselves threatened by the predominance of another to unite against the latter, to isolate it if possible and eventually to break its preponderance by military defeat. Such was the nature of the alignment and conflict against the Hapsburg power in the sixteenth and seventeenth centuries, against the power of France in the periods of Louis XIV and Napoleon and against the new Prussian state of Frederick the Great in the Seven Years' War. At this period the isolation of the power to be attacked was part of the regular preparation for war and part of the accepted strategy of diplomacy. The coalition which preceded the War of the Spanish Succession, the famous Diplomatic Revolution of 1756, the combination of powers which dismembered Poland and the alliances against France in the revolutionary and Napoleonic periods are all classic examples of international groupings designed to isolate the power against which the action is directed.

But the isolation of a power was not necessarily a preliminary to armed conflict. It might be effected for prophylactic purposes with the idea of preventing such conflict or aggression. It then frequently involved the union of power and influence of a number of smaller or weaker states against one large or powerful state. Examples of this practise may be found in the *Fürstenbund* organized by Frederick the Great against Joseph

II of Austria and in the so-called Armed Neutralities of the later eighteenth century.

The growth of the idea of the concert of Europe and the spread of the idea of cooperation among nations made the application of the policy of isolation less frequent in the nineteenth century than in the days of the old cabinet diplomacy. In the years following the Napoleonic wars France was very effectively isolated by the Quadruple Alliance, and the victorious powers attempted to prevent the recrudescence of aggressive policy by building up a bulwark of powers on the French frontiers as well as by means of an allied occupation of French territory and the imposition of a heavy indemnity. But France was readmitted to the councils of the powers at the earliest possible moment. She was effectively isolated again, in the purely diplomatic sense, in 1840, when four great powers united to impose a solution of the eastern crisis from which France dissented. In the years preceding 1870 Napoleon III attempted to isolate Prussia by effecting a combination between France, Austria and Italy, but this policy was frustrated by Bismarck when he forced the issue in 1870 and completely defeated France. The roles were then reversed, and in the period from 1870 to 1890 the German chancellor devoted his efforts to the construction of a great alliance system which was designed to prevent France from finding among other powers support for her aspirations and hopes for revenge. The Franco-Russian Alliance of 1894 put an end to France's isolation, and with the building up of the Triple Entente in the years 1904 to 1907 it was the Germans who began to fear isolation and talk of "encirclement." In reality no European power was isolated in the period immediately preceding the World War. It was not until after the defeat of the Central Powers that the old policy was put into practice once more. The French system of alliances with states like Poland, Czechoslovakia, Yugoslavia, as well as the combination of states known as the Little Entente is designed to isolate Germany and Hungary and to provide protection for all eventualities. Similar efforts were made in the post-war period to isolate Russia and to cut her off from intercourse with the other powers.

These examples will show that isolation may be carried out for aggressive or defensive purposes, in modern times more commonly for the latter than for the former. It may be effected by various methods. Usually the effort is made to construct a coalition of powers which will ef-

fectively deprive the state acted against of support from outside, according to the principle enunciated by Bismarck that in a world of five great powers a state should always strive to be one of the group of three. Powers centrally located are always more exposed to isolation than those on the fringe, so to speak. A central power may be surrounded by a group of hostile states and completely hedged in by enemies. It is also more exposed to economic and financial pressure, to curtailment of food supply and to other restrictive measures made possible by the improved methods of communication and transportation. But isolation in the broadest sense of the term can rarely if ever be successful. Politically speaking the friendship of a state threatened by isolation can usually be had so cheaply that it will inevitably find a bidder and the coalition opposed to it will soon begin to disintegrate. On the other hand, the modern world is economically so much of a unit that states have become interdependent in politics as well. For that reason complete isolation is impossible and the policy of isolation has become a dangerous anomaly. In the future it is bound to become more and more a purely punitive measure directed against an offending state by the decision of a supernational tribunal.

[Of very different nature is the deliberate abstention of a state from the councils or actions of the powers. Small or weak states even on the continent of Europe have frequently followed a policy of self-imposed abstention in all disputes of a military or political nature. In the case of Switzerland this end has been attained by the acceptance of neutrality, internationally recognized. In the case of states like the Netherlands and the Scandinavian group it goes no further than refusal to become involved in territorial disputes or military operations. None of these states have ever shown the least disinclination to cooperate with other states in work of common interest, especially in work in the interest of peace. On the contrary, they have generally taken an exceptionally active part in all movements for international cooperation.]

[States geographically separated from Europe have generally tended to stand somewhat aloof from continental squabbles. Far from dreading isolation they have extolled it and urged it as a national policy. Thus the English since the time of Wolsey have been ardent advocates of the principle of balance of power on the continent, but they have usually tried to abstain from interference with continental affairs except when the

equilibrium was threatened or when direct English interests—political in the case of Hanover, but usually commercial—were involved. During the nineteenth century the representatives of the Manchester school carried the doctrine of abstention to extremes, making a veritable dogma of "splendid isolation." In the time of Gladstone and Granville there was little interest in the political affairs of the continent and England's prestige sank rather low. But this was merely a passing phase. Even the most irreconcilable Manchesterites never advocated abstention from anything but political and military affairs. They favored closest commercial intercourse and were convinced workers in the cause of peace and international understanding. The Conservative party and later the liberal-imperialist group always took an active interest even in political matters of international concern. Lord Salisbury while he abstained from definite written commitments aligned his country with the continental groups and his successor brought the period of isolation to an end with the signature of the Anglo-Japanese Alliance. A Liberal ministry approved the entente with France and concluded the agreement with Russia. Both parties approved of England's intervention in the World War, and in the post-war period England has played a prominent and important part in international affairs. Manchester doctrines are now forgotten and both the imperialist and labor movements presuppose active participation in world affairs.

Perhaps the most remarkable example of deliberate abstention in international politics is to be found in the foreign policy pursued by the United States government for over a century and still regarded by many Americans as a sacred legacy. The fathers of the country, mindful of the days when the colonies were still mere pawns in the game of European diplomacy, were at one in their aversion from entanglement with the European system. Their feelings in this matter were undoubtedly accentuated by their fear for the young republic, regarded with hostility by the European monarchies. "We ought to lay it down as a first principle and a maxim never to be forgotten, to maintain an entire neutrality in all future European wars," said John Adams in 1775. Jefferson thought that the new nation should "stand with respect to Europe precisely on the footing of China" and should, like the Turks, keep out of European affairs. Congress in 1783 resolved that "the true interest of the states requires that they should be as little

as possible entangled in the politics and controversies of European nations," while Washington in his Farewell Address gave classic expression to the idea in these words: "Europe has a set of primary interests which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships and enmities."

It should be noted that Washington himself declared that "we may safely trust to temporary alliances for extraordinary emergencies" and that his objection was chiefly to "permanent" alliances. Jefferson too, who used the famous phrase "entangling alliances" in his inaugural of 1801, had no objection to cooperation for specific purposes, as in the case of the Monroe Doctrine negotiations of 1823. Nevertheless, throughout the nineteenth century American statesmen were prone to place a strict interpretation upon Washington's words and frequently refused cooperation with European powers even in cases where these interests were identical with American interests. Often in such cases the American government took exactly the same action while refusing joint action. On the other hand, there were notable exceptions to this general rule. At the time of the Hungarian Revolution of 1848-49 the United States assumed a stand not far removed from interference in the domestic affairs of another nation. At other times the government expressed itself very strongly in behalf of the Irish and of the Jews in Russia and Rumania. In Latin American affairs the abstention practised toward European questions was never observed. As early as 1826 Congress voted to participate in the Pan-American Congress at Panama and in 1875 Secretary Fish went so far as to propose to European powers that they intervene jointly with the United States to restore peace between Spain and the Cuban rebels. Much the same attitude was taken toward far eastern issues. (In 1864 the United States acted jointly with Great Britain, France and the Netherlands against Japan. It cooperated with the other powers at the time of the Boxer rebellion and took the initiative in putting forward the doctrine of the open door. President Roosevelt took a lively interest in the Russian-Japanese conflict and acted as intermediary to bring about the conclusion of peace.) (In general then it may be said that American isolation was maintained chiefly with regard to

the political alignments and affairs of Europe. As international cooperation developed in the later nineteenth century the government took part in many conferences for the regulation of the postal services, weights and measures, cables, copyrights, sanitary services, sea law and other matters. The United States took an active part also in the work of the two Hague peace conferences, to say nothing of the essentially political conferences on the affairs of Morocco (1880), the Congo (1884-85) and Morocco again (1906). The action of the government in the last named instances roused much opposition, but there was in the pre-war period a growing feeling, eloquently expressed by men like Senator Lodge, that Washington's words must not be too strictly construed and that the United States with growing commerce and interests abroad could not and should not stand aloof from matters of general concern. (In the World War the principle of isolation was completely discarded and the United States became deeply involved even in the affairs of Europe. President Wilson was an opponent of the ideas of the balance of power and the "game" of the old diplomacy, but he was a vigorous advocate of international cooperation for the advancement of peace, security and the common interests of mankind and insisted that "there is no entangling alliance in a concert of power.") His policy, which is best set forth in the Covenant of the League of Nations, met with bitter opposition from the leaders of the Republican party, notably from Senator Lodge, who evidently changed his attitude to meet the exigencies of party politics. The peace treaty with Germany, the Guarantee Treaty with France and the Covenant of the League were rejected by the American Senate, although the same body raised little objection in 1922 to the so-called Four-Power Treaty relating to the Far East. The conflict which arose over the action of President Wilson did, however, lead to a revival of the isolationist teaching, and the experience of 1920 has made the government wary of far reaching commitments. But the growth of American commerce, the increasing export of capital, the ramifications of the reparations and interrelated debt problems, have involved the United States so deeply in general world affairs that the government has been obliged to take an active part and even to collaborate with the League, unofficial though its action at times has been.

In the modern world with the growing economic and therefore political interdependence of nations it is quite as impossible for a state to

maintain a deliberate isolation as for a group of states to impose isolation on any other. The machinery of the League of Nations is designed to prevent a recrudescence of the old diplomacy and to replace purely selfish, national action by international cooperation. The old system and the old practise continue, but they are falling into ever greater disrepute and are bound gradually to disappear as the new system establishes itself.

WILLIAM L. LANGER

See: INTERNATIONAL RELATIONS; DIPLOMACY; ALLIANCE; BALANCE OF POWER.

Consult: Dupuis, Charles, *Le principe d'équilibre et le concert européen* (Paris 1909); Windelband, Wolfgang, *Die auswärtige Politik der Grossmächte in der Neuzeit, 1494-1919* (2nd ed. Stuttgart 1925); Hoijer, Olof, *La sécurité internationale et ses modes de réalisation*, 4 vols. (Paris 1930) vol. i; Seeley, John R., *The Growth of British Policy*, 2 vols. (Cambridge, Eng. 1897); Egerton, Hugh E., *British Foreign Policy in Europe to the End of the 19th Century* (London 1917); Dawson, William H., *Richard Cobden and Foreign Policy* (London 1926); Latané, John H., *A History of American Foreign Policy* (New York 1927); Garner, James W., *American Foreign Policies* (New York 1928); Blakeslee, George H., *The Recent Foreign Policy of the United States* (New York 1925); Belmont, Perry, *National Isolation an Illusion* (New York 1925); Vandenberg, Arthur H., *The Trail of a Tradition* (New York 1926); Kantorowicz, Hermann, *Der Geist der englischen Politik und das Gespenst der Einkreisung Deutschlands* (Berlin 1929), rev. by the author and tr. by W. H. Johnston (London 1931) chs. v-vi.

ITAGAKI, COUNT TAISUKE (1837-1919), Japanese politician and statesman. From early youth Itagaki identified himself with the contemporary movement for the restoration of the authority of the emperor and represented his native clan of Tosa, one of the four influential daimios allied against the then tottering Tokugawa shogunate, in Kyoto, the center of the anti-shogunate forces. When the new Japan was being organized under imperial control, he headed an expeditionary force sent to bring about the submission of the feudatories in the north who were supporting the shogun against the emperor.

Itagaki was one of the builders of modern Japan. He was the minister of industry in the new imperial government but resigned from office when the ministry refused to declare war on Korea. Seeing in this a defeat of popular sentiment he started the agitation for a parliamentary form of government in Japan. To further his program he established an educational institute (Risshi-sha) in which the students were taught the principles of parliamentary govern-

ment and which served as a model for similar schools. In 1881 he succeeded in organizing under his leadership the first nation wide political party, which was known as *Jiyuto*, or Liberal party. In 1887 in recognition of his distinctive services to the country he was created a count, an honor which he vainly tried to decline because of his opposition as a Liberal to the institution of a hereditary peerage. Later, when the constitution was proclaimed and the parliament established, he was twice recalled to the government's service as minister of the interior. His political importance ceased, however, in 1900 when his party was merged into the *Seiyukai*, a new party under the leadership of Prince Ito. The rest of his life was devoted to the cause of social reform.

RYUSAKU TSUNODA

Consult: Morris, J., *Makers of Japan* (London 1906) ch. xviii; Uchihara, G. E., *The Political Development of Japan 1867-1909* (New York 1910) p. 89-91.

ITO, PRINCE HIROBUMI (1841-1909), Japanese statesman and diplomat. The son of a samurai in the fief of Choshu under Lord Mori, Ito was trained in the Chinese classics and military science but after Commodore Perry's arrival in Yeddo Bay he turned his attention to the study of English. Disregarding the law which forbade all Japanese to go abroad, in 1863 he secretly went to England, where he studied the language and was impressed by the material achievements of western civilization. The next year he returned to Japan hoping to dissuade Lord Mori, who had been bitterly opposed to the shogunate's policy of opening the country to international intercourse, from bombarding foreign vessels passing through the Strait of Shimonoski and subsequently negotiated an agreement between the warring parties. From then on he was almost continuously in the government service and held many important posts, including those of vice minister of finance, minister of public works, minister of home affairs and prime minister.

Ito was one of the leaders in developing modern Japan and was intimately connected with many reforms, including financial reorganization. In 1870 he went to the United States to study its monetary system; and in 1871 the government upon his recommendation adopted the gold standard, which was later changed to a bimetallic system. But in domestic affairs he is known especially as the father of the constitution. Between 1882 and 1883 he traveled abroad studying the constitutions of European nations and

upon his return drafted the constitution which was promulgated in 1889. Believing that Japan was not ready for truly representative government and anxious to preserve the traditional political principles of the Japanese, Ito embodied in the constitution the complete authority of the emperor in conjunction with decidedly limited representative institutions. From 1890 on he helped to steer the government on its difficult course, constantly hampered as it was by the immature party politics which marked the history of early constitutional Japan. He himself remained aloof from political parties until in 1900 he became president of the *Seiyukai* party and organized his fourth and last cabinet.

In foreign affairs also he was a dominant figure. He visited the United States and Europe from 1871 to 1873 as a member of the famous Iwakura mission, the object of which was to secure treaty revision and to gather information on administrative matters. In 1895 as prime minister he signed with Li Hung Chang the Shimonoseki Treaty, which ended the war with China but which brought about Russo-German-French intervention compelling Japan to retrocede the Liaotung Peninsula to China. In 1901 he went to Europe with the idea of entering into an entente with Russia on the Manchurian question, but the Katsura cabinet rejected his recommendations and entered instead into an alliance with England. He favored an understanding between Russia and Japan, because he believed that it would lead to a peaceful settlement of their conflicting interests whereas the British alliance would only tend to aggravate the situation. From 1905 to 1909 he was resident general of Korea and inaugurated a program of widespread reform, which, however, he was unable to realize completely. He was assassinated by a Korean in 1909.

KIYOSHI K. KAWAKAMI

Consult: Lawton, Lancelot, "Prince Ito: His Life Work and His Influence upon the National Policy of Japan" in *Imperial and Asiatic Quarterly Review*, 3rd ser., vol. xxix (1910) 308-37; Morris, J., *Makers of Japan* (London 1906) ch. vi; Treat, P. J., *The Far East* (New York 1928); *Kaiko Kenjimon Shu*, compiled by Count Shigenobu Okuma, 2 vols. (Tokyo 1908), tr. as *Fifty Years of New Japan*, ed. by M. B. Huish (London 1909).

IVAN IV (Ivan the Terrible) (1530-84), czar of Russia. Ivan was orphaned as a child and the great Muscovite boyars ruled in his name with such disregard for his person as to arouse him to passionate hatred of the old aristocracy and strong desire for autocratic rule. His personal

reign began in 1547, when he adopted the title of czar. For a few years his rule was peaceful: he issued a law code, established elective local government, initiated national consultative assemblies with local representation (*zemskie sobori*). In 1560 he broke definitely with his former advisers and surrounded himself with people of non-aristocratic origin. This marked the beginning of a new era, which culminated in 1565 in the creation of a personal bodyguard (*oprichniki*); it was to protect the czar, who suffered from a delusion of persecution, scented treason everywhere and acted with pathological cruelty. The *oprichniki* carried out a policy of ruthless terrorism directed at first against the princes and boyars and later against other classes as well. The power of the landed aristocracy was undermined by the expropriation of its patrimonial estates, and the class of small and middle landed gentry (*dvoryane*) was thereby raised in importance. As vassals of the state the latter were obliged to perform military service for life, and their estates were inalienable, uninheritable and recapturable by the state for abuse of official duties. At the same time the peasants gradually lost the right of changing their masters; this process of binding the peasant to the soil was not completed, however, until the early part of the seventeenth century. Russia was thus transformed from an aristocratic state into an oppressive autocracy with the population bound to a variety of compulsory services and suffering from the excesses of official terrorism.

Ivan's reign was marked by great territorial expansion of Russia. As a result of the conquest of the Tartar khanates of Kazan in 1552 and of Astrakhan in 1556 areas along the entire course of the Volga were annexed. In 1582 western Siberia was added. In 1558 Ivan opened war on Livonia for control of the Baltic coast, later extending it against Sweden and Poland; the war continued with varying fortunes until 1582, when domestic disorder caused its collapse.

A. A. KISEWETTER

*Consult:* Platonov, S. F., *Ivan Grozny* (Ivan the Terrible) (Petrograd 1923); Kluchevsky, V. O., *Kurs russkoy istorii*, 5 vols. (vol. i in 3rd ed., vols. ii-iv in 2nd ed., Moscow 1921-23), tr. by C. J. Hogarth as *A History of Russia*, 5 vols. (London 1911-31) vol. ii; Kurbsky, A. M., *Skazaniya knyazya Kurbskago*, ed. by N. Ustryalov (3rd rev. ed. St. Petersburg 1868), tr. by K. Stählin and K. H. Meyer as *Der Briefwechsel Ivans des Schrecklichen mit dem Fürsten Kurbskij* (1564-79) (Leipzig 1921).

IVO OF CHARTRES. *See* YVES OF CHARTRES.

IXTLILXÓCHITL, FERNANDO DE ALVA (c. 1578-1648), Mexican historian. Ixtlilxóchitl, a mestizo, was the direct descendant of the poet and sage, King Netzahualcōyōtl of Texcoco, and of the Aztec king Cuītlahuc, who drove the Spaniards out of the city of Mexico in June, 1520, in the famous *noche triste*. He possessed an intelligent and profound knowledge of the historical tradition, language and hieroglyphic writing of his indigenous ancestors and devoted a great part of his life to the writing of numerous works concerning the historical evolution of New Spain from the remotest times to the seventeenth century. These works show Christian and Spanish influences, but as they seek to glorify the culture and exploits of his Texcoco ancestors they represent in certain respects the native point of view. Ixtlilxóchitl considered the history of his people to be as important as the histories of the Romans or the Greeks. On the other hand, the nineteenth century Mexican patriots who, seeking to exalt their country's Indian traditions, circulated a portion of his work as a faithful and candid description of the "horrible cruelties of the conquerors of Mexico and of the Indians who aided them" were uncritical in their methods and unmindful of obvious differences between their attitude and his. The widely diffused but disputed impression that the Spaniards barbarously obliterated the carefully kept records of a remarkably high civilization in Mexico rests to a considerable degree on his statements. He explained the advanced character of this civilization by the influence of an idyllic Toltec people whose very existence was long denied. His credulity—modified, however, by euhemerism—his partisanship and the use of his work for partisan purposes have served to discredit Ixtlilxóchitl. Nevertheless, his writings, which constitute a rich source of data on Mexican ethnography, hieroglyphics, linguistics, folklore and poetry, are of value to the investigator who seeks to understand the social phenomena that characterized the pre-Hispanic life and the first contacts of Spaniards and aborigines.

MANUEL GAMIO

*Works:* *Obras históricas*, ed. by A. Chavero, 2 vols. (Mexico 1891-92). The majority of Ixtlilxóchitl's works are to be found in Kingsborough, E. K., *Antiquities of Mexico*, vol. ix (London 1848) p. 197-467.

*Consult:* Bohan, Eugène, *Documents pour servir à l'histoire du Mexique*, 2 vols. (Paris 1891) vol. i, p. 211-18; Castillo, Ignacio B. del, "Apuntes para la genealogía de los Señores de Teotihuacan, sect. 2, Don Fernando de Alva Ixtlilxóchitl" in Mexico, Secretaría de



Agricultura y Fomento, Dirección de Antropología, *La población del valle de Teotihuacán*, 3 vols. (Mexico 1922) vol. i, pt. ii, p. 538-47; Weber, Friedrich, *Beiträge zur Charakteristik der älteren Geschichtsschreiber über Spanisch-Amerika* (Leipzig 1911) p. 108-12; García Icazbalceta, Joaquín, "Juan de Zumárraga and the Precolombian Records of Mexico" in *Inter-America* (English edition), vol. vii (1923-24) 177-97, 284-305.

**IZVOLSKY, ALEXANDER PETROVICH** (1856-1919), Russian statesman and diplomatist. Izvolsky, a member of the lesser rural nobility, entered the Foreign Office under Prince Gorchakov and was appointed successively to diplomatic posts at Bucharest, Washington, the Vatican, Belgrade, Munich, Tokyo and Copenhagen. Long before the revolutionary outbreak of 1905 he foresaw the dangers that beset Russia from the short sighted bureaucracy which surrounded Nicholas II. Sympathizing with English liberalism, he desired the gradual introduction of a parliamentary system.

As minister at Tokyo Izvolsky had the wisdom and insight to warn his government that a continuation of the Russian policy in Manchuria would lead to war with Japan. His warning was unheeded, but its verification enhanced his reputation and after a short residence at Copenhagen he was appointed Russian minister of foreign affairs. Ambitious to regain for his country the prestige lost in the Far East, he undertook to advance Russian interests in the Near East. As a first step he negotiated the Anglo-Russian Convention of 1907, smoothing out rivalry in Tibet, Afghanistan and Persia and establishing with France the Triple Entente. Then he secretly proposed to Count Aehrenthal at Buchlau that Austria should annex Bosnia and Herzegovina and that in return the straits of Bosphorus and Dardanelles should be opened to Russian warships. Aehrenthal quickly secured his part of the bargain, but England opposed Izvolsky's proposal for opening the straits. This diplomatic failure caused him to be severely criticized in Russia and greatly embittered him for the rest of his life against Austria. It was one of the reasons for his giving up the Foreign Office in 1910 to go as Russian ambassador to Paris, where he served until the establishment of the Kerensky government in 1917. At Paris he cooperated with French officials, especially with Poincaré, in strengthening and tightening the Triple Entente in preparation for a war which should at last secure Russia's ambitions in the Near East.

SIDNEY B. FAY

*Consult:* The most exhaustive collections of Izvolsky's

diplomatic correspondence are *Der diplomatische Schriftwechsel Izvolskis*, 4 vols. (Berlin 1924), covering the period from 1911 to 1914, and *Izvol'ski in Weltkriege . . . 1914-17* (Berlin 1925), both edited by Friedrich Stieve and drawn from earlier collections based on Russian archive material. A historical analysis of the documents may be found in Stieve, F., *Izvol'ski und der Weltkrieg* (Berlin 1924, tr. by E. W. Dickes (London 1926). Izvolsky's earlier career is sketched in his *Memoirs* (Paris 1923), tr. from ms. by C. L. Seeger (London 1920). For the general diplomatic background see Fay, S. B., *Origins of the World War*, 2 vols. (2nd rev. ed. New York 1930).

**JABAVU, JOHN TENGO** (1859-1921), Bantu politician and publicist. Jabavu was the most prominent of a small group of educated Bantu who interpreted the needs of their race while it was first being brought under the influence of the culture and political institutions of South Africa's white rulers. For nearly forty years he owned and edited the English-Xosa weekly newspaper *Imvo zabantsundo* (Native opinion) and took a leading part in Bantu religious, educational and political movements. His efforts resulted in the grant of free primary education and the establishment of the South African Native College, which provides university training. Moved by a liberal attitude founded on religious convictions which became more and more influenced by Quaker thought, Jabavu believed in democratic government, for the introduction of which he considered the Bantu tradition of free public discussion a sound background. On several occasions he protected with courage and ability the Cape franchise, free from the color bar. He led his people in resisting many repressive educational and land tenure measures and fought against harsh treatment of rebellious chiefs who had lost their independence. He declined to run for the Cape house of assembly on the ground that the presence of a native would be premature and more dramatic than politically effective; instead he urged the support of a liberal white candidate. Toward the end of his life his popularity waned on account of party differences over the Native Land Act of 1913 and on account of opposition to his leadership by the Xosa section of the Cape because he was a Fingou and thus considered outcaste. Under Jabavu's leadership the Bantu peoples raised themselves in the estimation of the white men in South Africa.

J. D. RHEINALLT JONES

*Consult:* Jabavu, D. D. T., *The Life of John Tengo Jabavu* (Alice, C. P. 1922); Golloch, G. A., *Lives of Eminent Africans* (London 1928) p. 106-16.

JACINI, STEFANO FRANCESCO (1826-91), Italian economist and statesman. Jacini's father owned and administered vast estates and silk factories, and Jacini himself became early interested in agricultural problems. The events of 1848-49 interrupted his study of law, but he did not, like the majority of Lombard youth, volunteer in the Italian army; study in Switzerland and Austria and extensive travel turned him toward cosmopolitanism and he displayed an innate aversion to revolutionary methods. A few years later, however, he rendered conspicuous service to the Italian cause by his writings, which although cautiously phrased to avoid police action demonstrated incontrovertibly that the unfortunate condition of Lombardy was due to Austrian misgovernment. Jacini's works were immediately received with high praise in Italy and abroad; Cavour after secret communications with him chose him as one of his ministers almost immediately after the liberation of Lombardy in 1860. He served until 1862 and again from 1864 to 1867. He was prominent in reorganizing and unifying the railroads and other public services and was most influential in forwarding the construction of the St. Gotthard Railway connecting Italy with Germany. Later he sat in the Senate and directed the parliamentary commission for agricultural inquiry (1877-85). For the report of this commission he prepared the introduction, the section on Lombardy and the final summary; the last served as a model for many similar studies and was regarded as the most authoritative presentation of agrarian conditions in pre-war Italy.

SALVATORE PUGLIESE

*Important works:* *La proprietà fondiaria e le popolazioni agricole in Lombardia* (Milan 1854; 4th ed. Milan 1857); *Sulle condizioni economiche della provincia di Sondrio* (Milan 1858); *Frammenti dell'inchiesta agraria* (Rome 1883), Jacini's contributions to the agricultural inquiry, which were later published again as *L'inchiesta agraria* (Piacenza 1926).

*Consult:* Jacini, Stefano, Jr., *Un conservatore rurale della nuova Italia*, 2 vols. (Bari 1926); Coletti, Francesco, "Stefano Jacini e l'agricoltura italiana" in his edition of Jacini's *L'inchiesta agraria* (Piacenza 1926) p. v-li.

JACKSON, ANDREW (1767-1845), seventh president of the United States. Jackson had served short terms in Congress as representative and senator from Tennessee (1797-98) and six years as a justice of the state Supreme Court (1798-1804) when his defeat of the British at the battle of New Orleans on January 8, 1815, made

him a national hero. He added to his fame by his invasion of Florida in 1818 at the outbreak of the Seminole Indian War and by his high handed treatment of the Spanish authorities there. From 1823 to 1825 he was again a senator from Tennessee. His personal popularity and violent and contentious temper rather than his championship of any clearly defined political principles made him the most conspicuous embodiment of the spirit of discontent which came to a head after the panic of 1819 and of a rising demand in the west for general political and governmental reform. His presidential candidacy was aided by dissensions in the cabinet of President Monroe and by a popular demand for the abolition of the congressional caucus, which in the absence of a national convention system had assumed to make nominations. In 1824 he received a plurality of the electoral votes but was defeated in the House of Representatives by John Quincy Adams, who received the votes of the supporters of Henry Clay. Jackson accepted the result as constitutional but spread the charge of a corrupt bargain on the part of Clay and was acclaimed as the predestined candidate of the Democrats in 1828. In that year he was triumphantly elected and at once instituted a partisan purge of the federal civil service and pressed a demand for economy, which included by 1835 the virtual extinction of the national debt. The other outstanding episodes of his two administrations (1829-37) were his vigorous resistance to nullification in South Carolina; his attack upon the second Bank of the United States, whose recharter he prevented; his refusal to support the Supreme Court in its adjudication of the rights of the Cherokee Indians; and an order directing specie payments for public lands which contributed directly to the panic of 1837. A resolution by the Senate censuring him for his course with the bank and its deposits was met by protest which arraigned the Senate and stoutly defended his executive prerogative. In his insistence upon "the people" as the source of political power and his espousal of the theory of majority rule his conception of democracy accorded with that of Jefferson, but the people to him meant the masses and the importance which Jefferson attached to the agricultural class as the foundation of a democratic society had no special place in his thought. With none of the cultural background or intellectual interest of Jefferson, he interpreted public opinion by his intuitions and desires, regarded his own understanding of the constitution as of equal authority with that of

the courts and as an executive showed himself an autocrat. The antimonopoly feeling of the time had his sympathy, but his financial policy showed little understanding of either banking or credit functions or the needs of an expanding industrial and commercial order. His hold on the popular imagination of his own and later generations may be attributed to his ruthless vigor as military leader and champion of the people, to his devotion to the union in opposition to the disintegrating influence of the doctrine of state rights and to his combination of high political principles with a realistic playing of the political game.

#### WILLIAM MACDONALD

*Consult:* Catterall, R. C. H., *Second Bank of the United States* (Chicago 1903); Turner, F. J., *Rise of the New West, 1819-1829*, American Nation series (New York 1906); MacDonald, William, *Jacksonian Democracy, 1829-1837*, American Nation series (New York 1906); Bassett, J. S., *The Life of Andrew Jackson*, 2 vols. (new ed. New York 1916); *Correspondence of Andrew Jackson*, ed. by J. S. Bassett, vols. i-v (Washington 1926-31); Abernethy, T. B., *From Frontier to Plantation in Tennessee* (Chapel Hill, N. C. 1932).

**JACOBINISM.** This word may be used to describe a specific phenomenon of the French Revolution or to describe a widespread but rather loose and indefinite form of corporate faith and organization which indeed took its start from revolutionary France but which pervaded the whole western world for several generations. Jacobinism in this sense had for perhaps a hundred years the same sort of meaning which Bolshevism has today; that is, it was quite indiscriminately applied by political conformists to their opponents generally, and it had definitely dyslogistic overtones. The epithet Jacobins, drawn from their meeting place in the library of a Jacobin convent, was fastened by contemporary popular usage on the Société des Amis de la Constitution of Paris, a political club originating immediately in a caucus of radical Breton delegates to the Estates General and ultimately springing from the rich group life of the last decades of the old regime—salons, local academies, literary societies and Masonic lodges. The Paris society was founded by radical deputies who wished to create organized support for themselves outside the Assembly and soon came to include journalists, municipal politicians, professional men; in fact, anyone actively interested in what was to Frenchmen the new pursuit of politics. Similar clubs soon grew up in the provinces and were affiliated with the "mother

society" at Paris in a network admirably organized all over the country. The membership of these clubs was pretty uniformly middle class and respectable throughout the revolution, and it was recruited chiefly from merchants and professional men; at most it may be said that after the founding of the republic there was a slight relative increase in the number of shopkeepers and artisans. Proletarian these clubs almost never were, even at their fiercest. The total number of Jacobin clubs in France was probably between five and eight thousand; their total membership over the whole course of the revolution may have been close to a million, but during the Terror it can hardly have been much over one half that figure.

The Jacobins began as a pressure group similar in some ways to the Anti-Corn Law League or the Anti-Saloon League. Their network of affiliated societies, centralized through the Paris society, gave them access to all France. Their use of propaganda was highly modern and efficient. Newspapers were subsidized, pamphlets circulated through the mails, prizes for *civisme* offered to school children, revolutionary almanacs distributed, theaters encouraged to provide such patriotic spectacles as the Fall of the Bastille and the Death of Caesar. Direct pressure was brought to bear on elections both local and national. Candidates were pledged to carry out Jacobin measures in return for the club's support, opponents were shouted down or even terrorized—an easy matter in the direct primary assemblies—and an excellent political machine constructed. Few men were elected to the Convention without the support of their local club.

All this pressure was brought to bear in 1792 and 1793 toward the establishment of a republican form of government, universal manhood suffrage, equality before the law, a rough economic equality to be attained by the free play of individual competition and the voluntary restraints of republican morality, universal education and separation of church and state—substantially the ideology of eighteenth century rationalism. These aims would seem to have been implicit among the Jacobins from the very start and to have been their real purpose even in 1790. Official historians of the revolution, however, like Aulard and Mathiez, have considered the anticlerical republican program of the Jacobins a product of conservative stupidity and the European war. Many of the early Jacobins were indeed Girondins in sympathy and believers in *laissez faire*, moderation and local self-

government. Pure Jacobinism was authoritarian, radical and strongly in favor of centralization. Yet there was much pure Jacobinism, especially anticlericalism, among the early clubs and by July, 1793, avowed Girondists and other moderates had been driven from the clubs.

The Jacobins, however, were more than a pressure group or a political party. They succeeded in investing their rather commonplace principles—even in the late eighteenth century they were commonplace—with the satisfying glories of religion. Quite early in the movement the club meetings took on a ritualistic touch. Club premises, at first adorned with a bust or so, Voltaire, Rousseau, Franklin, Brutus, accumulated an extraordinary number of sacred objects. Revolutionary hymns were sung and responsive readings were followed by moral sermons. The young were taught in revolutionary Sunday schools. Civic processions, civic festivals and love feasts, initiated and administered by the clubs, were perhaps too consciously worked out as ritualistic substitutes for Christianity. The details of this Jacobin ritual were a hodgepodge of misapplied Roman history, Rousseauistic sentimentalism, eighteenth century rationalism, downright borrowings from Catholic practise and even immemorial folk custom. Too crude for men of taste, too unreal for the masses, this ritual seems to have been real for the Jacobins. Their meetings displayed many phenomena which the psychologist must recognize as the phenomena of religious belief: violent intolerance of slight dogmatic differences, consciousness of being persecuted, total want of a sense of humor, a contagion of mass emotion, a conviction that opponents are not merely in error but in a state of sin. It is this religious exaltation that would seem to explain the Terror. There is nothing in the social origins or in the specific grievances of the Jacobins adequate for such an explanation. No doubt the constant fear of royalist and foreign enemies augmented the violent manifestations of this faith; but the faith itself, the force behind the "Republic of Virtue," must be traced in the complex fabric of eighteenth century thought and emotion.

The Jacobin clubs during the Terror were hardly more than places for revolutionary worship. No doubt the revolutionists spurred each other on in club meetings and maintained their spiritual energies. But from a third to a half of the members of many clubs were functionaries of the new government. Naturally enough the clubs ceased their old activities as pressure

groups. After the autumn of 1793 they no longer resisted a government of which they formed the rather narrow base. Such political discussion as there was took place in the clubs. Elections were supplanted by *épurations* at the dictate of the representative on mission, and here again the clubs stood for the people. Some minor administrative work was done by the clubs—gathering saltpeter, policing the market, maintaining the maximum on prices. After Thermidor the clubs died out fairly rapidly. They did not protest the fall of Robespierre—indeed by 1794 they accepted anything done at Paris. But they were inconvenient to the Thermidorians, since the earnest Jacobin took liberty, equality, fraternity too literally for the profiteers, the tired ordinary bourgeois and the peasants of the new regime. By 1795 the remaining clubs had been closed. Many ex-Jacobins were to enter the civil service of the emperor. From Fouché, who became Napoleon's indispensable minister of police, to Picqué, who had the relatively humble post of *chef de contentieux* in the imperial lottery, the *conventionnels* did but set the lead for hundreds of Jacobins in the provinces. Former revolutionists were as indispensable to Napoleon's civil administration as to his army.

After the first spontaneous delight with which most of the world hailed the beginnings of the French Revolution, the extraordinary radiation of that movement was largely the work of Jacobins in France and out. Jacobin clubs were immediately set up in territories conquered by republican armies—Nice, Savoy, Italy, Belgium, the Rhineland. French soldiers and civil servants mingled with a number, never very large, of natives. In England societies like the London Revolution Society were already in existence, although somnolent. The French Revolution gave a great impetus to groups working for a reform of Parliament and led to the formation of Hardy's London Corresponding Society, a club largely recruited from artisans, to the Society of Friends of the People—a highly Gallic name—and to many other such societies in London, in the provinces and in Scotland. There was a certain amount of centralization and common deliberation but nothing like the Jacobin network in France. In the United States, democratic, sometimes republican or constitutional, societies sprang up in pretty close imitation of the French and a system of affiliation and correspondence was worked out.

There was unquestionably a certain amount of mutual intercourse between French Jacobins

and their sympathizers in Europe and America. International Jacobinism was never a conspiracy, although to many a conservative it seemed one; and Frenchmen did not swarm secretly into foreign countries supplied with armfuls of gold to build up political clubs, although that too was charged against them. But travel was relatively easy, and Jacobinism aspired to be a world religion. Foreigners like Cloutz, Paine, Pigott and Georg Forster played various roles in French revolutionary politics. Frenchmen descended in numbers into Nice, Savoy and the Rhineland. Margarot, who figures prominently in the English and Scottish clubs, was a Frenchman. The club of Charleston, South Carolina, which actually got itself affiliated with that of Paris, contains many French names, not all of which seem to be those of Carolina Huguenot families. The role of republican ambassadors, Genêt in America, Chauvelin in England, Bassville at Rome, is of course familiar. Correspondence was even more frequent than personal contact. The Paris society corresponded with several English societies until the war and sent a good deal of literature abroad. Finally, French political debates were abundantly reported both in English and in American newspapers and periodicals.

The similarities between French clubs and clubs outside France were striking. The phraseology of the addresses issued by American clubs, their abstract and grandiloquent prospectuses and preambles, sound as though they were translated from the French, which in part they undoubtedly were. In Germany and Italy the same was true, although there the clubs were the fruits of conquest. In England, as might be expected, this sort of imitation was much less frequent, and on the whole the English revolutionaries employed a vocabulary of their own. The Jacobin ritual was not without its imitators. At Boston to "impress the tender minds of the rising generations with the precepts of equal liberty" civic cakes inscribed "Liberty and Equality" were distributed to the youth of the town assembled in State Street. The Roman society took on the impressive if exacting title of Gli Emuli di Bruto. Such clubs resorted to methods of bringing pressure to bear on public opinion familiar to students of French Jacobinism. The club at Mainz kept two registers, one bound in red with tricolor edges for patriots, the other bound in black and equipped with chains for those who opposed the revolution. Naturally not a soul signed the black book. One can even distinguish in the following statement from the

Democratic Society of Chittenden County, Vermont, that mixture of fear and assurance characteristic of French Jacobin functionaries: "We are eighty-four citizens--amongst whom are eight members of the Legislature--*all* the General Officers of the County--the High Sheriff--the *majority* of the Bench--and *all* the Bar, except two, *whom prudence has as yet prevented from asking for admission.*" The membership of the clubs outside France although including many humble men seems never to have been without prosperous and distinguished elements. The Rhenish clubs were filled with professors, physicians and merchants. If the English movement numbers poor men like Hardy, it includes clergymen like Tooke; scientists like Priestley; and even noblemen like Grey, Daer and Stanhope. In the Philadelphia society are to be found such names as Rittenhouse, Biddle and Dallas. Finally, political passions, especially in America, were kept at a white heat by the clubs. Washington himself, who blamed them for the Whisky Rebellion, lost his temper with them and spoke of them scornfully as "certain self-created societies" attempting to undermine the government.

These societies, at least in England and in America, were unquestionably influenced by local and national aims and in part twisted French ideas and French fashions to suit themselves. In England parliamentary reform was a specific goal, and the rights of man might come after the rights of Englishmen. In America the quarrel between Hamiltonians and Jeffersonians can certainly not be stated wholly in terms of French politics. The Jeffersonians, for instance, were states' rights men, the French Jacobins ardent centralizers. The agrarian discontent in America was a frontier discontent and a powerful element in the Jeffersonian party. French Jacobinism was almost wholly an urban product. Yet when all these qualifications are made, one is left with a definite impression that Jacobinism in the 1790's was a genuine international movement; that in the various countries it touched it did have a roughly similar program, employed a similar technique of political action, attempted through a similar ritual to create a political faith. No doubt selfish men in all countries exploited this enthusiasm for quite unphilosophical purposes of their own. But for most of the Jacobins in the western world the faith was real and promising. Not until the best days of the Second International was so widespread and so cosmopolitan a movement to appear in Europe. And

Marxian socialism even before the Russian Revolution lacked the freshness and hope of Jacobinism.

France herself began the destruction of this international Jacobinism. The Convention and the Jacobin clubs abandoned their eighteenth century cosmopolitanism for an aggressive policy of national expansion. But France was not alone in feeling this new, democratic union of all men in a patriotic emotion. Triumphant Jacobinism stirred up the new nationalism in the countries it had conquered. Wordsworth, Fichte, Cucco, to take but a few examples, began a search for a principle to justify their distrust of the once admired revolution. They all ended in a violent and extreme repudiation not merely of Jacobinism but of the ideology, the aspirations, even the fashion and the diction of the century which had produced Jacobinism. By 1815 Jacobinism had everywhere been driven underground—even in America, where Jeffersonian democracy was becoming Jacksonian democracy and the frontier had lost touch with France.

In France indeed Jacobinism survived to appear again at crucial moments in French history. As a type the Jacobin with his anticlericalism, his dislike of the overrich, his moral austerity, his distrust of any government actually existing, his reliance on the individual in economic matters, has existed outside France. If the word is sufficiently diluted it may be used to cover most nineteenth century European republicans. As a movement Jacobinism after having been cut short by Louis Philippe's acceptance of the throne in 1830 did much to create the Revolution of 1848. Here and again in 1871 Jacobinism sometimes collaborated and sometimes found itself at odds with socialism. Jacobinism was characterized by political tactics which came very near direct action, a group consciousness very near class consciousness, a fighting tradition, a devotion to the centralized, bureaucratic state; and Jacobins no doubt helped develop these aspects of modern socialism. But in its support of the small owner, peasant or shopkeeper and in its fervid nationalism it is clearly distinguished from socialism. Nineteenth century liberalism too owes something to Jacobinism, to its confidence in the possibility of a better earthly life for all men, to its belief in the career open to talents, to its insistence that law rests ultimately on morals rather than on power. But the liberal is shocked at the Jacobin's absolute state, his contempt for history, his love of political violence, his intolerant anticlericalism, his disregard for

the rights of minorities. Englishmen like Mill and Acton deny that Jacobinism is liberal and regret that on the continent liberalism is corrupted by Jacobinism. Traditionalism, that of a de Maistre or a Metternich, may seem the complete antithesis of Jacobinism. But Comte's admiration for de Maistre is no mere whim. Both traditionalism and Jacobinism attempt the application of moral absolutes to politics. The absolutes are indeed different, but the temper is the same. Both are authoritarian rather than libertarian, and both are unwilling to admit that experience is real enough to modify their theories. Today Jacobinism, if not dead in France, has achieved its political ends, many of its social and economic ends. France is a land of rough economic equality, but also of economic individualism—has seen church and state separated, has in short turned conformist. The old Jacobin tactics of resistance, the Jacobin methods of pressure, the Jacobin spirit, have passed to the extremists, to the monarchists and the communists.

CRANE BRINTON

See: FRENCH REVOLUTION; CLUBS, POLITICAL.

Consult: FOR JACOBINISM IN FRANCE DURING THE REVOLUTION: Cardenal, L. de, *La province pendant la révolution: histoire des clubs jacobins* (Paris 1929); Brinton, C., *The Jacobins: an Essay in the New History* (New York 1930), with bibliography of monographs on local clubs p. 281-98; Aulard, F. V. A., *La société des jacobins*, 6 vols. (Paris 1889-97); Leuilliot, P., *Les jacobins de Colmar*, Université de Strasbourg, Faculté des Lettres, Publications, vol. ix (Strasbourg 1923).

FOR JACOBINISM AS A WORLD MOVEMENT: Warren, C., *Jacobin and Junto* (Cambridge, Mass. 1931); Hazen, C. D., *Contemporary American Opinion of the French Revolution*, Johns Hopkins University, Studies in Historical and Political Science, extra vol. xvi (Baltimore 1897) p. 139-307; Rydjord, J., "The French Revolution and Mexico" in *Hispanic American Historical Review*, vol. ix (1929) 60-98; Birley, R., *The English Jacobins from 1789 to 1802* (London 1924); Meikle, H. W., *Scotland and the French Revolution* (Glasgow 1912); Brown, P. A., *The French Revolution in English History* (London 1918); Hazard, P., *La révolution française et les lettres italiennes, 1789-1815* (Paris 1910); Scandone, F., "Il giacobinismo in Sicilia, 1792-1802" in *Archivio storico siciliano*, vol. xliii (1921) 279-315, and vol. xlv (1922) 266-361; Stern, A., *Der Einfluss der französischen Revolution auf das deutsche Geistesleben* (Stuttgart 1928); Gooch, G. P., *Germany and the French Revolution* (London 1920); Jaurès, J., *Histoire socialiste de la Révolution française*, ed. by A. Mathiez, 8 vols. (Paris 1922-24) vol. v; "Die Verschwörung des Martinovics" in *Ungarische revue*, vol. i (1881) 11-20.

JACOBS, JOSEPH (1854-1916), Anglo-Jewish historian. Jacobs was born in Sydney, New South Wales, and was educated at Cambridge and Ber-

lin. In 1887 he assisted in organizing the Anglo-Jewish Historical Exhibition which led to the founding of the Jewish Historical Society of England, of which he was one of the first presidents. In 1900 he went to America to edit the *Jewish Encyclopaedia* and he was mainly responsible for its sections on anthropology and the history of the Jews in England. He was for several years professor of history in the Jewish Theological Seminary of New York. In 1888 he toured Spain, surveying material on the history of the Jews in that country and producing a masterly account of his discoveries, which was limited in value because he failed to see many original documents owing to the shortness of his stay in the country. Jacobs' greatest historical work, embodied in articles in the *Jewish Encyclopaedia*, the *Jewish Quarterly Review* and the *Transactions of the Jewish Historical Society of England* and his book *Jews of Angevin England*, concerned the Jews in England before the expulsion of 1290. Despite the fact that he was often careless, had an inadequate knowledge of Hebrew and was given to conjectures inspired by patriotic prejudices he produced work of great value based on long neglected original sources. The results of his labors, still not superseded, are the basis of the known Jewish history of pre-expulsion England. His *Jewish Contributions to Civilization*, although an incomplete fragment of a larger work, is a brilliantly suggestive essay.

Aside from his work in Jewish history Jacobs made a number of interesting anthropological studies of Jews and important contributions to the study of fairy tales and the migration of fables. From 1889 to 1900 he was editor of *Folk-lore*, the journal of the Folk-lore Society. As editor of the *American Hebrew* from 1906 until his death and in other activities he was a leading figure in contemporary communal affairs, representing on the whole a conservative viewpoint.

CECIL ROTH

*Important works:* *The Jews of Angevin England* (London 1893); *An Inquiry into the Sources of the History of Jews in Spain* (London 1894); *Jewish Contributions to Civilization* (Philadelphia 1919); *Bibliotheca Anglo-Judaica*, in collaboration with Lucien Wolf (London 1888); *Studies in Jewish Statistics* (London 1891).

*Consult:* Sulzberger, Mayer, in *American Jewish Historical Society, Publications*, vol. xxv (1917) 156-73, with bibliography; Memorial addresses in *Jewish Historical Society of England, Transactions*, vol. viii (1915-17) 129-52, with bibliography.

JACOBUS. See FOUR DOCTORS.

JACOBY, JOHANN (1805-77), Prussian politician. Jacoby, who throughout his political career continued to practise medicine in his native town of Königsberg, was the outstanding spokesman of East Prussian liberalism, which during the decade preceding 1848 set out, under the spell of Aufklärung and especially of Kantian ideology, to constitutionalize the Prussian monarchy and state and to transform Prussian subjects into free citizens. His pamphlet, *Vier Fragen beantwortet von einem Ostpreussen* (Mannheim 1841), in clearly formulating the demand that Frederick William IV grant the written constitution promised by his father at the close of the War of Liberation, gave a decisive impetus to the movement which culminated in the Revolution of 1848 and the establishment of a constitutional monarchy. As a result of the prosecutions in which the pamphlet involved him Jacoby's prestige was firmly established as one of the outstanding champions of aggressive liberalism. Essentially, however, a doctrinaire, tending to an almost religious fanaticism and to a faith in the categorical imperative as the sovereign rule of political as well as moral conduct, he was not skilled in the more immediate problems of political statesmanship and tactics. Moreover by the time of the revolution he had come to realize the greater importance of social problems as compared with purely political ones. His greatest practical influence was exerted during 1848-49, when as a member of the Prussian National Assembly he played a leading part in formulating the program of the Democrats and advised the Assembly to resist to the utmost the threatened coup d'état. As a member of the delegation sent by the Assembly to the king he expressed his opinion that it had "always been the misfortune of kings not to want to hear the truth." This unguarded outburst tended to prejudice him in the eyes of less thoroughgoing liberals and caused his influence to wane. Jacoby still held fast, however, to his faith in the ultimate victory of democracy in Germany and to his international ideal of a "union of free democratic states." He refused to recognize the Bismarckian empire, since it had been brought about by force without the consent of the people. In 1872 Jacoby joined the Social Democratic party but declined to take an active part in parliamentary life.

GUSTAV MAYER

*Consult:* *Gesammelte Schriften und Reden von Johann Jacoby*, 2 vols. (2nd ed. Hamburg 1877); Mayer, G., "Der Verfasser der 'Vier Fragen'" in *Frankfurter*

*Zeitung* (March 8, 1927) 1-3; Adam, R., "Johann Jacobys politischer Werdegang 1805-40" in *Historische Zeitschrift*, vol. cxliii (1930) 48-76; Meinecke, F., *Weltbürgertum und Nationalstaat* (7th ed. Munich 1928) p. 376-79; Schuy, R., *Juden in der deutschen Politik* (Berlin 1929) p. 139-50.

**JAHN, FRIEDRICH LUDWIG** (1778-1852), German patriot. Jahn together with Ernst Moritz Arndt was the first herald of national democracy in Germany. He traveled through Germany investigating language and folklore and in 1810 published his *Teutsches Volkstum* (new ed. Leipsic 1817), in which he maintained that national peculiarities are indestructible and that foreign interference should be resisted.

In his grief over Germany's humiliation during the Napoleonic wars Jahn strove to awaken the physical and moral energies of the people. He found the means for accomplishing this in the development of physical education. Stimulated by Pestalozzi's educational ideas he grasped the fact that physical exercises are the means of training the perfect man. His aim was not only to steel the body but to form the will and develop a feeling of fellowship. In 1811 he established the Hasenheide athletic grounds near Berlin, where he laid most stress on those exercises which called for practical use and action. Like vom Stein, Jahn recognized the removal of social barriers as of utmost importance for the awakening of national feeling. He thus aimed to unite young people of all classes on the playground for common service, and the grey linen dress which his followers adopted served as a simple uniform suited to wipe out class differences. He was convinced that the community of gymnastics would provide the basis for a common national spirit.

Jahn's exercises and ideas were closely knit up with old Germanic traditions and folklore. He inveighed coarsely against the Jews and all foreigners and his followers adopted a harsh manner. For this reason he aroused wide antagonism and soon too the government came to suspect him as a demagogue and corrupter of youth. The playgrounds were closed and until the Revolution of 1848 gymnastics were forbidden throughout Germany. Jahn himself was arrested and forced to withdraw from public life. The Revolution of 1848 brought him into the Frankfurt Assembly and he has since been acclaimed as a hero of the Prussian regeneration.

FRANZ SCHNABEL

*Works:* *Werke*, ed. by C. Euler, 2 vols. (Hof 1883-87).  
*Consult:* Euler, Carl, *Friedrich Ludwig Jahn* (Stuttgart

1881); Friedrich, J., *Jahn als Erzieher* (Munich 1895); Eckardt, Fritz, *F. L. Jahn, eine Würdigung seines Lebens und Wirkens* (Dresden 1924); Neucundorff, Edmund, *Turnwater Jahn, sein Leben und Werk* (Jena 1928); Leonard, F. E., "Friedrich Ludwig Jahn and the Development of Popular Gymnastics in Germany" in *American Physical Education Review*, vol. x (1905) 1-19.

**JAKOB, LUDWIG HEINRICH VON** (1759-1827), German economist. Jakob taught in succession philosophy and economics at the University of Halle. In 1806 he was invited to occupy the chair of political economy at the University of Kharkov. In 1816 he returned to Halle, where he spent the remainder of his life.

A disciple of Immanuel Kant and of Adam Smith, Jakob attempted to combine the theories of both. He accepted the principles of economic liberalism, but with Kant asserted the primacy of ethical considerations and assigned to the state a more positive function in furthering the development of society. Jakob recognized the relative character of the principle of free trade and thus anticipated the stage theory of List. While in Russia Jakob carefully studied the efficiency of the serfs and his conclusions anticipated those of later writers on the economy of high wages. His writings on monetary conditions in Russia are of particular value because of their suggestive treatment of foreign exchanges, the effects of paper money and related problems.

V. GELESNOFF

*Important works:* *Theorie und Praxis in der Staatswirtschaft* (Halle 1801); *Grundsätze der Nationalökonomie, oder Theorie des Nationalreichthums* (Halle 1809, 3rd ed. 1825); *Grundsätze der Polizeigesetzgebung und der Polizeianstalten* (Kharkov 1809); *Über die Arbeit leibeigiger und freier Bauern in Beziehung auf den Nutzen der Landeigentümer, vorzüglich in Russland* (St. Petersburg 1815); *Über Russlands Papiergeld* (Halle 1817); *Die Staatswissenschaft theoretisch und praktisch dargestellt und erläutert*, 2 vols. (Halle 1821, 2nd ed. 1837).

*Consult:* Roscher, Wilhelm, *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) p. 686-96; Pototzky, Hans, *L. H. von Jakob als Nationalökonom* (Strasbourg 1905).

**JAKŠIĆ, VLADIMIR** (1824-99), Serbian statistician. Jakšić studied statistics under Fallati at Tübingen and economics under Rau at Heidelberg. In 1847 he entered the Serbian Ministry of Finance and from 1852 to 1862 taught economics and commercial law in the *lycée* in Belgrade. When the government was finally persuaded to set up an independent department of statistics in 1864 Jakšić became its first director; he re-



maintained its leading spirit for over two decades.

Jakšić viewed statistics as an indispensable tool in the rational administration of a country and devoted the major part of his life to the task of collecting and interpreting statistical material bearing on the social and economic development of Serbia. In his *Predlog o ustrojenju i programu državne statistike* (Project of the organization and program of government statistics, Belgrade 1850, 2nd ed. 1858) he attempted on the basis of statistical material, part of which he had collected in his studies and part in his extensive tours of European countries, to discover the factors leading to the decline in the national well being. He also formulated in this original work a comprehensive program of social and economic reform for the purpose of ameliorating the political and economic status of his country. Jakšić is credited with the organization of a systematic meteorological observation service. His interest in meteorology may be traced to Rau, who demonstrated the practical value of the knowledge of climatic conditions in agriculture.

JOSEF MATI.

*Other works:* *Državopis Srbije* (Statistics of Serbia), 2 vols. (Belgrade 1856-57); *Statistička zbirka iz srbskih krajeva* (Statistical collection from districts of Serbia) (Belgrade 1875); *Postanak i razvike štampe u Srbiji* (Origin and development of the Serbian press) (Belgrade 1873). Jakšić was also responsible as editor and important contributor for 13 vols. of the official *Državopis Srbije* (Belgrade 1863-84).

*Consult:* Jovanović, B., in *Srpska Kraljevska Akademija, Godišnjak* (Annals), vol. xiii (1899) 246-48; *Srpsko Učeno Društvo, Glasnik* (Messenger), vol. lxxi (1890) 291-325.

JAMÁL U'D-DÍN AL-ÁFGHĀNÍ (1838 or 1839-97), Moslem reformer. Jamál was born probably either in Afghanistan or in Persia. He studied at the famous madrasah of Bokhara, where he acquired a remarkable knowledge of all the Moslem sciences and especially of mediæval Moslem theology and philosophy. He then traveled widely through the Islamic countries, visiting India, Arabia and Turkey; in 1871 he settled in Egypt, where he taught at the university of Al-Azhár. There he won considerable influence over the youth of Egypt identifying himself with the religious reform and the incipient Young Egyptian movements; as a result he incurred the dislike of both the orthodox clergy and the European powers and was forced to leave Egypt in 1879. After three years in India he lived from 1882 until about 1889 in London, Paris and St. Petersburg, writing for the leading newspapers. In Paris he published, together with

Muḥammad 'Abdu, who had been his pupil and follower at Al-Azhár and became later the famous Mufti of Egypt, an Arab weekly, *al-'Urwa' l-Wuthqá*. This journal criticized English policy in Moslem countries, and although only eighteen numbers were published its influence was widespread. From 1889 to about 1891 Jamál lived in Persia, where he worked intensively, arousing a reform movement which subsequently gave rise to the Persian revolution. The last years of his life were spent in Constantinople on a pension from Abdul-Hamid, the Ottoman sultan, who was interested in Jamál because of his own pan-Islamic activities.

Jamál was one of the earliest thinkers and leaders of the nineteenth century Moslem and Asiatic renaissance. He recognized the threat to the East inherent in the material superiority of the West; believing, however, that Islam was not a rigid system but one capable of adaptation to existing spiritual and temporal needs, he held that the slumbering forces of the Islamic world could be awakened to new life by the devoted efforts of the younger generation of Moslems. He urged the union of all Islamic states under a single caliphate capable of liberating them from European exploitation and influence. He also expounded the doctrine that Islam aims at popular government.

His vast knowledge, his incessant endeavors to revive the splendor of Islam through the awakening of Moslem youth and his courageous stand against European aggression and oriental despotism made him extremely influential and he may be rightly called the father of all subsequent renaissance, pan-Islamic and nationalistic movements in Egypt and in the Moslem East. He was, like the European figures of the early Renaissance, scarcely conscious of the implications of the new era; nevertheless, he sowed in many lands the seeds of change which a few decades later blossomed in a way unforeseen and perhaps undesired by the sower.

HANS KOHN

*Consult:* Browne, E. G., *The Persian Revolution of 1905-1909* (Cambridge, Eng. 1901) p. 1-30, 401-04; Kohn, Hans, *Geschichte der nationalen Bewegung im Orient* (Berlin 1928), tr. by M. M. Green (London 1929) p. 38-40, 179-81, 320-21.

JAMES I (1566-1625), king of Great Britain and Ireland and king of Scotland as James vi. James was the son of Mary Queen of Scots by her second husband, Henry, Lord Darnley. He succeeded to the Scottish throne as an infant.

through the enforced abdication of his mother. His governance of Scotland was a grim school of experience with a turbulent nobility on one side and a domineering priesthood on the other. Its effect upon him is set out in the *Basilikon Doron* (Edinburgh 1599), a treatise on the duties of kingship which he published for the instruction of his elder son, Henry, and in his *True Law of Free Monarchies* (Edinburgh 1598), which he published anonymously. He argued that kings were chosen by God to govern and that the duty of subjects is merely to obey. The king is above the law but although responsible to God alone he should concern himself to obey it unless the well being of his subjects demands otherwise. In his view even a wicked king is entitled to the allegiance of his people; only God may punish him.

In 1603 the death of Elizabeth brought him to the English throne. He showed little insight into the character of his position. Impressed by the despotism of the Tudors, he did not realize its basis in popular consent. He was led accordingly by his high notions of prerogative into quarrels with Parliament, the Puritans, the Roman Catholics and, in the person of Sir Edward Coke, the courts of law. James' mistake was not to realize, first, that he was a foreigner to his new subjects and, second, that the whole character of parliamentary institutions was changing. His speeches to his different parliaments all show an unwillingness to recognize the new atmosphere. He took the view that the king is the shepherd of the flock, the father of his people; and he sought to make of Parliament rather a body to advise and support his policies than one with authority to initiate. Had he been wise and successful he might have enforced his doctrine, but he was weak and vacillating and given to the cultivation of favorites who lacked the ability necessary for government. He was, however, a man of considerable learning, not without foresight and averse to extremes. His learning is manifested with some distinction in his *Apology for the Oath of Allegiance* (London 1607), in which he defended the legislation which followed upon the discovery of the Gunpowder Plot. A long controversy followed his book, in which the protagonist on the other side was the eminent Jesuit Bellarmine. James maintained with much ability the danger to monarchical sovereignty of the allegiance claimed by popes from their subjects.

HAROLD J. LASKI

*Works: The Works of the Most High and Mightie*

*Prince, James*, ed. by Bishop Montague (London 1616); *The Political Works of James I*, ed. by C. H. McIlwain (Cambridge, Mass. 1918).

*Consult:* McIlwain, C. H., Introduction to his edition of James' works; Laski, H. J., *The Foundations of Sovereignty* (New York 1921) p. 202-314; Figgis, J. N., *The Divine Right of Kings* (2nd ed. Cambridge, Eng. 1914) p. 137-41; Trevelyan, G. M., *England under the Stuarts* (15th rev. ed. London 1930) chs. iii and iv; Montague, F. C., *History of England from the Accession of James I to the Restoration 1603-1660*, Political History of England, ed. by W. Hunt and R. L. Poole, vol. vii (London 1907) chs. i-v.

JAMES OF VITERBO (Giacomo Capocci da Viterbo) (c. 1255-1308), Italian scholastic theologian and political theorist. James of Viterbo was an Augustinian monk and a pupil of the famous Augustinian general Aegidius Romanus. He was educated in Paris and in 1300 became rector of the Studium Generale of the Neapolitan Augustinians. In 1302 through the favor of King Charles II of Naples and of Boniface VIII he was appointed first archbishop of Benevento and a few months later archbishop of Naples, in which capacity he remained until his death. Most of his theological writings are still unpublished, but his tract on ecclesiastical politics, *De regimine christiano*, has recently become especially well known. Recognized as the oldest scientific treatment of the Catholic doctrine of the church and of the papacy, the *De regimine* was written in the summer of 1302 in the midst of the struggle between Boniface VIII and Philip the Fair of France. It belongs among those curialistic writings which paved the way for the issue of the bull *Unam sanctam* on November 18, 1302, but it shows hardly a trace of controversial writing. It is divided into two sections, "De regni ecclesiastici gloria," in which the author analyzes the nature of Christian society, of the state and of royal power, and "De potentia Christi regis et sui vicarii," in which he develops his ideas concerning the authority of the papacy. By a unique combination of the mystical Augustinian notion of the divine state with the natural law doctrines of Aristotle he arrives at the idea that the true and perfect state is the church. The church is the social— which James does not distinguish from the political— community of mankind, the universal *res publica*. The pope as head of the church and as Christ's vicar inherits the spiritual royal power of Christ, which includes both ecclesiastical and temporal authorities. The emphasis of James' discussion of the papacy is placed throughout not upon its specifically sacerdotal attributes but upon its sovereignty, a sovereignty

in which religious and mystical elements are inseparably fused in the mediaeval manner with temporal and political.

In its conclusions James' *De regimine christiano* bears a close relation to the slightly earlier *De ecclesiastica potestate* of his teacher Aegidius Romanus. But without sacrificing Aegidius' extreme position with regard to the temporal authority of the papacy James consistently shows more deference than does Aegidius to the secular state. Aegidius holds that the authority of the prince is lawful and evil unless derived from the church; James recognizes a natural and human justification for the existence of the state irrespective of its relation to the church. The only perfect authority is, however, the spiritual regal power of the absolute pope, whose kingdom is superimposed upon all states. He is the king of kings and all human institutions must submit to him, who alone can bestow the divine elements necessary to complete the human order. James' tract had considerable influence on subsequent writers, particularly upon those who participated in the conflict between Pope John XXI and Louis of Bavaria, notably Alexander of St. Elpidio and Alvarus Pelagius.

RICHARD SCHOLZ

*Works:* *Le plus ancien traité de l'église: De regimine christiano*, ed. by H. H. Arquillière (Paris 1926).

*Consult:* Scholz, Richard, *Die Publizistik zur Zeit Philipps des Schönen und Bonifaz VIII*, Kirchenrechtliche Abhandlungen, vols. vi-viii (Stuttgart 1903) p. 129-52; Mariani, Ugo, *Scrittori politici agostiniani del secolo XIV* (Florence 1927) p. 64, 99, 179-212; Rivière, Jean, *Le problème de l'église et de l'état au temps de Philippe le Bel*, Université Catholique de Louvain, Spicilegium sacrum lovaniense, Études et documents, no. viii (Louvain 1926) p. 145, 48, 228-51; Carlyle, R. W. and A. J., *History of Mediaeval Political Theory in the West*, 5 vols. (Edinburgh 1903-28) vol. v, p. 409-17; Cognigni, V. T., "Giacomo Capocci e Guglielmo de Villana" in *Rivista d'Italia*, vol. xii, pt. ii (1909) 430-59.

JAMES, WILLIAM (1842-1910), American psychologist and philosopher. James, who had the cultural advantages which prosperity provides, considered his early education, which was desultory and spread over schools in France, Switzerland and the United States, as worthless. The most important influence upon his childhood and youth was his father, Henry James the elder, whose idiosyncratic speculations about man and nature derived from Swedenborg constituted the permanent intellectual atmosphere of the Jamesian household. Combined with them was an antisectarian liberalism in religion, a per-

fectionism in politics and a general utopianism in social outlook.

In 1865 James interrupted his scientific studies at Harvard to go with Agassiz to the Amazon, but finding the climate bad for his health and the work not to his liking he returned to continue his studies. After a term he went to Germany, where he spent eighteen months in the study of medicine and in a struggle with a depression so acute as to lead to notions of suicide. When he resumed his schooling at Harvard he was still ill. He obtained his medical degree but could not practise. During this period he fell into a phobia with which was associated the doctrine of materialistic determinism. All his studies in the sciences had made the doctrine seem logically and practically inevitable; as applied to himself it made him afraid. A reading of Renouvier on free will started a train of thought of which all his subsequent work was elaboration and development. From that time on his health improved.

After a few years as instructor of anatomy and physiology at Harvard, James (from 1875 onward) taught psychology and philosophy. His treatment transformed both subjects from "mental and moral philosophy," verbal, abstract and related neither to living experience nor to the realities of nature and human nature, into specific, concrete, vital and new observations of the qualities of men and the nature of things. The general view which these observations comprise cannot be called a system. They presume rather an attitude of mind and a method and the perspectives of the universe and the insight into human behavior which the attitude defines and the method enables. The attitude rejects the closed, exclusive, self-consistent unity which systems require. It permits an openness to every item of experience, an acknowledgment that every event or belief or opinion which presents a claim to reality or truth has the right to make its claim good if it can, at its own risk. It is an empirical attitude, but the empiricism is radical; no idea, no event, no thing or relation is rejected or classified a priori. Its status is eventual; it receives its chance to make good or fail. The method, which James called pragmatism, is the process or technique of making good or failing. It is a summary of the observation that throughout human experience the reality or illusoriness of things and ideas, their goodness or badness, their truth or falsehood, are not primary but eventual; not the stations or qualities they are born with, but the positions and powers they

win to—the accumulation of their consequences, not the expenditure of their endowment.

The world we live in consequently is for James a world of change and chance, of plurality, variety and variation, of chaos and novelty and struggle. He sees the laws of nature not as eternal principles but as acquired and changing habits of things. He sees the qualities of men as variables born of chance, enabling them to live together in and with and upon their environment, or not. Every human trait operates as instrument in the individual's struggle to live; each is validated or condemned by its effects upon this struggle. The individual is the primary and fundamental factor, the *terminus a quo* and the *terminus ad quem* of societies. Societies are eventual; folkways and institutions are only acquired habits of grouping, changing and changeable. The process of history is the sum of the changes they undergo. These changes are always accomplished by individuals. Social like mental evolution is the flux of the selective action of the environment upon individuals and of the transforming action of individuals upon the environment. Individuals are data, like other spontaneous variations, and their interaction with society is similar. History takes new turns when individuals decide between alternatives. Nations, arts, religions, science itself, are all given direction and character by the free initiative, the effort and activity of individuals. Give individuality a chance, enable initiative and freedom, and life and growth are assured to society.

While the current trend of the physical sciences is largely in the direction of James' view of the nature of things, the social sciences have moved farther and farther from it. The application of the quantitative method has been extended from the processes of economics to the activities of the mind; measurement of intelligence paces measurement of interest rates and business cycles. In all the social sciences the statistician's correlations are sought as surrogates for the operative cause in social change. The abstract average is set up for study in place of the living individual and his concrete give and take with his living environment. For the abstractionism of this procedure, the Jamesian attitude and the pragmatic method, with their emphases on individuality, spontaneity and novelty, their stress on free initiative and real action in time, offer salutary correctives.

HORACE M. KALLEN

*Works:* For a complete bibliography see Perry, R. B., *Annotated Bibliography of the Writings of William*

*James* (New York 1920). His most important works are *Principles of Psychology*, 2 vols. (New York 1890); *The Will to Believe* (New York 1896); *Pragmatism* (New York 1907); *A Pluralistic Universe* (New York 1909); *Some Problems in Philosophy* (New York 1911).

*Consult:* *The Letters of William James*, ed. by Henry James, 2 vols. (Boston 1920); Flournoy, T., *La philosophie de William James* (Paris 1911), tr. by E. B. Holt and W. James, Jr. (New York 1917); *The Philosophy of William James, Drawn from His Own Works*, ed. by H. M. Kallen (New York 1925) p. 1-55, and ch. vi; Kallen, H. M., *William James and Henri Bergson* (Chicago 1914).

JAMESON, ANNA BROWNELL (1794-1860), British writer and feminist. Perhaps more than any other person of her time Mrs. Jameson exposed the great discrepancy between the traditional picture of the position of the Victorian middle class woman and the actual social and economic status of large masses of self-supporting middle and lower class women in the post-Napoleonic reconstruction period. From her own experiences as governess and later, after separation from her husband, as hack writer and from a careful study of the reports of the Children's Commission of 1842-43 she was able in her writings to bear witness to the sorry position not only of women in factories and the sweated trades but of those who were in the overcrowded and underpaid occupations of governess and dressmaker. She saw clearly the necessity of new outlets for the self-supporting middle class women and at the age of sixty-two, inspired by the work of Florence Nightingale in the Crimea, visited hospitals and charitable institutions in Germany and France to collect information about the training of workers, which she then promulgated in lectures later published as *Sisters of Charity Catholic and Protestant Abroad and at Home* (London 1855) and *The Communion of Labour* (London 1856). She was the first person to sign the petition to Parliament in 1856 for a married women's property act to protect women's earnings. Without having formulated a clear cut philosophy Mrs. Jameson's "sound thought, fearlessly expressed" made her a forerunner of feminism.

WANDA FRAIKEN NEFF

*Consult:* Macpherson, Geraldine, *Memoirs of the Life of Anna Jameson* (London 1878); Neff, W. F., *Victorian Working Women* (New York 1929).

JANET, PAUL (1823-99), French philosopher and historian. After graduating from the École Normale Supérieure Janet was for a time secretary to Victor Cousin. Appointed in 1848 to the

University of Strasbourg, he devoted himself to the history of political and moral philosophy from its remote origins in China and India up to the French Revolution. The result of these studies was his great work on political science, *Histoire de la philosophie morale et politique dans l'antiquité et dans les temps modernes* (2 vols., Paris 1858), which appeared subsequently in several editions (the last of which was ed. by G. Picot, 2 vols., Paris 1913) with the title *Histoire de la science politique dans ses rapports avec la morale*. This work has remained a model of clear exposition and impartial judgment. It was followed by a series of penetrating studies including *La philosophie de la Révolution française* (Paris 1875, 4th ed. 1892), *Origines du socialisme contemporain* (Paris 1883) and *Saint-Simon et le saint-simonisme* (Paris 1878), taken from his popular courses at the École Libre des Sciences Politiques. In 1889 appeared his *Centenaire de 1789, Histoire de la Révolution française* (Paris). Janet justified the rights of man, recalling that France did not invent them but borrowed them from America—although the French formulated the philosophy, it was the Americans who introduced the rights politically—and demonstrating at the same time that they corresponded to concrete needs. He held that the principles of the revolution should not be condemned because of the excesses for which they may have been the pretext and that the task remaining was that of better adaptation of means to ends.

The same inspiration is found in Janet's speculative works, which he wrote after his appointment in 1864 as professor of the history of philosophy at the Sorbonne. As he said upon the publication of his *Principes de métaphysique et de psychologie* (2 vols., Paris 1897), he was never a "peevisish and frightened" opponent of new systems; on the contrary, he was sympathetic and tolerant to new ideas without, however, sacrificing anything of his fidelity to *philosophia perennis* or of his critical independence. This proud profession of faith explains the lasting success of his chief work, *Les causes finales* (Paris 1876, 2nd ed. 1882; English translation, 2nd ed. Edinburgh 1883, with preface by Robert Flint), which appeared after the publication of *The Origin of Species*. In this work Janet asserts that he has based his ideas only on facts in order to safeguard "the immanence in the natural world of a purposiveness which in turn is to be understood by its relation to a transcendent end." Janet's other works include *La morale* (Paris 1874, 2nd ed. 1887; tr. by M.

Chapman, New York 1883), *Fénelon* (Paris 1892; tr. by V. Leuliette, London 1914), *La famille* (Paris 1855, 5th ed. 1864), *La philosophie du bonheur* (Paris 1863), various publications within the domain of philosophy and literature and academic handbooks for the teaching of philosophy and the history of philosophy.

LÉON BRUNSCHVICG

*Consult:* Bergson, Henri, "Principes de métaphysique et de psychologie par Paul Janet" in *Revue philosophique*, vol. xlv (1897) 525-51; Scaillies, Gabriel, in *Revue politique et littéraire, Revue bleue*, 4th ser., vol. xi (1899) 65-74; Picot, Georges, "Notice historique . . . de M. Paul Janet" in *Académie des Sciences Morales et Politiques, Séances et travaux*, n.s., vol. lix (1903) 18-55; École Normale Supérieure, Association Amicale des Anciens Élèves, *Annuaire* (1900) 31-47.

JANNET, CLAUDIO (1844-94), French economist. Jannet studied law in Provence, where he became the friend and disciple of Frédéric Le Play. At the suggestion of the latter he went to Paris, where at the newly founded Institut Catholique de Paris he was given the chair of political economy, which he held until his death.

Jannet represented the conservative Catholic wing in French economic thought. His views were elaborated in *Le socialisme d'état et la réforme sociale* (Paris 1889, 2nd ed. 1890) and *Le capital, la spéculation et la finance aux XIX<sup>e</sup> siècle* (Paris 1892). In communion with the socialists of the chair he stressed the ethical basis of economics but differed from them in that he rigorously opposed the intervention of the state in the economic activities of the people. He was aware of the necessity for social action to remedy some of the evils of unrestricted economic individualism but believed that such action should be undertaken by private or communal agencies rather than by the state. In his method Jannet occupied a position approaching that of the inductive school; he stressed the necessity of studying economic phenomena in the light of the political and cultural milieu of the respective periods but recognized the universal validity of fundamental economic principles. Jannet also won recognition by his study made during a long visit to the United States entitled *Les États-Unis contemporains* (Paris 1876; 4th ed., 2 vols., 1889). In his work Jannet described the public institutions in the United States after the Civil War, pointed out the moral forces holding in check the dissolving elements and concluded with an avowal of faith in the future of American democracy.

JEAN AUBURTIN

JANSENISM was a movement within the Catholic church which took form in the seventeenth century around the theological writings and doctrines of the Flemish bishop Cornelis Jansen (1585-1638). The movement was confined principally to France, where it had an important and many sided influence on social and political life in the seventeenth and eighteenth centuries.

From a theological point of view Jansenism denoted a return to Augustinianism in opposition to the Pelagianism and semi-Pelagianism which the Jansenists attributed to the Jesuits and particularly to the Spanish theologian Molina. To the Jansenists the belief that man can achieve salvation through his own powers was equivalent to infringing upon the will of God. They thus defended the *causa dei* against the man who resists the divine will. Their God was a ruler with unlimited power, who was under no obligation to man and whose will must be obeyed unconditionally.

The controversies between the Jansenists and the Jesuits concerning the omnipotence of God and the rights of man offer certain analogies to the political discussions which arose later about the nature and limits of secular authority. The Jesuit conception of God's relation to man, which grants man certain rights and demands justice from God, is nearer to modern ideas of freedom. The Jansenists believed that man, who is fundamentally corrupted by original sin, can only hope for God's mercy. Man, they asserted, is wicked; left to himself he can only commit evil. For the Jesuits, on the other hand, man as such is not a sinner. Whether he acts morally or immorally depends upon his free will. In contradistinction to the Jansenists' utterly pessimistic view of human nature the Jesuits revealed a more optimistic attitude, one suggestive of the ideas of the Enlightenment and of Rousseau, who believed that man is fundamentally good.

But while the Jesuits in many ways anticipated modern tendencies, the lay communities sympathized chiefly with the Jansenists for several reasons. The Jansenists maintained that God must be obeyed in preference to man, and they were accordingly ready to oppose the public authorities whenever they had reason to believe that the latter were requiring citizens to act in a manner incompatible with true faith and the duties imposed by it upon every Christian. This defiant attitude gained for them the favor of the educated classes, who in theological form thus gave expression to their own claims against the public authorities. Furthermore the Jansen-

ists offered the layman opportunities to acquire an understanding of the grounds underlying their theological tenets. Their polemical writings enabled non-theologians to participate in theological discussions. On the basis of the texts cited in these controversies it became possible for the layman to make an independent decision as to which side was right. To win the layman over to their cause became in fact the great concern of the Jansenists, for with his support they could resist more effectively the attacks of the state and the church.

Under the influence of the Jansenist polemical writings religious questions became instrumental in creating a public opinion. Every educated person sooner or later took sides in the controversies that raged between the two parties. Theology became a matter of public interest and the layman acquired the right to utter an opinion in a field that had been formerly reserved for the clergy. To this the church and the state were opposed, while the Jansenists were glad to see the layman come out in defense of his faith.

These matters concerning which the educated layman was now given an opportunity to express his opinions were, in view of the interlocking of church and state, of the utmost importance for public life; and the discussions concerning them may be considered as constituting a theological forum of public opinion preceding and in a certain sense preparing for the philosophical and political forums of later days. Philosophers were later to dismiss all theological controversies as sterile, but such discussions were of great significance in the development of the educated middle classes. These controversies did not of course involve any free exchange of opinions such as that carried on by the philosophers of the Enlightenment. The final court of appeal was the Catholic tradition. In terms of this tradition the educated layman with the aid of the Jansenist theologians was in a position to detect violations in decisions of the state and church. The Jansenists regarded tradition as opposed to the authority of the temporary holders of ecclesiastical power. It was to tradition so interpreted and especially to St. Augustine that they appealed in their contest with the Jesuits, whom they believed to advocate a new and consequently false theology. They emphasized repeatedly that nothing must be taught which stands in contradiction to the inalterable basic doctrines of the church.

It is this defense of established basic doctrines that accounts for the intellectual affinity be-

tween the Jansenists and the *parlements*, which were the champions of legal traditions, particularly in the field of canon law. Both had the same adversaries: the absolute kings, who did not care for the old rights; the representatives of the Roman papacy; and especially the Jesuits, who wanted to bestow unlimited authority upon the pope. The same reason explains why in the eighteenth century the Jansenists combated both the Jesuits and the philosophers of the Enlightenment, who in their eyes exhibited a similar intellectual outlook, and began to play the role of a conservative opposition in the ecclesiastical and religious field. They gradually became the party of the old belief, opposing all modern tendencies which endeavored in some way or other to mitigate the harshness and austerity of this faith.

This evolution of Jansenism from a religious community which had grown up in the convent of Port-Royal into a party which penetrated into wide circles had a profound effect upon the public life of France. Jansenism was not a sect, as was claimed by its adversaries. It was neither an order, like the Jesuits, nor a publicly recognized institution, like the *parlements*, but rather an organization which developed freely on the basis of common convictions and which had certain characteristics of modern political parties. This became particularly evident when the Jansenists began to publish a periodical of their own: the *Nouvelles ecclésiastiques* (1728-1803). The magazine owed its origin to the controversies caused by the publication of the bull *Unigenitus* (1713), which condemned the 101 propositions in the work of the Jansenist Quesnel: *Le Nouveau Testament en français avec des réflexions morales*. The *Nouvelles ecclésiastiques* gradually began to make critical comments on all the daily occurrences that took place in the life of the church. The attitude of opposition which was thus popularized by the magazine contributed to the preparation of the lower clergy for the important role they were to play in the first days of the French Revolution. By that time, it is true, theological controversies had already lost much of their original interest; but the Jansenist longing for a pure Christianity aloof from all secular concessions persisted and continued to inspire the lower clergy with a desire to reform the church.

The Jansenists also made an important contribution to the development of a social morality, achieving their first great victory in the publication of Pascal's *Lettres provinciales* in 1656.

Combating the lax moral views of the casuists they represented—especially in the personality of Arnauld—the type of the *honnête homme*, whose life was in accordance with his views.

It would, however, be erroneous to see in the Jansenists simply the opponents and in the Jesuits the adherents of casuistry and probabilism. The Jesuits too often brought to light a positively oriented social morality significant for modern economic life. The most outstanding Jesuit representative of this tendency was the preacher Bourdaloue, whose counterpart on the Jansenist side was Nicole, the author of the *Essais de morale*. In both can be found vigorous elements of an urban middle class morality. Nicole maintained that the mode of life of this class lent itself better to Christian ideals than did that of the courtiers. Poverty, on the other hand, could become dangerous for a Christian, who was therefore advised to lead a modest bourgeois life, to regulate his conduct in accordance with firm principles, to fulfil his duties loyally, to be conscious of the sinfulness of man and never to try to rise above his own class.

The social morality of the Jansenists proved to be a stimulus to the growth of the ethical consciousness of the urban middle class. Certain of their tendencies led to the development of the bourgeois type of Christian, the type who performs his daily activities with the consciousness that he is pursuing moral ends and that he is doing God's work on earth. The Jansenist social morality could not, however, continue to satisfy the demands of the middle class as the latter became prosperous and acquired social prestige. It was not adapted to the spirit of the new economic life. In glorifying the self-sufficiency of the lower middle class the Jansenist morality was unable to justify the aspirations of the upper bourgeoisie for power and wealth. It was reserved for the philosophers of the Enlightenment to supply the latter with appropriate values and ideas.

BERNHARD GROETHUYSEN

See: JESUITS; PAPACY; GALICANISM; ENLIGHTENMENT.

Consult: Sainte-Beuve, C. A., *Port-Royal*, 9 vols. (new ed. Paris 1926-28); Beard, C., *Port Royal*, 2 vols. (London 1861); Séché, L., *Les derniers jansénistes*, 3 vols. (Paris 1891); Paquier, J., *Le jansénisme* (Paris 1909); Gazier, A., *Histoire générale du mouvement janséniste*, 2 vols. (Paris 1923-24); La Porte, J., *La doctrine de Port-Royal* (Paris 1923); Groethuyesen, B., *Die Entstehung der bürgerlichen Welt- und Lebensanschauung in Frankreich*, 2 vols. (Halle 1927-30); Pröcklin, E., *Les jansénistes du XVIII<sup>e</sup> siècle et la constitution civile du clergé* (Paris 1928).

JANSSEN, JOHANNES (1829-91), German historian. After studying history and theology Janssen became professor in the *Gymnasium* at Frankfurt on the Main. His importance, which is still considerable, is based on his chief work, *Geschichte des deutschen Volkes seit dem Ausgang des Mittelalters* (8 vols., Freiburg i. Br. 1877-94; new ed. by L. Pastor, 1913-24; tr. by M. A. Mitchell and A. M. Christie, 16 vols., London 1896-1910, with index 1925). This book was in many respects not only original but epoch making. The account was built up almost exclusively on contemporary sources, which Janssen harmonized into a mosaic of extraordinarily vivid representations. The narrow limits of the hitherto predominantly political view of history were extended to include a universal examination of all historical spheres of life. The masses, almost overlooked by Ranke and his school, advanced to the foreground and became the deciding factor in historical action. The chief emphasis was placed no longer on political and military events but on the aspects of social and cultural life. Thus, along with Freytag and later Lamprecht, Janssen blazed the trail in social, economic and cultural history in Germany. He was entirely original even in his analysis of the course of history. Like Döllinger before him he grounded his work scientifically on the thesis today almost universally accepted that German culture and the German people reached the peak of their development not in the period of the Reformation but in that of the later Middle Ages. He showed that the sixteenth century was a period of decline, which reached its lowest point in the Thirty Years' War. Although this complete reversal of the official historical picture was sharply attacked, Janssen's history had a wider sale in Germany than any previous history of similar scope.

Janssen, a Catholic, had been urged to make this complete revision in the evaluation of the Protestant revolt by his Protestant teacher and friend, Friedrich Böhmer. Like Böhmer, Janssen supported in opposition to the "Prussian" school of historians that interpretation of German history which saw in the increase of the territorial power of the princes and in the decline of the idea of a universal empire after the sixteenth century the greatest peril for the development of Germany.

ERNST LASLOWSKI

Consult: Pastor, Ludwig, *Johannes Janssen 1829-1891* (Freiburg i. Br. 1892), and *Aus dem Leben des Geschichtsschreibers Johannes Janssen* (Cologne 1929);

"Professor Janssen and Other Modern German Historians" in *American Catholic Quarterly Review*, vol. xii (1887) 424-51; Laslofski, Ernst, "Janssens Geschichtsauffassung" in *Historisches Jahrbuch*, vol. xlix (1929) 625-40; Fueter, Eduard, *Geschichte der neueren Historiographie*, Handbuch der mittelalterlichen und neueren Geschichte, pt. i (2nd ed. Munich 1925) p. 571-75; Schnabel, Franz, *Deutschlands geschichtliche Quellen und Darstellungen*, vol. i: (Leipzig 1931-) p. 304-10. For the controversy concerning Janssen's work see: Delbrück, H., *Historische und politische Aufsätze* (Berlin 1887) p. 5-32; Lenz, M., *Kleine historische Schriften* (Munich 1910); Schwann, M., *Johannes Janssen und die Geschichte der deutschen Reformation* (Munich 1893); and Janssen's reply in *An meine Kritiker* (Freiburg i. Br. 1884; new ed. 1891), and *Ein zweites Wort an meine Kritiker* (Freiburg i. Br. 1895).

JAPANESE IMMIGRATION. See ORIENTAL IMMIGRATION.

JARVIS, EDWARD (1803-84), American statistician and physician. Jarvis was president of the American Statistical Association from 1852 to 1882 and active in the improvement of the federal census during this period. After a few years of general medical practise he devoted himself increasingly to mental diseases. In this connection he became interested in the reports of the census of 1840 and discovered gross errors in the statistics of insanity among northern Negroes. According to the reports many northern towns had more Negro lunatics than the total colored population. Jarvis exposed the errors in a pamphlet, *Insanity among the Coloured Population of the Free States* (Philadelphia 1844), and called the matter to the attention of the American Statistical Association, which requested Congress to take action to correct the errors. The erroneous figures, however, had been widely used as proslavery propaganda and Congress took no action. Jarvis assisted unofficially in the census of 1850 and was appointed by the secretary of the interior to prepare the section on mortality statistics of the census of 1860, which he put on a more comprehensive and scientific basis, and worked on the census of 1870. He also served as a member of several commissions on lunacy, public health and statistics and published a number of reports on those subjects. The American Statistical Association in 1860 sent him as its representative to the fourth International Statistical Congress in London. On his retirement in 1883 he was made president emeritus of the association.

GEORGE A. LUNDBERG

Consult: Wood, R. W., *Memorial of Edward Jarvis*



M.D. (Boston 1885); Peabody, A. P., *Memoir of Edward Jarvis*, M.D. (Boston 1885); *The History of Statistics*, ed. by J. Koren (New York 1918) p. 7-12.

**JASTROW, MORRIS** (1861-1921), American orientalist. Jastrow was born in Poland. His father was a Talmudic scholar who, expelled because of his sympathies with the Polish revolutionists of 1863, emigrated to the United States and in 1866 became rabbi of a Philadelphia congregation. After graduating from the University of Pennsylvania Jastrow studied under the most distinguished European orientalist and the pioneers of the science of comparative religion. He became lecturer in Semitics in his university and later professor; he was university librarian from 1898 to 1919. Jastrow showed remarkable acumen and versatility in almost all lines of Semitic studies. For his doctorate he published a work of the Jewish-Arabic grammarian Hayyuj. His Biblical studies covered a wide range in philology and criticism, culminating in a number of critical translations which illustrated his theory that the Bible reflected the ideas of a series of writers with diverse points of view. He early distinguished himself as an Assyriologist, particularly by his studies in Babylonian religion, which were among the first authoritative works on the subject. He cast much light on the social history of Babylon and on the relation between the Babylonian and Hebrew cults. Jastrow was an American pioneer in the study of the history of religion and the prime mover in obtaining recognition for the new science. He was a founder and the secretary of the Committee of American Lectures on the History of Religion, which published an important series of volumes, and edited a series of notable textbooks on the religions of the world; he stimulated considerable scholarly work among his students.

J. A. MONTGOMERY

*Consult:* Montgomery, James A., in *American Journal of Semitic Languages*, vol. xxxviii (1921-22) 1-11; Morgenstern, J., and others, in *American Oriental Society, Journal*, vol. xli (1921) 322-44, containing full bibliography.

**JAURÈS, JEAN** (1859-1914), French socialist leader, statesman and historian. Jaurès studied at the École Normale Supérieure and after several years of teaching at Albi and at Toulouse, where he was professor of philosophy, he devoted himself to politics and was elected deputy in 1885. He began as a moderate republican but was very sensitive to advanced ideas. He soon left the moderate republican party of the left

center to become one of the most brilliant leaders of the socialist groups of the Chamber along with Millerand, Jules Guesde and Édouard Vaillant. After his defeat at the election of 1898 he devoted himself entirely to socialist activity. He directed with great success the socialist organ, the *Petite république*, and collaborated on the doctrinal review of reformist socialism, the *Revue socialiste*, founded by Benoît Malon in 1885. In 1904 he founded a newspaper entitled *Humanité* in which until his death he defended his ideas and his socialist method and conducted a vigorous campaign for world peace against French nationalism and European imperialism.

Jaurès can be considered the perfect type of orator. He appealed at once to the feelings, to the reason and to the aesthetic sense. The form of his speeches was harmonious and distinguished, his learning wide and deep, his persuasive force very great. In his speeches he appeared at once impassioned and convincing, the leader of his party and a prophetic statesman. Great charm and great interest characterized his oratory; all of his listeners, even his opponents, were affected by the majesty of his words, by the clarity and solidity of his arguments, by the richness of his images. He deduced his socialism, which was essentially reformist and evolutionist, from democratic ideas. He considered social reform, the socialization of capitalist property, as the logical consequence of political democratic equality. Socialism thus becomes an economic democracy. The people will advance from political sovereignty to economic sovereignty; they will become masters of the entire nationalized wealth. Jaurès considered these reforms not only as a partial amelioration of the economic situation of the working class but as steps toward the social revolution. The reforms added one to another will end in an organic transformation of society. Jaurès recognized the class struggle as a historical fact and emphasized on every occasion the moral grandeur of the social revolution, which he wished to see take place without violence as a result of the concentrated force of the revolutionary proletariat and advanced democracy.

Jaurès was profoundly idealistic. He recognized the scientific and historical value of Marxian ideas; he admitted the historical role of the proletariat as the fundamental agent of the social transformation but sought to reconcile Marxist materialism with his own idealism. In his *Histoire socialiste de la Révolution française* (new ed. by A. Mathiez, 8 vols., Paris 1922-24; originally

published as vols. i-iv of *Histoire socialiste, 1789-1900*, 13 vols., Paris 1901-09), one of the most significant economic interpretations of the revolution, he attempted to reconcile the sociological history of Marx with the heroic and dramatic history of Plutarch and Michelet.

Jaurès was essentially a pacifist and internationalist. In his campaign during the Dreyfus affair, throughout which he heroically combated the reactionary chauvinism of the clergy and the military in the period from 1898 to 1902, he displayed his brilliant qualities as an orator and man of action. Although he always exalted the French national genius he recognized the same right to exist on the part of all the other nationalities, which form according to the Hegelian formula necessary "moments" in the golden chain of humanity.

Playing a preponderant role in the international socialist congresses Jaurès, attacked by the left wing of the Second International (Bebel, Jules Guesde and others) and supported by its center (Victor Adler, Émile Vandervelde), secured at the Congress of Amsterdam in 1904 the unification of numerous socialist groups in France. This had been the ideal of his life and corresponded with his philosophical and social conceptions, which might be characterized in general as an evolutionary pantheism in which the idea of unity predominates. This idea of unity reappeared in all his political and social activity based on solidarity and the interpenetration of all advanced ideas. He constructed the synthesis of socialism, democracy and free thought. An apostle of secularism, he was one of the initiators of the separation of church and state in France. Combining a deep emotionalism with a cultivated intelligence Jaurès was a living synthesis who sought constantly to reconcile opposites and to create a harmonious mankind.

This was his strength but also his weakness, for he believed too deeply in the goodness of men and things. Surrounded by hatred and by nationalistic enmity, he was careless of his own security.

On July 25, 1914, Jaurès delivered a remarkable speech at Lyons, in which he stated the responsibility of France as well as of the other capitalist countries in the catastrophe which was about to occur. On July 31 on the eve of the declaration of the World War he was assassinated.

CHARLES RAPPOPORT

*Works: Oeuvres de Jaurès*, ed. by Max Bonnafous, vols. i-ii (Paris 1931).

*Consult: Rappoport, Charles, Jean Jaurès, l'homme, le*

*penseur, le socialiste* (3rd ed. Paris 1925); Vandervelde, Émile, *Jaurès* (Paris 1929); Lévy-Bruhl, Lucien, *Jean Jaurès* (new ed. Paris 1924); *Jaurès par ses contemporains*, ed. by F. Pignatelli (Paris 1925); Lacombe, Paul, "Les historiens de la Révolution: Jean Jaurès" in *Revue de synthèse historique*, vol. xvi. (1908) 164-74 and 272-302; Aulard, A., "M. Jaurès, historien de la Révolution" in *La Révolution française*, vol. xliii (1902) 289-99; Pease, Margaret, *Jean Jaurès, Socialist and Humanitarian* (London 1916).

JAVID, MAHMAD (1876-1926), Turkish statesman. Javid Bey was born a *dunmeh*, a member of a Salonika group of Spanish-Jewish origin which had been converted to Islam. He studied in Istanbul and worked as a bank clerk, translator and professor of economics. He became interested in the Young Turks and was a member of the inner Committee of Union and Progress at the outbreak of the revolution of 1908. Although the spectacular figure in the uprising was Enver Pasha, it was Javid and Talaat who really sustained and directed it.

After the Young Turks came into power Javid achieved success as a financial administrator. He became a deputy in parliament, reporter of the budget committee and in 1909 minister of finance. He established a finance department on western lines and, refusing a French loan because its terms included French intervention in Turkish finances, arranged in 1910 a loan of \$30,000,000 with the Deutsche Bank. In 1911 he was forced to resign but was reappointed after the First Balkan War and helped with negotiations concerning railway concessions and loans.

He strove to keep Turkey neutral in 1914 and resigned when war became inevitable. In 1917 he was again appointed minister of finance and through his financial arrangements he kept Turkey comparatively free of burdensome war debts. He fled after the Armistice but returned in 1922 and became Turkish representative on the Public Debt Council. At the Lausanne Conference he was instrumental in preventing French financial control of Turkey.

After the triumph of Kemal, Javid presided over a secret conference of surviving Young Turk leaders, who drew up plans for a progressive party. The discovery in 1926 of a plot to kill Mustafa Kemal led to Javid's arrest; together with a number of others charged with conspiring to overthrow the government forcibly he was condemned and executed.

ALBERT H. LYBYER

*Consult: Earle, E. M., Turkey, the Great Powers and the Bagdad Railway* (New York 1923).

**JAWORSKI, WŁADYSŁAW LEOPOLD** (1865-1930), Polish jurist and social philosopher. Jaworski was professor of law at the University of Cracow. He served for some time as a member of the Reichsrat in Vienna and during the World War he headed the Naczelny Komitet Narodowy (Supreme National Committee), which represented the Polish cause before the Central Powers.

Like many of his generation Jaworski started out as a rationalist in philosophy, an individualist in social theory and a relativist in ethics; however, he soon perceived the limitations of these views and through an intensive study of Plato, Aquinas, Vaihinger and Spann arrived at a universalist-romanticist conception of society with Christian ethics at its base. His concrete contributions were in the field of law. Despite his early opposition to the predominant tendency of his time to regard legal problems from a purely historical and dogmatic point of view he became known as a brilliant representative of legal dogmatism through his works on the law of mortgages and on land registers. Dissatisfied, he turned to administrative and public law and to the philosophy of law. He became an adherent of Kelsen's school but differed from Kelsen in his acceptance of absolute values. His later studies in private and public law are clearly imbued with his social attitude. Even private law, Jaworski held, deals with social phenomena. There is one group of situations which are the result of the life of men in society, but they are after all subject to the control of individuals through the agencies of political life. There is another group of situations that originate in individual aims, but these are nevertheless controlled by the state whenever an individual asks for its cooperation. The norms of the first group are the objects of public law, while those of the second are the objects of private law.

In his project for an agrarian code, published several years before his death, Jaworski endeavored to put his theoretical views into practice. The basic idea of present day land reform in Poland is the creation of the largest possible number of farms providing adequate means of livelihood for single families. According to Jaworski, although this idea belonged to economics rather than to jurisprudence it had to be translated into legal terminology. This translation Jaworski accomplished by introducing into his code the pragmatic idea of "the unit of agricultural enterprise." Since the object of the law is to insure not possession but a definite kind of

organized activity, it was included in the domain of administrative rather than private law. Jaworski also drew up a proposed draft for a Polish constitution.

**KAZIMIERZ W. KUMANIECKI**

*Important works:* *Pravo cywilne na ziemiach polskich* (Civil law in Polish territories), 2 vols. (Warsaw 1919); *Prace administracyjne* (Administrative law) (Warsaw 1924); *Projekt kodeksu agrarnego* (Project of an agrarian code) (Warsaw 1928); *Projekt konstytucji* (Project of a constitution) (Cracow 1928).

*Consult:* *W. L. Jaworskiego życie i działalność* (Life and work of Jaworski) (Cracow 1931).

**JAY, JOHN** (1745-1829), American diplomatist, statesman and jurist. Jay was serving as member of the Continental Congress when in 1777 he was recalled to aid in drafting a constitution for New York state, the first of the new constitutions to provide for the election of governor by popular vote. In 1779 he served as president of the Continental Congress until he was chosen to negotiate with Spain a treaty which should give the United States among other things free navigation of the Mississippi and a loan. The negotiations proving fruitless, he was transferred in 1782 to Paris as one of the commissioners to arrange peace with Great Britain. He became suspicious of France, perhaps without entire justification, and was largely responsible for the decision to conclude independently of France and contrary to the instructions of Congress the preliminary peace treaty of 1782. As secretary of foreign affairs from 1784 to 1789 he was engaged chiefly in carrying on prolonged although unsuccessful negotiations with Spain over boundaries and the Mississippi question. He urged a revision of the Articles of Confederation, favored a complete separation of legislative, executive and judicial powers and a system of checks and balances and contributed to the *Federalist* (1787-88) five articles, all but four on foreign relations. In 1789 he became the first chief justice of the Supreme Court; the most important decision during his term of office was that of *Chisholm v. Georgia* [2 U. S. 419 (1792)], which affirmed the right of a citizen of one state to sue another state in a federal court—a doctrine later set aside by the Eleventh Amendment (1798). The unsatisfactory provisions of the treaty which he negotiated with Great Britain in 1794, particularly those regarding impressment and West India trade, caused him to be for a time bitterly denounced, especially by the suspicious Anglophobes. He resigned the chief justiceship in 1795, was elected governor of New York

and served in that office until 1801, when he retired to private life. A Federalist in politics, his temperament and social position made him a moderate conservative with democratic sympathies.

#### WILLIAM MACDONALD

*Works: Correspondence and Public Papers*, ed. by i. l. P. Johnston, 4 vols. (New York 1890-93).

*Consult:* Jay, William, *Life of John Jay*, 2 vols. (New York 1833); Pellew, George, *John Jay* (Boston 1890); *The Federalist*, ed. by P. L. Ford (New York 1868); Scott, J. B., "John Jay, First Chief Justice of the United States" in *Columbia Law Review*, vol. vi (1906) 289-325.

JEFFERSON, THOMAS (1743-1826), third president of the United States. After completing his course of study at William and Mary College Jefferson took over and enlarged his father's estate in Albemarle county, Virginia. He practised law until 1774 and from 1769 to 1775 represented his county in the Virginia legislature. Elected to the second Continental Congress, he drafted the Declaration of Independence; but shortly afterward he returned to the Virginia legislature to support four measures providing "a foundation for a government truly republican." Three of these measures—abolition of primogeniture, abolition of entail and separation of church and state—were enacted in the course of the next twenty-five years; but, the fourth, the establishment of free public schools, was less readily acceptable. Again, in Congress in 1783 Jefferson reported the plan for a decimal coinage and drafted a proposed ordinance for the Northwest Territory. As ambassador to France from 1784 to 1789 he acquired a first hand knowledge of European society and witnessed the beginnings of the French Revolution. As secretary of state during Washington's first administration he supported Hamilton's funding and assumption plan on condition that the capital be located on the Potomac; but he was generally opposed to Hamilton's upper class, strong government program. Whereas Hamilton "feared most the ignorance of the people," his inveterate opponent was apprehensive above all of "the selfishness of rulers independent of them." During his two terms as president from 1801 to 1809 Jefferson reduced the forms of office to a "republican simplicity," endeavored to pay off the public debt, purchased Louisiana territory from France and in order to avoid war resorted to commercial embargo against France and Great Britain. From 1809 until his death in 1826 he lived in retirement at Monticello, advising his successors,

Madison and Monroe, founding the University of Virginia, occupying himself almost incessantly in study and writing and managing his estate—not successfully, since he died impoverished. He chose his own epitaph: "Here was buried Thomas Jefferson, author of the Declaration of American Independence, of the statute of Virginia for religious freedom, and father of the University of Virginia."

Next to Franklin, Jefferson was the ablest representative of the eighteenth century philosophy of enlightenment. Apart from inherited temperament three influences shaped his ideas. The first was environmental. Born and bred a gentleman farmer and possessed of a fine estate, he disliked urban life and activities; and living in the relatively democratic "up-country" he shared his region's opposition to the more sophisticated tidewater aristocracy. He thus represented a distinct class interest, that of the west against the east, of agricultural against industrial occupation. The second influence was philosophical. His natural predilections were rationalized in terms of the current philosophy, to which he was introduced in college by Dr. William Small, "from whose conversation I got my first view of the expansion of science, and of the system in which we are placed." Like most of the *philosophes*, he believed that God had created the universe according to an intelligible plan and that men had been given reason in order that they might harmonize their conduct and institutions with the "laws of nature and of nature's God." Accepting Locke's sensational psychology he believed that men were inclined to be good unless corrupted by ignorance and bad institutions. Happiest in the country, he regarded rural life as more "natural" than city life and agricultural pursuits as less "artificial" than banking and shopkeeping. His ideal society was essentially present in miniature before his eyes at Monticello. With a few changes it could be made, in keeping with his antislavery principles, into a community of free farmers economically self-sufficing or nearly so, sufficiently enlightened by free schools and governing themselves under the leadership of a benevolent country gentry through democratic-republican institutions; the powers of government distributed among township, county, state and national authorities would diminish in proportion to the territorial remoteness of the authority from the individuals concerned. The third shaping influence was his residence abroad, which confirmed him in the conviction that tyranny and privilege resulted

from an unproductive class hating on the producers; and while this strengthened his belief in the superiority of a simple agricultural society under republican forms it raised some doubts as to whether the happier state of America was more than a special and temporary condition which would disappear with the disappearance of free land. Jefferson had no naïve, doctrinaire faith in republican institutions as a universal panacea. At best republican government "is the only form . . . which is not eternally at open or secret war with the rights of mankind." Yet experience seemed to show that "even under the best of forms, those entrusted with power have, in time, and by slow operations, perverted it into tyranny." Hence it was that "the tree of liberty must be refreshed from time to time by the blood of patriots and tyrants." Not any form of government alone, but the best form plus eternal vigilance, was the price of liberty.

Jefferson's philosophy was of the eighteenth century, his specific program suited to a simple agricultural society. Neither his philosophy nor his program is suited to the present industrial technological age. What has been of persistent influence and is still of value is his attitude of mind: his sympathetic acceptance of man as he is, his conviction that man can somehow master his environment to good ends, his assumption that human conduct and custom should be based upon the disinterested interpretation of the most exact and comprehensive knowledge attainable.

CARL BECKER

*Works: Writings of Thomas Jefferson*, ed. by A. E. Bergh, 20 vols. (Washington 1903-04). The Jefferson papers are in the Library of Congress

*Consult: Chinard, G., Thomas Jefferson, the Apostle of Americanism* (Baltimore 1920), with bibliography; Nock, A. J., *Thomas Jefferson* (New York 1926); Hirst, F. W., *Life and Letters of Thomas Jefferson* (New York 1926); Johnson, Allen, *Jefferson and His Colleagues*, *Chronicles of America* series, vol. xv (New Haven 1921); Bowers, C. G., *Jefferson and Hamilton* (Boston 1925); Dodd, W. E., *Statesmen of the Old South* (New York 1926) ch. i; Becker, C. L., *The Declaration of Independence* (New York 1922); Merriam, C. E., Jr., "The Political Theory of Jefferson" in *Political Science Quarterly*, vol. xvii (1902) 24-45; Chinard, G., *Jefferson et les idéologues d'après sa correspondance inédite* (Paris 1925); Fay, B., *L'esprit révolutionnaire en France et aux États-Unis à la fin du XVIII<sup>e</sup> siècle* (Paris 1925); Vossler, Otto, *Die amerikanischen Revolutionsideale in ihrem Verhältnis zu den europäischen; untersucht an Thomas Jefferson*, *Historische Zeitschrift*, supplement no. xvii (Munich 1929); Beard, C. A., *Economic Origins of Jeffersonian Democracy* (New York 1915); Chinard, G., "Jefferson and the Physiocrats" in *University of California Chronicle*, vol. xxxiii (1931) 18-31; Thomas, C. S., "Jefferson and the Judiciary" in *Con-*

*stitutional Review*, vol. x (1926) 67-76; Sears, L. M., *Jefferson and the Embargo* (Durham 1927); Woolery, W. K., *The Relation of Thomas Jefferson to American Foreign Policy 1783-1793* (Baltimore 1927); Honeywell, R. J., *The Educational Work of Thomas Jefferson* (Cambridge, Mass. 1931); Robinson, W. A., *Jeffersonian Democracy in New England* (New Haven 1916); Warren, C., *Jacobin and Junta* (Cambridge, Mass. 1931), especially ch. vi; Williams, J. S., *Thomas Jefferson, His Permanent Influence on American Institutions* (New York 1913).

**JEKELFALUSSY, JOZSEF (1849-1901)**, Hungarian statistician. Jekelfalussy studied law, economics and statistics at the University of Budapest and entered the Bureau of Statistics in 1871, the year in which it became an independent department. Working under Keleti, Jekelfalussy soon attained a prominent place in Hungarian official statistics. He participated in the census of 1880, the first to use individual cards. He organized that of 1890, introducing many reforms, among them a method of collecting vocational statistics in industry which attracted considerable attention abroad. In 1892 he was appointed head of the bureau; he reorganized it and introduced important innovations in the method of compiling the statistics of foreign trade and of agriculture. The published reports on the latter proved of the greatest help in shaping subsequent agricultural policy. Jekelfalussy introduced the use of individual blanks in the compilation of statistics of crime and social unrest, reorganized educational statistics and instituted new branches of statistical inquiry. He was instrumental in the enactment of the bill of 1897 which provided for the compulsory collection of statistics, and which was of the greatest significance in the further development of official statistics in Hungary.

FRÉDÉRIC DE FELLNER

*Important works: A községek háztartásai és pótdátjuk 1881* (Municipal housekeeping and surtaxes 1881) (Budapest 1883); *A községi pénzügy főbb eredményei háztartásukban* (The principal results of municipal finance in Hungary) (Budapest 1883); *Hazánk bűnügyi statisztikája 1873-1880* (Criminal statistics of Hungary from 1873 to 1880) (Budapest 1883); *Magyarország népességi statisztikája* (The demography of Hungary) (Budapest 1884); and numerous articles in statistical periodicals.

*Consult: Gyula, V., in Közgazdasági szemle*, vol. xxv (1901) 169-70; Kovács, A., in *Institut International de Statistique, Bulletin*, vol. xii, no. 2 (1902) 153-55.

**JELAČIĆ, COUNT JOSIP (1801-59)**, Croatian statesman. Jelačić was educated at the Theresianum, a school for the nobility in Vienna,

and became an officer in the Austrian army. In 1848 he was appointed Croatian ban and military commander and as such governed almost all the Croatian lands then under Austria-Hungary—Croatia, Slavonia, Dalmatia, Međimurje and Fiume—a unification which greatly stimulated Croatian national consciousness.

Jelačić was a prominent figure in the Croatian renaissance and in the formation of the Yugoslav nation. His greatest achievement was to turn the conflict between the Magyars and the Austrian court to the advantage of Croatia at a time when the Croats were seriously threatened with the danger of Magyarization. There were Serbs in Croatia and even in Hungary who were in a similar position with regard to the Magyars, and Jelačić in agreement with the Serbian leaders started the joint struggle against them. By opposing the Magyars and maintaining Croatian loyalty to Austria Jelačić performed an important service for the distraught imperial government and as a result secured significant gains for the Croats and for the Serbs as well. Magyarization in Croatia and in Slavonia was checked; Croatian was introduced as the official language and the Croats were united under the rule of one man. All these factors helped create conditions favorable to the foundation of a Croatia independent to some extent of Hungary. The joint war carried on by the Croats and Serbs in 1848-49 against the Magyars strengthened their relations and pointed the way in the political and national struggle. During the period of Germanization which followed the defeat of the Hungarian revolutionists Jelačić succeeded in obtaining certain substantial advantages for the Croats, such as the independence of the Croatian church from Hungary in 1852.

DUŠAN J. POPOVIĆ

Consult: Horvat, R., *Dan Jelačić* (1900); Žišić, F., "Kako je Jelačić postao banom" in *Jugoslavenska Njiva*, vol. vii (1923) 169-83.

JELLINEK, GEORG (1851-1911), German jurist. Jellinek, the son of the rabbi Adolf Jellinek, was born in Leipzig but in 1857 moved with his family to Vienna. He devoted himself to legal and philosophical studies in Vienna, Heidelberg and especially in Leipzig, where the influence of Wilhelm Windelband permanently fixed his *Weltanschauung* in the new Kantian spirit. After nearly two years of experience in the Austrian public service he attempted to embark upon an academic career, but despite his many important publications antisemitic opposition hindered his

preference. He ultimately became professor at Heidelberg, where he continued his activity as teacher and scholar from 1891 to his death.

Georg Jellinek's great importance as a political theorist lies in his skill at comprehensive synthesis. In the period of positivistic narrowing of the scope of the science of public law inaugurated by Gerber and Laband he constantly strove to rest its dogmatic treatment upon the foundations of the history of ideas, philosophy, comparative law and finally sociology. The central problem for him was the relationship of the individual to the state. He developed particularly the conception of the autolimitation of the state. In his *System der subjektiven öffentlichen Rechte* (Freiburg 1892, 2nd ed. Tübingen 1905) he revived ideas of the rights of man, and in his internationally celebrated *Die Erklärung der Menschen- und Bürgerrechte* (Leipzig 1895, 4th ed. Munich 1927; tr. by M. Farrand, New York 1901) he sought to connect the ideas of the celebrated declaration with Anglo-Saxon experience rather than with Rousseau. He gave systematic and brilliant expression to the whole range of his ideas in his *Allgemeine Staatslehre* (Berlin 1900; ed. by W. Jellinek, Berlin 1914). In this classic of German political theory, which in translation has also strongly penetrated foreign scholarship, he attempted, although not always successfully, to combine the sociology of the state—until then entirely neglected by German jurists—with the science of public law. Jellinek's intellectual universality as well as his political tact always restrained him from employing to an excessive degree in problems of political theory the method of jurisprudence developed from the private law.

HERMANN HELLER

Other important works: *Die sozialistische Bedeutung von Recht, Unrecht und Strafe* (Vienna 1878, 2nd ed. Berlin 1908); *Die rechtliche Natur der Staatsverträge* (Vienna 1880); *Die Lehre von den Staatsverbindungen* (Vienna 1882); *Gesetz und Verordnung* (Freiburg 1887); *Ausgewählte Schriften und Reden*, ed. by W. Jellinek, 2 vols. (Berlin 1911). A complete bibliography of Jellinek's works is given in the *Archiv des öffentlichen Rechts*, vol. xxvii (1911) 606-19.

Consult: Zweig, E., in *Biographisches Jahrbuch und deutscher Nekrolog*, vol. xvi (Berlin 1914) p. 147-54; Hert, S., in *Staatslexicon*, ed. by H. Sucher, vol. ii (5th ed. Freiburg 1927) p. 1410-16; Lukacs, J., in *Neue österreichische Biographie*, vol. vii (Vienna 1931) p. 147-52; Nelson, Leonhard, *Die Rechtswissenschaft ohne Recht* (Leipzig 1917) ch. i; Kelsen, Hans, *Hauptprobleme der Staatsrechtslehre* (2nd ed. Tübingen 1923) p. 482-91; Emerson, Rupert, *State and Sovereignty in Modern Germany* (New Haven 1928) p. 59-63, 71-73, 83-85, and 107-11.

**JENKIN, HENRY CHARLES FLEEMING** (1833-85), English economist and engineer. Jenkin was professor of engineering at the University of Edinburgh. His importance in economics rests on his contribution to mathematical economic analysis contained in a number of articles. In his first paper, "Trade-Unions: How Far Legitimate" (1868), his refutation of the economic opinion that unions could not raise wages anticipated Thornton's attack upon the wages fund doctrine and led him to a brilliant statement of the laws of supply and demand. The expression was algebraic in the form  $D = f(A + 1/x)$ ,  $S = F(B + x)$ , where  $x$  is price and  $A$  and  $B$  are constants representing the dependence of demand and supply upon the states of mind of buyers and sellers respectively. This statement was elaborated and supplemented by diagrammatic analysis in his "Graphic Representation of the Laws of Supply and Demand and Their Application to Labour" (1870), in which he laid down three propositions or laws of demand and supply. Distinctions were made between the determination of price at a given time and in the long run, between changes in portions of the demand and supply curves near the market price and in the whole curves and between different conditions of changing cost of production. In a subsequent paper "On the Principles Which Regulate the Incidence of Taxes" (1871-72) he asserted his preference for the diagrammatic analysis, because the curve for a given good might be determined experimentally, while the algebraic function is likely to be complicated. This article, keen throughout, is most notable for its concepts of producers' and consumers' surpluses as a direct deduction from his theory of demand and supply. Here he prefers his own analysis to that of Jevons because the latter is in terms of utility which "admits of no practical measurement," while "statistics gathered through a few years would show approximately the steepness of each curve near the market price, and this is the most important information."

#### REDVERS OPIE

*Important works:* The second volume of Jenkin's *Papers, Literary, Scientific . . .*, ed. by S. Colvin and J. A. Ewing, 2 vols. (London 1887) and reprinted by the London School of Economics and Political Science, Series of Reprints of Scarce Tracts, no. 9 (London 1931) is a collection of his economic articles.

**JENKINS, SIR LEOLINE** (1623-85), English admiralty judge, civilian lawyer and diplomat. Jenkins fought as a royalist in the civil war and

upon the failure of the king's cause retired to his native Wales with Archbishop Frewen and Sheldon, later archbishop of Canterbury. There he formed the connections which laid the foundation of his subsequent advancement. He was later admitted to the College of Advocates of Doctors' Commons and about 1665 was made judge of the Admiralty Court; from 1676 to 1679 he was one of the English representatives at the Congress of Nijmegen. He became secretary of state in 1680 and resigned in 1684.

He achieved eminence in the fields of admiralty jurisdiction and international law. The agreements as to the jurisdiction of the Admiralty which were made in 1575 and in 1632 were not kept; the question was still open in Jenkin's day, for in 1661 and again in 1669-70 bills were introduced in the House of Lords to enact in substance the agreement of 1632. Jenkins argued unsuccessfully but with historical truth in their favor, pointing out that the common law courts were ignorant of the maritime and civil laws and could not take jurisdiction of many types of admiralty causes. Had the bills passed there can be little doubt that the law merchant would have developed in England and in America in the admiralty courts.

Jenkins' most enduring work is to be found in the Statute of Frauds [29 Car. II, c. 3, sect. 17 (1677)] and in the Statute of Distributions regulating the intestate succession of personal property [22-23 Car. II, c. 10 (1670)]; he was the principal author of both these statutes, which are still substantially in force in every common law jurisdiction.

#### FREDERIC ROCKWELL SANBORN

*Consult:* Wynne, William, *Life of Sir Leoline Jenkins*, 2 vols. (London 1724); Holdsworth, William S., *A History of English Law*, 9 vols. (3rd ed. London 1922-26) vol. I, p. 552-59, and vol. VI, p. 380-93; Costigan, G. P., Jr., "The Date and Authorship of the Statute of Frauds" in *Harvard Law Review*, vol. xxvi (1912-13) 329-46; Henning, C. D., "The Original Drafts of the Statute of Frauds and Their Authors" in *University of Pennsylvania Law Review*, vol. lxi (1912-13) 283-316.

**JENKINSON, CHARLES.** See LIVERPOOL, FIRST EARL OF.

**JENNER, EDWARD** (1749-1823), English physician. Jenner was born at Berkeley, Gloucestershire. After studying medicine under the surgeon Daniel Ludlow and under John Hunter he obtained the degree of doctor of medicine from St. Andrews, Scotland, in 1792. He per-

formed his historic experiment with cowpox inoculation on the eight-year old James Phipps in 1796 and in 1798 published the findings of twenty-three cases in *An Inquiry into the Causes and Effects of Variolae Vaccinae* (London 1798, 3rd ed. 1801).

Contrary to the widely prevalent belief, Jenner did not discover the principle of immunization by inoculation. Variolation, inoculation of the smallpox germ for purposes of immunization, had been widely practised in Europe and America throughout the eighteenth century and had reached a high degree of success in the hands of specialists. Vaccination offered a less dangerous and simpler procedure than did variolation, and Jenner's careful instructions as to how to perform cowpox inoculation were invaluable contributions to medical science. But Jenner's role in the promotion of vaccination has been exaggerated largely through John Baron's partisan biography. Not only had the principle that cowpox offered immunity to smallpox been known prior to Jenner's work and vaccination previously been performed, but the credit for convincing the medical profession of the efficacy of the practise by sufficient evidence belongs to George Pearson and William Woodville rather than to Jenner. Pearson and Woodville were also the first to establish an organization for free vaccination and for the distribution of vaccine matter. They acknowledged the need for revaccination, which Jenner persistently denied.

BERNHARD J. STERN

*Consult: Stern, Bernhard J., Should We Be Vaccinated? A Survey of the Controversy in Its Historical and Scientific Aspects* (New York 1927); Baron, John, *Life of Edward Jenner* (London 1827).

JESSEL, SIR GEORGE (1824-83), English judge. Jessel, who was master of the rolls, may justly claim an honorable seat at the symposium of the masters of English equity. Posterity in naming him in the same category as Nottingham and Hardwicke would be according him no more than his achievements merit. In a sense also he may be said to have stood in relation to the modern understanding of equity in much the same position as Marshall stood in relation to the interpretation of the United States constitution, in that the life work of both was destined to fall on the morrow of great events, events which demanded for the fruition of their purposes exponents of strength and genius. Without Marshall the United States constitution might

today be but a rigid and didactic decalogue; without Jessel the Judicature Acts might have been interpreted in such a way as to bring chaos into the jurisprudence of English courts.

Two great decisions of Jessel, by showing clearly that the Judicature Acts effected primarily an alteration in adjective not in substantive law, have hewn down before it could have time to grow to any stature the forest in which many a modern jurist might have lost his way. In *re Hallett's Estate* Jessel pointed out the fundamental differences in history between law and equity and described the different machinery which each can provide for the recovery of money. In *Walsh v. Lonsdale* an even more difficult question arose: did the Judicature Acts abolish the difference between a lease and an agreement for a lease? Jessel resisted the temptation of simplicity and concluded that the effect of the acts was not thus drastic. He discriminated and held only that an agreement for a lease which equity would specifically enforce would be regarded as a lease for the purpose of giving effect to all its terms, although those terms might have been such as law would not countenance. His decision in *Pooley v. Driver* is a landmark in the law of partnership. It is the converse of *Cox v. Hickman*, the great case which laid down that profit sharing does not by itself necessarily constitute the partnership relation. Jessel's cases have been digested by A. P. Peter under the title *Analysis and Digest of the Decisions of Sir George Jessel, with Full Notes, References and Comments* (London 1883).

H. G. LANBURY

*Consult: Nanson, E., The Builders of the Law during the Reign of Queen Victoria* (London 1904).

JESUITS. When in 1534 Ignatius Loyola organized a small band of students at Paris, his intention was to create an order for missionary service in Palestine. Had this been realized, the society would never have acquired its historic significance. But the revival of war between Venice and Turkey prevented travel to the Orient, and in 1537 Loyola went to Rome in quest of a substitute for his frustrated purpose. There he formulated a new program which included in addition to missionary work educational activity, preaching and the service of the papacy. The society immediately entered upon active pursuit of these objects, but its definitive character was not shaped until it emerged as the most militant weapon of Catholicism against Protestantism.



The essential ethos of the Jesuit order is to be understood only in the light of the reaction produced in the Catholic church by the disruptive consequences of the Protestant revolt. At the time of Loyola's arrival in Italy the Reformation had gained sympathizers even at Rome, and the papacy under Paul III (1534-49) had responded to the menace by stiffening itself against all compromise with innovation. Fused with the religious fervor and militant passion which Loyola brought to Rome this spirit molded the Society of Jesus, giving to the church the instrument for aggressive warfare unprovided by its older institutions. The whole future policy of the order was determined by the undivided purpose of annihilating the enemies of the church. The Jesuits became pledged to crush all manifestations of nonconformism within Catholicism with the same ruthlessness as open secession, for the exigencies of warfare demanded unquestioned unity of both doctrine and guidance. The slightest concession might threaten the whole structure. The immutable, absolute authority which they needed they ascribed to the church by identifying the ecclesiastical with the divine. The church in its historical form became for them the visible realization of God's will; it was to be *semper eadem*; its dogmas like its constitution and ritual were unimpeachable. Having evolved such a conception of the church the Jesuits found in it ample justification for any means they might employ to preserve it against the inroads of change. Their aim constituted an injunction to intellectual rigidity and to obduracy against pity. The Jesuits may be compared with the mendicant orders which had risen and been used by the church against the less serious heresies of the thirteenth century. The Dominican order had been inclined to favor the Inquisition and the application of other violent methods against apostates, but in the long run it had been more concerned with science and the salvation of souls within the faith. The Jesuits, on the other hand, have never as an order relaxed the spirit of inexorable militancy in which it was conceived, although individual exceptions have sometimes appeared among their members.

The Jesuits represent the final stage in the evolution of religious orders away from the solitude and fixity of monasticism. With the mendicant orders or friars the glorification of flight from the world which had been characteristic of the Benedictines, Cistercians and Premonstratensians had been supplanted by the ideal of

service through contact with the laity. To fit their purpose they had developed an institution allowing peregrination but still sufficiently influenced by monasticism so that communal life, the obligatory monkish garb and the common choral prayer were retained. All these elements were discarded by the Jesuits as obstructions to active work in an agitated world. They became "clerks regular" in contrast to both friars and monks.

The Society of Jesus was definitely organized in 1539, when Loyola drew up a preliminary code of laws which was confirmed the following year by the bull *Regimini militantis ecclesiae*; its definitive constitution, based on the cumulative experience of the founder and his associates, appeared in its final form in 1558. These documents are the institutional expression of the reaction of Catholicism to its precarious status about the middle of the sixteenth century. Virtually all power was placed in the hands of the general of the order, who was chosen for life. Without abandoning the semblance of representative government, introduced by the friars simultaneously with their development of a centralized direction of all branches of the order in place of the older system of autonomous monasteries, the Jesuits rendered such a check upon administrative efficiency innocuous. The General Congregation, closely corresponding to the General Chapter of the mendicant orders, although it possessed the sole right to legislate, to elect a new general and to impeach an unworthy incumbent met, except in extraordinary circumstances, only after the general's death. The type of organization and nature of the society were thoroughly harmonious with the founder's Spanish heritage. Loyola had before his eyes the ideal of a holy militia, of a military Company of Jesus, as was natural for a Spanish nobleman whose countrymen and class had for centuries engaged in fanatical crusades against the Moors. The society in fact drew its most zealous adherents from Spain; and nowhere was it to achieve wider extent.

Obedience occupied the position held by renunciation among the Benedictines. It was Loyola's intention to derive the motive power of the order from the pure love of God, but as an inevitable consequence of the dogmatic and anthropomorphic nature of the Jesuit conception of God the emphasis was transferred to blind acceptance of the views espoused by the order. The idea that the dissenter was not only misled but reprobate was exalted by the Jesuits into an

infallible principle. While from the time of the military orders there had been a progressive tendency on the part of religious orders to stress obedience, no other order, not even the Franciscans, whose founder had imposed a kind of "corpse-like" submission, exacted such complete prostration of its members before the order's dictates. The individual Jesuit was regarded as a robot in the hands of his superiors. With a view to recruiting only persons of sufficient talent and strength to extinguish their own wills requirements for admission to the society were made more stringent than in any other order and a long period of probation was enforced.

The peculiar Jesuit device for generating a corporate spirit was the Spiritual Exercises—a regimen of intensive mental, physical and religious drill which is prescribed in detail in Loyola's *Exercitia spiritualia*. Begun probably in the 1520's and finally approved by Paul III in 1548, the exercises reflect at the same time Loyola's military experiences and the agonized course of self-immolation which had led him to the final victory of unreserved surrender. Twice during his lifetime each member of the order had to undergo the complete drill, which might extend over a period of several weeks; and every year he had to undergo an abridged form. Except for the presence of a master of exercises to supervise the performance and within certain clearly defined limits to adapt the rules to the special weaknesses of the individual absolute solitude was required. According to a carefully graduated system the practitioner rose through meditation, self-examination and purgation from all earthly concerns to the final ecstatic union with God. The drill shows a minute knowledge of the interaction between physical and psychological states; no stimulus was neglected which might goad the pupil's imagination to the point where the teachings of the church and of the order become identified with divine truth. All theological speculation was rigidly excluded; the desired goal was attained by stirring the depths of the pupil's soul and causing him not to analyze but to visualize the mysteries of the Catholic religion. By thus using the practises of ascetics and saints as a means rather than an end Loyola evolved an unailing technique for inspiring the members of the order with a superpersonal ideal, which complemented the discipline involved in constant struggle with the enemies of the church.

Although the original bull of confirmation in 1540 limited the membership to sixty, the volume of applications for admission made it necessary

to repeal this rule within three years. By 1555 the order numbered approximately one thousand members. From the outset it engaged in preaching, in educational work in both Catholic and Protestant countries and in home missionary work of all kinds. Within the first decade of its existence it organized extensive foreign missions: when Francis Xavier, one of the original members, died in 1552 he had founded Jesuit missions in the East Indies, India and Japan and converted thousands to the faith. As the order's conflict with Protestantism became more clearly defined, its lines of activity multiplied; and while throughout its history it never removed emphasis from its original aims it began its characteristic practise of penetrating into the world by any avenue that promised success. The Jesuits insinuated themselves into the confidence of princes, became the confessors of royalty, diplomats, noted organizers. The convent was not the fixed home of the Jesuit but merely a meeting place visited by a transient, who was assigned by the order to whatever post he could fill most effectively. Since in view of the political complexion of the age the most practical way of achieving submission to the church was through influencing kings and nobles, the order came to favor the selection of members from men of the world and of social position. The society itself trained its recruits to have the adroitness of courtiers, the cleverness of diplomats and a profound knowledge of human nature. The type of Jesuit stood out in sharp contrast to the religious of the older orders.

By 1550 the West was covered with a network of Jesuit institutions and establishments. At Loyola's death in 1556 it organized its various branches into twelve provinces, one of which was Indo-Japan, one Brazil and one Ethiopia. The others were Portugal, Castile, Aragon, Andalusia, Italy, Sicily, upper Germany, lower Germany and France.

Through their preaching and instruction the Jesuits were more than any other factor responsible for the regeneration of Catholic consciousness which set in throughout Catholic Europe about the middle of the sixteenth century. They founded seminaries for the education of priests, whose ignorance and unfitnes had been an important cause of the decadence of the church. Jesuit schools for the laity mushrooming throughout Italy, Spain and Portugal imbued the rising generation of Catholics with the Jesuit faith and ideas. The great Collegium Romanum, which Loyola opened in 1551, became the

model for all Jesuit educational institutions. Although with progressive intensity they concentrated their attention upon the youth of the upper classes they also won much sympathy during the early years by establishing orphanages and industrial schools for poor children. Their influence upon the policies of the church became particularly apparent at the last session (1562-63) of the Council of Trent, which built enormously upon two decades of Jesuit experience. It was chiefly as a result of their activity and especially of the counsel of Diego Lázaro, one of the first and most important of Loyola's followers and general of the order from 1558 to 1565, that this session abjured all doctrinal compromise with the reformers and strengthened the influence of the pope in the church. The council, however, stopped considerably short of the Jesuit position that the dogma could be preserved only if the pope were given absolute authority in church matters and over councils. From the middle of the sixteenth century until the nineteenth, when they finally carried the doctrine of papal infallibility through the Vatican Council of 1870, the Jesuits persisted in their espousal of papal monarchism, seeking to apply to the government of the church the principles of their own government, which has been rightly characterized as an absolute monarchy. For this reason and in return for the order's unabated devotion to their service the popes with a few exceptions requited it with their protection and favor; customarily it was the dominant power at the Holy See.

However important might be the internal reform of Catholicism, the essential task of the Jesuits was the elimination of Protestantism in its own strongholds. The first Jesuits arrived in Germany, the most threatening terrain, during the 1540's. That in 1543 they gained the adherence of Petrus Canisius (1521-97) was of utmost importance for their success on German soil. Canisius, whose rich correspondence mirrors half a century of incessant activity, became the soul of the German movement, the founder of numerous colleges, the author of a most effective catechism and the first provincial general for upper Germany and Austria. Here even more systematically than in countries less infected by heresy the Jesuits followed a definite plan of campaign. Their first objective was the erection of colleges as a base for all future operations. After winning the young they penetrated into family life through their pupils as well as through lay religious societies which they

founded everywhere in great profusion. At the same time they carried on an offensive through the courts. In 1552 a Jesuit college was established at Vienna, in 1556 at Prague, in 1557 at Cologne, in 1559 at Munich. Soon Augsburg, Dillingen, Treves, Mainz, Speyer, Würzburg, Halle, Fribourg in Switzerland as well as many other cities had flourishing Jesuit colleges. The Vienna institution included 400 pupils within three years, that at Cologne 480 within two years.

As systematized by General Aquaviva (1543-1615) in the *Ratio studiorum* (1585-99), a famous document in the history of pedagogy, the Jesuit plan of education represents the most thoroughgoing attempt ever made on a large scale to inculcate devotion to church ideals through lay instruction. Religious education was the fundamental element in the structure. But the fame and tremendous patronage of their schools depended to a large extent upon the emphasis which they attached also to the study of the classics. While they relentlessly expurgated the objectionable or dangerous, this limitation was offset by the pedagogical skill of the professors, who were rigorously trained in their own institutions, and by the solidity of instruction which they imparted to their pupils. In general the atmosphere of their schools was far from ascetic or austere; and in this respect they presented a sharp contrast to many of the Protestant schools, where plain living was interpreted in a rigid sense. Individual peculiarities became an object of intense concern to the teachers. Their goal was to ferret out the special aptitudes of the pupil, to break his resistance, to link him indissolubly to the order and to utilize the best available material for their own ends. They made overtures to self-love and the spirit of emulation: at frequent intervals the pupils participated in public declamations and disputations, competed for prizes, exhibited their work in the classics and in other fields and staged dramatic performances. In addition to stimulating and entertaining the pupils this served the purpose of impressing and influencing the outside world. Since the Jesuits offered free tuition they were able to attract the talented children of impecunious parents; the same consideration often impelled Protestants to entrust them with their children. During the first century the order developed into a teaching corporation of unprecedented influence and extent. In 1640 it had 521 colleges: 116 in Italy, 104 in the Iberian peninsula, 83 in Germany, 79 in France, 39 in the Low Countries and 30 in

Poland. It undertook elementary instruction only with reluctance and particularly in those regions where Protestantism was most rampant it catered almost entirely to the upper classes, for the future was to be won through the youth of the élite; in most of the European capitals and metropolitan centers there were special Jesuit colleges for children of noble birth. The majority of the Jesuit educational institutions were either colleges corresponding to the French *lycée* and the German *Gymnasium* and offering chiefly classics or institutions of higher learning, including philosophical and theological academies and universities (*Studium generale*). In addition to their own academies and universities the Jesuits acquired innumerable chairs in older institutions. In the middle of the seventeenth century higher education in Catholic Germany, the Spanish Netherlands, Hungary, Spain, France, Italy, Portugal and Poland was largely vested in the Society of Jesus. The Jesuits also founded and operated a great number of seminaries, which supplied the churches of all Europe with a highly educated and cultured secular clergy.

The Counter-Reformation was in large measure the work of force, and without the assistance of state power the success of the Jesuits would have been greatly diminished. Soon perceiving on their side the indispensability of the order in the battle against Protestantism the Catholic governments in the two chief battlegrounds, Austria and Bavaria, as well as in the German ecclesiastical principalities accorded it every mark of royal favor: they showered it with endowments, assisted it in founding colleges and procured for its members university appointments. At the Catholic courts the Jesuits acquired impregnable positions as confessors, an office which sometimes made them along with the academicians the most influential counselors in the realm. Not satisfied with the hold that the confessional gave them over the princes and the female members of the royal families the Jesuits attempted, wherever possible and by recourse to whatever intrigue the situation required, to gain mastery of the lay advisers of the governments.

Within a short time either by persecution or by less violent methods the Catholic church was reestablished in Bavaria, Austria and the Rhineland. Where not annihilated the Protestants in these regions were forced into a defensive position at the mercy of the princes, whose promises to them were never kept when the Jesuits were court advisers. The order relaxed its efforts in Germany only when the Thirty Years' War ter-

minated Protestantism in Austria and Bohemia. The same methods were employed in France, leading eventually to the virtual extinction of French Protestantism: undoubtedly the order had its share in the Massacre of St. Bartholomew. It conducted a fervid campaign in the Low Countries and Switzerland as well as in Poland, Lithuania, Hungary, Transylvania and even in purely Protestant countries. It was chiefly instrumental in converting the daughter of Gustavus Adolphus, Queen Christine of Sweden, although before she had taken the first step public resentment compelled her to abdicate. It won Augustus the Strong of Saxony to the faith, as it did Winckelmann. For a time it nurtured hopes of regaining Russia. England, to which it sent its first mission in 1580, was the field of desperate efforts in the face of a persecuting government; its hopes were renewed with the accession of Charles II only to be finally blasted with the ousting of his son James. But wherever Catholic government held sway and in some Protestant regions the Jesuits were completely successful. If the states supplied the power, the strategy and direction as well as the inspiration came from the order. In Germany, Switzerland, France and the Low Countries the Counter-Reformation was in fact chiefly the work of the Jesuits.

Home missions for religious revival and for social work, preaching and disputations for the benefit of the learned went hand in hand with court intrigue and education, although the latter function always absorbed the energies of the majority of the order. To heighten the aesthetic appeal of the church ritual the Jesuits used every means that an age of baroque art and absolutistic government could provide: magnificent churches, paintings and statues of enraptured saints, altars overflowing with gold, dazzling clerical robes, incense and intoxicating music. The princes, eager to see their personal majesty reflected in superbly wrought courts and churches, found them indispensable advisers in matters of art, while the masses became aware of the pitiful contrast between Catholic splendor and the starkness of Protestantism with its bare churches and simple services. Thus under the leadership of the Jesuits a new church was created—a church which in Germany at least was more sumptuous, more inflexible, more propagandistic, more fanatical but at the same time purer and more spiritualized than any hitherto in existence.

The Jesuits also fortified the church with a vast arsenal of apologetics and anti-Protestant literature. With the assistance of papal favor it

soon tended to achieve a monopoly of Catholic theology, its approach to which was determined by the orthodox scholasticism of the thirteenth century. Until the present day the Jesuits have consistently remained advocates of Thomism. Among the numerous distinguished theologians whom they educated were Gregory of Valencia (1550?-1603), Bellarmine (1542-1621) and Suarez (1548-1617). While it was in the theological sphere that they achieved particular eminence in institutions of higher learning they also directed their scientific and literary energies into diverse other channels. Just as through their vast output of pedagogical treatises and textbooks they made possible that complete unity of instruction from which emanated the chief strength of their school system, so they sought to infuse the Jesuit spirit into all branches of higher education. Historiography owes to them the *Acta sanctorum* (begun in 1643) besides extensive collections on the history of the councils and innumerable shorter works. They produced many eminent natural scientists, particularly physicists and astronomers. Wherever Jesuit missionaries came in contact with foreign peoples they turned to the study of ethnology. In *Letters édifiantes* and other productions they have left invaluable documents on Asia Minor, Tibet, India and Central and South America. The annual reports, or *Relations*, letters, journals and other records of their American missionaries (collected as *The Jesuit Relations and Allied Documents . . . 1610-1701*, ed. by Reuben G. Thwaites, 73 vols., Cleveland 1896-1901) provide the sole available source of information on many aspects of the life of the prehistoric American native.

The period of the apogee and glory of the order was the first century of its existence. Although its militant spirit did not wane, after the Thirty Years' War its activity was greatly restricted in Protestant countries. Moreover, as a liberal and tolerant temper became injected into Catholic circles under the influence of the Enlightenment, the success of the Jesuits declined proportionally in those regions where they had formerly been supreme. Their hold over Catholic countries had already slackened when as an aftermath of their hegemony they won a twofold victory in France: the revocation of the Edict of Nantes in 1685, which to a considerable extent was the result of their influence upon Louis XIV; and the destruction of Jansenism, which was entirely their work. Between the Jansenists, adherents of a pietistic movement drawing its inspiration from a reversion to the ideals of primi-

tive Christianity, and the Jesuits a literary controversy had raged since 1643 on the question of communion and penance. In 1656 Blaise Pascal entered the fray with his celebrated *Lettres provinciales*, a mordant satire on the moral and political views of the Jesuits. The Jesuits were able through their superior position at the court to obtain the burning of Pascal's book in 1660 and in 1713 the bull *Unigenitus*, which outlawed the whole Jansenist movement. But Pascal's condemned ideas continued to exert pressure. In the seventeenth century as in the nineteenth the Jesuits saw many of their pupils develop into outspoken enemies: Galileo, Descartes, Bacon, Taine and Hoensbroech are only prominent examples.

After curtailing the influence of the order the Enlightenment finally led to its suppression. The rationalist spirit although nowhere attaining the same potency as in France penetrated even Spain and Portugal; in the second half of the eighteenth century there were important ministers in almost every European government—Aranda, Pombal, Choiseul, Tanucci, Kaunitz—who were more or less swayed by the ideas of the *philosophes*. In 1759 the Jesuits were expelled from Portugal; in 1764, two years after the Parlement of Paris had decreed the suppression of all Jesuit colleges, the order itself was dissolved in France; in 1767 Spain and Naples banished it; and the following year Parma followed their example. These governments jointly importuned the pope to take the ultimate step of abolishing the order in its entirety and in 1773 Pope Clement XIV fulfilled their request with the bull *Dominus ac redemptor noster*. In all probability Clement's action was a reluctant surrender to overwhelming pressure. He justified it on the grounds that the Jesuits menaced the peace of the church by their conflicts among themselves, with the secular clergy, with other orders and with the princes. The friction necessarily created by the nature and methods of the Society of Jesus is in fact the explanation for the circumstance that the Catholic governments in the eighteenth century joined the Protestants in hostility to the order and that the demand for its dissolution emanated from Catholic quarters. A strong popular sentiment supported this demand. The age of the Enlightenment, it is true, looked with disfavor upon the whole system of Catholic orders, regarding the enormous expansion of the convents and the not uncommon idleness of their inmates as an affront to "reason." But the Jesuits had given more grievous

and more urgent causes for complaint, which account for their suppression while the other orders survived.

Prominent among these causes was the intolerance of the Jesuit outlook and the basic inflexibility of their educational system—an inflexibility which gravely threatened the continued existence of the disintegrating Catholic church. Until their suppression the Jesuit colleges still surpassed all other Catholic schools. But the spirit of the age demanded compromise with the principles of "reason." No criticism impelled the Jesuits to transcend confessional limits or to modify the compound of religious propaganda and humanism which they had created for all time in the sixteenth century.

A serious source of friction was provided by Jesuit influence in affairs of state. This influence had at times, particularly in Spain, Portugal and the Italian states, amounted almost to omnipotence not only in matters of religious policy but in the secular concerns of governments; in addition to its constant entrée into royal circles through confessorships and court tutorships the order had had representatives, like Father Nidhart in Spain, Father Fernandez in Portugal, Father Lachaise in France, Father Vota in Poland and Russia, in official diplomatic and ministerial posts. But even at its apogee the political status of the order had never been safe from intermittent strictures and sometimes from more violent reaction. Charles V and Philip II always viewed it with distrust. From 1594 until 1604 the order was banished from France after its holdings had been confiscated. In 1606 the Republic of Venice expelled it for fifty years. In the eighteenth century, although Jesuit confessors still held stoutly fortified positions in most royal families, the policy of the Catholic governments toward them had tended to a constantly growing extent to turn upon political considerations. One force with which the order collided was national particularism, naturally skeptical of these potentates who not only were servants of a foreign general but were themselves frequently foreigners in the countries which they served. Although the order officially prohibited such activity, they could on innumerable occasions be plausibly accused of unsolicited and inopportune meddling and of intrigues that did not stop at spying out state secrets. Numerous works were written, especially in Gallican France, to demonstrate that Jesuit doctrines were dangerous to the state. Whatever justification for antiregalism was offered by individual Jesuits like Mariana,

Suarez and Bellarmine, it can hardly be proved that they countenanced tyrannicide on principle or that they had a part in the murder of Henry IV of France. Popular imagination has shown little reserve in its imputations against the Jesuits.

The wealth of the society is for the most part matter of legend; the Jesuits themselves preserved a discreet silence with regard to their financial affairs. Undoubtedly a great part of their income was required for the maintenance of their institutions; and much of what appeared to be opulence was the result of efficient administration. To a large extent their income was derived from endowments, from the estates which their members were required to transfer to the order after entrance and from the operation of their other holdings; but this amount was supplemented by vast commercial enterprises, such as the lucrative colonial trade carried on by the Jesuit missions in India, in Mexico, in the Antilles and in Brazil. If critics of the order disapproved of its participation in trade, they were still more scandalized at its banking and speculative activities; that Father Lavalette, whose bankruptcy cost his creditors over 2,000,000 livres, had acted like many other Jesuit speculators without the consent of his superiors did not save the order from a renewed outburst of popular resentment, which culminated in its dissolution in France. Besides helping to alienate public opinion and creating a temptation for the confiscatory impulses of princes the Jesuits' wealth aroused the jealousy of other orders and of the secular clergy. The attitude of the latter, which was to some extent responsible for the dissolution, must be explained in part by envy not only of the wealth of the Jesuits but of their privileges and exemptions, of their influence in high circles and in general of their overshadowing power. It must be remembered that in 1759 the order still had 22,589 members in 41 provinces, 609 colleges, 171 seminaries and 270 missions.

But other motives were operative in the continuous attacks leveled against the Jesuits by sections of the church from the time of the Dominican Cano (1509-60) until and following Pascal. The doctrine of grace formulated by the Jesuit Molina in 1588 was combated with particular violence. The order was often accused of giving unconditional support to the views of its members. Its identification of itself with the divine church—this position is clearly expressed by the great general Aquaviva—and the inferences it drew as to its own infallibility were

flaied by Catholic theologians as sophistical and even heretical. Certain generals could be pointed to who had disregarded the views of the pope on controversial doctrines and made their own pronouncements binding upon the order. In spite of all efforts to secure cohesion, including the system of espionage, which it employed with such elaborate finesse among its members as well as in its relations with the laity, the order no longer presented a united front against its enemies in the eighteenth century: internal dissensions hastened its end.

Irrespective of the criticisms urged by the church it cannot be denied that the Jesuits were often led by anticipation of victory to carry to excessive lengths their policy of adaptation to the world. To win the masses they suffused religion with sensuousness. Their missionaries transmuted it into a superstitious cult. While not universally approved by their members their characteristic ethical values represented the perfection of casuistry; equivocation, mental reservations, the doctrine of probabilism, according to which an act could be assumed to be legitimate if it was not known to be prohibited, were resorted to and condoned to provide the necessary latitude for their activity. As proselytizers among the Protestants they shunned no machination however clandestine to attain their goals; families were disrupted, children alienated from parents and wives from husbands. Such methods might be justified by the order on the premise that the supreme crime was heresy, but they helped to rob it of the popular confidence which was one of the necessary means to its ends.

If the scientific contributions of their missionaries be left out of consideration, the permanent results of their work outside Europe were not proportional to the extraordinary zeal manifested. In Japan, China and Korea at least they made serious blunders; in Japan, for instance, political entanglements resulting from their activity have been held responsible for a large part of the antiforeignism which led to the expulsion of all Christians in the seventeenth century. In the Philippines, the Marianas Islands and Central and South America they had more success. The famous Jesuit "state" of Paraguay, which the Jesuits organized under Spanish sovereignty and administered from 1609 until it was dissolved by the Spanish government in 1767, was a virtual autocracy controlling the native population by communistic economic and social regulations. To counterbalance the extravagant charges leveled against the Jesuit administrators

by their opponents the state has been praised as a communistic utopia, even by such enemies of Catholic orthodoxy as Voltaire, Diderot and Lessing. That the natives received good treatment from the Jesuits is beyond doubt. Complications between the state and Portugal and Spain were used by both governments as a convenient case against the Jesuits and became one of the important alleged causes for the dissolution of the order.

The cultural and political reaction after the Napoleonic era and the drift toward ultramontanism brought the immediate restoration of the order by the bull *Sollicitudo omnium ecclesiarum* of 1814. With the nucleus of several hundred adherents in England and in Russia, countries where the absence of papal authority had enabled the Jesuits to survive after the dissolution, the order became quickly reorganized in all countries. Bishops as well as the Catholic nobility helped to create for them new spheres of activity and provided them with abundant material resources so that they were able to recover from the confiscations which had accompanied the dissolution. Aristocratic converts in Denmark, for instance, gave them notable assistance. Where educational institutions were transferred to them, as occurred for a time in France, in Spain and in Portugal, they received state subsidies. The order itself established numerous new colleges in all parts of the world, even founding universities, as at Tokyo, and taking over theological faculties, as at the universities of Innsbruck and Louvain.

Without repudiating its original purpose in the slightest degree the order considerably modified its policies to fit the changed conditions. Usually it abstained from high politics and became resigned to the loss of the strongest prop of its early period, the Catholic court. But at the Curia it was supreme; it directed official theology and guided the rapid course of ultramontanism until that movement reached its logical conclusion in the decree of papal infallibility by the Vatican Council of 1870. It made itself the champion of conservative interests, which accounts for its popularity in aristocratic circles. But at the same time it promoted if it did not create "political Catholicism," the policy of utilizing parliamentarism and democracy for the furtherance of the church.

For the liberal bourgeoisie—the descendants of the eighteenth century enemies of the order—the Jesuits continued to typify Catholic obscurantism and intolerance, popery and authoritari-

anism. Wherever this class triumphed and not infrequently on other occasions they were banished: thus they were excluded from Spain in 1820, in 1835, in 1868 and in 1931; from Portugal in 1834; from Switzerland in 1847; from Russia in 1820; from France in 1880 and in 1901. Both the individual Italian states and after 1860 the Kingdom of Italy repeatedly expelled them. A reaction in favor of Catholicism, the vanishing of the Catholic phobia and sometimes the emergence of a radical menace might lead to their readmission or to the extension of privileges. France permitted them to return in 1914 for educational purposes; Germany lifted the ban, although leaving minor restrictions, in 1917. As soon as it was expelled from one country the order intensified its activities elsewhere. Exiled Jesuits have swollen the ranks of foreign missionaries. Many of them have migrated to Protestant countries; it is only in England, the United States, Denmark and Sweden that the order has been unmolested since its restoration.

In 1917 the order had about 17,000 members and was continuing to grow. Today its schools are united into a central system by their affiliation with the Collegium Romanum (or Università Gregoriana), which was reestablished in 1824. Preaching, home and foreign missions and nursing remain a constant part of the order's program. It takes a lively interest in all fields of scientific inquiry, occasionally giving to these investigations a highly modern appearance. In theology and in historiography the Jesuits are still the guardians of rigid orthodoxy; and within Catholicism they have in addition to enthusiastic supporters many adversaries who disapprove of their intolerance and intellectual bias. But the order continues to exercise a powerful influence through its energetic literary and polemical activity; through its magazines, the most important of which is *Civiltà cattolica* (1850- ); and through its carefully selected and excellently trained members.

WALTER GOETZ

See: RELIGIOUS ORDERS; MISSIONS; INQUISITION; JANSENISM; REFORMATION; ENLIGHTENMENT.

Consult: For source material: *Institutum Societatis Jesu*, 2 vols. (Rome 1869-70), containing statutes of the order, plans of study, the Spiritual Exercises, etc.; *Monumenta historica Societatis Jesu*, a collection of documents published in Madrid since 1894.

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JEVONS, WILLIAM STANLEY (1835-82), English logician, economist and statistician. Jevons, the son of an iron merchant, was brought up in Liverpool and at the age of fifteen was sent to University College School, London. In 1851 he entered the University College, studying chemistry, mathematics, Greek and Latin. In the first he was a noteworthy student and in 1853 was offered the post of assayer to the newly established Royal Mint in Sydney, New South Wales, where he arrived a year later. In Sydney his spare time was first devoted to meteorology, but he was soon reading Adam Smith and the *Reports* of the Social Science Association. As his interest in human phenomena grew he read moral philosophy and carried out a social survey of Sydney, of which the manu-



script, but not the map which accompanied it, is extant.

He resigned in 1859 to return to University College and study logic and political economy. After touring the Australian gold fields he sailed by way of Peru and Panama to New York and traveled in the United States. He passed the M.A. examination in logic, philosophy and political economy in June, 1862; he had already been actively at work on statistics and had published two diagrams. These were followed by two papers read at the British Association for the Advancement of Science in 1862, which foreshadowed all his future work on the mathematical theory of economics and on the study of periodic commercial fluctuations. In 1863 he was appointed to Owens College, Manchester, as tutor, where he later became professor; he had just published his first important work, *A Serious Fall in the Value of Gold* (London 1863), which was followed by *Pure Logic* (London 1864) and *Elementary Lessons in Logic* (London 1870). His attention was next turned to the coal question and then to the further development of his mathematical theory of economics. After publishing *The Theory of Political Economy* (London 1871; 4th ed. by H. Stanley Jevons, 1911) he turned again to logic and wrote the *Principles of Science* (2 vols., London 1874; 2nd ed. 1877). In 1876 he resigned from Manchester, having accepted the chair of political economy at University College, London, but resigned in 1880 because of ill health and a desire to devote his whole time to writing books that he had planned, especially his *Principles of Economics* (ed. by Henry Higgs, London 1905). He was drowned in August, 1882, before the *Principles* was finished.

Jevons' writings fall into three main classes: papers giving the results of his investigations in natural science; books and papers on logic and moral philosophy; and books, pamphlets and articles on political economy and social reform. He gained reputation by writing *The Coal Question* (London 1865, 2nd ed. 1866), which led to the appointment of a royal commission to report on available coal reserves. His argument, which has been much misunderstood, was that although the actual exhaustion of its coal seams was a remote contingency Great Britain must suffer at no distant date from the increased cost of mining coal at great depths and from the competition of coal, iron and steel industries in Europe and America, assisted in their growth by vast reserves of coal which could be cheaply mined.

Jevons' studies of the science of logic, in which he was much engaged during the years he spent at Manchester, developed on lines parallel with his work in mathematical economics. Jevons followed Boole in his mathematical analysis of logic but simplified many of Boole's methods. He developed his theory of logic as an exact science and his conception of scientific method at great length in the *Principles of Science*, a book which is still of great interest to mathematicians and logicians.

His economic works which are now best known relate to economic theory, fluctuations of prices (with index numbers), the causes of commercial crises, and money and banking. At a time when English thought was dominated by John Stuart Mill's exposition of economics Jevons developed the theory of utility, distinguishing final degree of utility (i.e. marginal utility) from total utility, applying the conceptions and symbols of calculus, which led to the equation of exchange, and thus laid the foundation on which economic theory was elaborated by later English writers. Although he was ignorant of the fact, his method had been anticipated by Gossen; it was simultaneously but independently discovered by Walras and was very similar to that of the Austrian school (Menger and Wieser). Jevons declared that value rested on utility, not on cost of production as taught by Mill. Although he overemphasized demand as determining price, careful reading shows that he by no means ignored the effect of the supply of the factors of production.

His well known index numbers of prices were first calculated for the period from 1845 to 1862 and later extended back to 1782 (*Investigations in Currency and Finance*, ed. by Herbert S. Foxwell, London 1884; new ed. 1909). His statistical work on periodic fluctuations in the money market served as a model for later investigators; but his theory of the periodicity of commercial crises has been misrepresented. He did not suggest that sun spots were the cause of crises but pointed out that the periods of sun spots and crises, also those of famines in India, corresponded closely, and that it was reasonable to suppose that variations of solar radiation would affect harvests in tropical and semitropical regions and thus the demand for British goods. His *Money and the Mechanism of Exchange* (London 1875) was frequently reprinted and translated.

In his writings on general and social economics Jevons took the utilitarian standpoint; he was

an uncompromising free trader and a disbeliever in the efficacy of trade unionism to raise wages. He favored cooperation and schemes of workers' copartnership.

## H. STANLEY JEVSNS

Consult: *Letters and Journal of W. S. Jevons*, ed. by H. A. Jevons (London 1886); Royal Society of London, *Proceedings*, vol. xxv (1883) i-xii; Böhmert, W., *W. Stanley Jevons und seine Bedeutung für die theoretische Nationalökonomie in England* (Bremen 1891); Young, A. A., "Jevons' 'Theory of Political Economy'" in *American Economic Review*, vol. ii (1912) 576-89; Amoroso, Luigi, "W. S. Jevons e la economia pura" in *Annali di economia*, vol. ii (1925) 83-106.

JEWISH AUTONOMY in the Diaspora has been one of the most uncommon developments in social history and in the present day social process. A people dispersed in all countries of the civilized world has succeeded through twenty-five centuries in preserving to a greater or lesser extent its personal autonomy, adapting it to the most diverse political and social forms of various epochs and countries.

In the ancient Hellenistic cities of Asia Minor and northern Africa the *gerousia* (council of elders) of the Jewish community functioned alongside the Greek city council, the *boule*. The Seleucid and Ptolemaic kings used the self-governing agencies of the Jewish communities for the collection of taxes from the Jewish population. In Alexandria there was even a centralized form of Jewish self-government with ethnarchs, who according to Strabo (first century B.C.) ruled their "own people and secured the enforcement of laws as the ruler of a free *politeia*" (Josephus, *Antiquities*, xiv: vii, 2); a large sized *gerousia*; and a special tax inspector, or *alabarch*. During the early period of Roman rule in western Asia there were frequent conflicts in the cities between Greeks and Jews. The Greek municipalities infringed upon the autonomy of the Jewish communities, which were forced to appeal to Rome for the protection of their rights. Julius Caesar and Augustus took the side of the Jews and ordered their proconsuls to see that the Jews in the cities of Asia Minor and of the Ionian Islands were allowed "to live in accordance with their own laws and the customs of their ancestors," were not conscripted for military service or summoned to court on Saturdays or holidays, that their communal affairs were not interfered with and that they were not prevented from sending contributions for the temple in Jerusalem.

Beginning with the third century of the Christian era the Jewish communities which enjoyed

the broadest autonomy were those in Mesopotamia and the adjoining provinces of the Persian monarchy of the Sassanidae, which later (in the eighth century) became part of the caliphate of Bagdad. Here the self-government was centralized in the hands of two separate powers, the temporal and the spiritual. The exilarch (*resh-galutha*) was the official intermediary in fiscal matters between all Jewish communities and the central government; he appointed judges and administrators in the communities and transmitted their petitions to the supreme government bodies. On the other hand, the learned jurists, heads of the Talmudic academies (*roshe-jeshiboth*) in the Babylonian cities of Nehardea, Sura and Pumbeditha, who received during the Arab rule the title of *geonim*, were officially recognized interpreters of the law and practically the legislators and supreme spiritual leaders of the Jewish people. When a separatist Fatimite caliphate had been formed in Arabic Egypt in the tenth century, the Jewish communities there were given their own exilarch with the title of *nagid*; and they had their own *geonim*, who extended their authority to embrace the surviving Jewish communities in Palestine and maintained it there until the conquest of Palestine by the European crusaders.

As the Jewish hegemonic centers were shifted to Europe during the tenth and eleventh centuries the forms of autonomy changed, although its substance remained essentially the same. In Arabic Spain the function of exilarch was performed by the Jewish ministers at the courts of the caliphs and emirs and in Christian Spain by the Jewish financial or fiscal agents of the kings. Frequently, however, the Spanish kings dealt directly with the Jewish communities (*aljama*). In Aragon and in Castile the rabbis had vast judicial powers. They tried criminal as well as civil suits and could impose sentences of imprisonment, corporal punishment and even death. The constitutions of Jewish self-governing bodies were drafted in conferences of rabbis and lay delegates of the communities, such as that held in 1432 at Valladolid.

Not so broad in scope, although very durable, was the Jewish autonomy in Italy, France and Germany. In the sixteenth century the Jewish communal council (*congrega*) in Rome consisted of sixty members and was headed by three executives (*fattori*) responsible to the papal authority. In France and Germany the system of self-government centered around the rabbis. The German emperors, who regarded the Jews as

*Kammerknechte* assigned to commercial pursuits with a view to increasing the revenues of the treasury, tried to place at the head of the communities an official who should combine the functions of rabbi and of fiscal agent (*Judenmeister* and *Hochmeister*), but they met with a determined opposition on the part of the autonomous communities. The Jews used to elect from their own midst an intermediary between their communities and the government, known as *shtadlan*, or solicitor; his office was of particular importance at times of persecution on the part of the authorities or of wholesale pogroms. The most prominent *shtadlan* was Josselmann of Rossheim in Alsace in the first half of the sixteenth century, who conducted negotiations on Jewish affairs with Emperor Charles v and with Luther and his associates.

Centralized self-government was carried farthest in the organization of the Jewish communities in Poland in the sixteenth, seventeenth and eighteenth centuries. The unit of self-government here was the *kahal*, or Jewish communal council, which functioned alongside the municipal council of the Christian city. It was an oligarchic institution whose members, elected annually during Passover week, owed their position to either learning or wealth. The *kahal* appointed from its own membership an executive of seven persons (known as *roshim* and *tucim*, elders and optimates) and several groups of officials: judges (*dayanim*), tax collectors, curators (*gabaim*) of schools, synagogues and charities. In each district (*galil*) *kahals* of the smaller towns were grouped around that of the large city. These district *kahals* were combined in each region or province (*medinah*, *eretz*) into a regional union, which held periodic conferences (*vaad ha-medinah*) for the apportionment of state and communal taxes between the several communities and for action upon other matters of self-government. There were five such provinces in Poland as the country was then constituted: Great Poland, Little Poland, Red Russia and Podolia, Volhynia and Lithuania. These provinces formed in turn a general kahalic union, which met periodically in general congresses (*vaad ha-arotzoth*) attended by rabbinical and secular delegates from the principal Jewish communities all over Poland. The congress acted on constitutional matters, issued regulations (*takanoth*) for communal institutions, passed upon controversies between individual *kahals* and upon grievances of private persons against *kahals* and effected the general appor-

tionment of taxes among the several provinces. In the seventeenth century Lithuania withdrew from the general kahalic union and formed its own "*vaad* of the principal communities." The two congresses, or *vaads*, functioned as officially recognized Jewish parliaments until they were abolished by the Polish government in 1764 on the eve of the dissolution of Poland as a state.

In the old corporate state the several constituted bodies differed in their attitude toward Jewish autonomy. Whereas the central governments found it advantageous to deal with organized Jewish communities and with their official representatives, who assumed responsibility for the payment of taxes and the enforcement of state laws, the Christian municipal bodies resented this as an infringement of their authority and as a privilege for the benefit of a people which was disliked and which competed with the Christian bourgeoisie in commerce and industry. The kings often had to protect the Jews from hostile action on the part of Christian municipalities, merchant corporations and craft guilds, which endeavored to restrict the most elementary rights of the Jewish population, especially its judicial autonomy. In some instances the kings had to yield to the demand of municipal authorities that the Jews be prohibited from residing in specified places.

The rise of the modern state, based upon the principle of civil equality, and the gradual civil emancipation of the Jews dealt a heavy blow to Jewish autonomy in its old form; that is, to the isolation of the Jewish city (ghetto) from the general municipal administration. The national aspect of autonomy was completely lost sight of; autonomy now had to be confined to religious or synagogal administration. The very act which emancipated the Jews in France in 1791 provides that they shall be granted civil equality on condition that they give up all their former "privileges and special laws"; that is, their former autonomy. Napoleon forced the Sanhedrin of Paris in 1807 to renounce the claims of the Jews to the title of a nation, and he converted the Jewish community through the system of consistories and official rabbinate into a section of the police administration of the city. In Russia and Austrian Poland, where emancipation of the Jews came late, they were in the first half of the nineteenth century deprived of the former kahalic autonomy on the ground that it was an obstacle to their "blending with the indigenous population." On the other hand, the assimilated groups of Jews in western Europe formally renounced national

autonomy; they regarded themselves merely as separate religious groups amidst the dominant nations and were contented with self-government within the limits of "synagogal communities" (*Synagogengemeinden* in Germany; *Kultusgemeinden* in Austria). In America a variety of this type of organization was afforded by the various congregations into which the Jewish population was divided. But the vitality of the idea of Jewish autonomy has been demonstrated by the fact that even those who formally deny it have had in practise to restore some of its institutions. Thus arose such centralized forms of

trian socialist theorists of national autonomy, such as Renner, Springer and Otto Bauer, established the distinction between the national state with an ethnically homogeneous population and multinational states like Austria-Hungary and Russia as well as the important principle of personal cultural autonomy as distinct from territorial autonomy. This latter principle was especially useful to the Jewish theorists in view of the fact that the Jews represented a nationality that was everywhere in a minority and had no solid settlement within a clearly defined territory. As a result of these developments the alliance of

organizations never actually confined themselves merely to functions of church administration but performed many national, political and social functions as well; they founded elementary and higher schools of their own, created institutions of social welfare, reacted to political events and often manifested their solidarity with the Jews of other countries.

With the growth of the Jewish national movement at the end of the nineteenth century the concept of Jewish autonomy received its theoretical elaboration and was advanced definitely as either a complete or a partial solution of the Jewish problem. The doctrine of Jewish autonomism based on the premise that civil emancipation was insufficient to solve the Jewish problem was put forward as a national synthesis supplanting the old thesis of national isolation and its antithesis of assimilation. It appeared first in the countries of eastern Europe where the Jewish masses still employed the Yiddish language and had a network of national schools. Autonomism received a systematic formulation in the writings of Simon Dubnow, who conceived of the Jewish nationality as one bound together by only spiritual and cultural ties and which therefore needed neither a territory nor any other political forms for its national existence. Certain aspects of Jewish autonomism were also developed by Nathan Birnbaum and in socialist circles by Chayim Zhitlowsky, who as leader of the Sejmist party in Russia formulated a program which called for autonomous organization based on a secularized Jewish educational system, the recognition of Yiddish, the spread of agriculture among the Jews and the supervision of such problems as Jewish emigration, hygiene and workers' relief. During the same period the Aus-

trian socialist movement also of national rights. Similar demands were made by the national Jewish parties in Austria after the introduction of universal suffrage.

The first attempt to give concrete form to these demands was made in the Ukraine after the revolution of 1917. A Jewish national secretariat and later a Jewish national council were formed and the principle of personal national autonomy was given legal recognition. The civil war, however, put an end to these efforts. As a result of the various treaties after the World War varying degrees of national autonomy were given to the Jewish population in Poland, Lithuania, Latvia, Estonia, Czechoslovakia, Rumania, Greece, Albania and Bulgaria. In Lithuania a Jewish ministry was created in June, 1919, and by the law of March 4, 1920, the Jewish communities received legal sanction to levy taxes and to supervise Jewish educational and cultural activities. As a result of the political changes in 1924 and 1925 most of these institutions were abolished. In general the development of intense nationalism among the ruling nationalities and the force of economic rivalry have tended to reduce most of the provisions for Jewish autonomy in all these countries to a dead letter. Complicating the matter still further is the fact that the Jews themselves are divided on questions of language, religion and on the very problem of Jewish nationality. In Soviet Russia the problem of Jewish autonomy has been dealt with in the same manner as that of other national minorities—on the basis of territorial distribution and language.

SIMON DUBNOW

See: JUDAISM; DIASPORA; GHETTO; JEWISH EMANCIPATION; MINORITIES, NATIONAL; AUTONOMY; NATIONALISM; ZIONISM.

Consult: Mommsen, T., *Römische Geschichte*, vol. v

(10th ed. Berlin 1927), tr. by W. P. Dickson as *The Provinces of the Roman Empire*, 2 vols. (2nd ed. London 1909); Schürer, Emil, *Geschichte des jüdischen Volkes im Zeitalter Jesu Christi*, 4 vols. (4th ed. Leipzig 1901-11), tr. by J. Maepherston and others, 5 vols. (2nd ed. Edinburgh 1886-90) vol. i, sects. 22-23, and vol. ii, sect. 31; Juster, Jean, *Les juifs dans l'empire romain*, 2 vols. (Paris 1914) vol. i, chs. iii-iv, vol. ii, ch. xiv; Berliner, A., *Geschichte der Juden in Rom*, 2 vols. (Frankfurt 1893); Vogelstein, H., and Rieger, P., *Geschichte der Juden in Rom*, 2 vols. (Berlin 1895-96); Régné, J., *Catalogue des actes . . . des rois d'Aragon, concernant les juifs 1213-1291*, 2 vols. (Paris 1911-14); Baer, F., *Die Juden im christlichen Spanien* (Berlin 1929); Loeb, Isidore, "Règlement des juifs de Castille en 1432" in *Revue des études juives*, vol. xiii (1886) 187-216; Finkelstein, Louis, *Jewish Self-government in the Middle Ages* (New York 1924); Balaban, M., "Die Krakauer Judengemeinde-Ordnung von 1595" in *Jüdisch-Literarische Gesellschaft, Frankfurt, Jahrbuch*, vol. x (1913) 296-360, and vol. xi (1916) 83-114; Dubnow, S. M., *Weltgeschichte des jüdischen Volkes*, tr. from Russian ms. by A. Steinberg, 10 vols. (Berlin 1925-29), and *Pisma a starom i novom evreystvo* (St. Petersburg 1907), partial German translations by I. Friedländer as *Grundlagen des Nationaljudentums* (Berlin 1905) and by Elias Hurwicz as "Das alte und das neue Judentum" in *Judentum und Deutschtum*, Jude, Sonderheft, no. 3 (Berlin 1926) p. 32-57; *Pinkas med-nath Lita*, ed. by S. M. Dubnow (Berlin 1925); Birnbaum, N., *Ausgewählte Schriften zur jüdischen Frage*, 2 vols. (Czernowitz 1910); Zhitlovsky, C., *Gesammelte Schriften*, 10 vols. (New York 1912-19), especially vols. iv-viii; Ruppin, A., *Soziologie der Juden*, 2 vols. (Berlin 1930 31) vol. ii, ch. xxvi; Klutzkin, J., *Probleme des modernen Judentum* (3rd ed. Berlin 1930) ch. iv; Chasnowitsch, L., and Motzkin, I., *Die Judenfrage der Gegenwart* (Stockholm 1919); Robinson, J., "Die Juden Osteuropas als nationale Minderheit" in *Nation und Staat*, vol. i (1927-28) 98-104; Hellmann, A., "Die Geschichte der österreichisch-jüdischen Kongressbewegung" in *Jude*, vol. v (1920-21) 204-14, 389-95, 634-45, 685-96; Rosenfeld, M., "Die nationale Autonomie der Juden in Österreich" in *Hinkehr* (Berlin 1912) p. 30-69, "Die jüdischen Gemeinden in Österreich" in *Jude*, vol. ii (1917-18) 152-62, and *Die polnische Judenfrage* (Vienna 1918); Rappaport, Jakob, "Zur polnischen Judenfrage," and "Die Verfassung der jüdischen Kulturgemeinden in Polen" in *Nation und Staat*, vol. iii (1929-30) 86-99, 302-15; Yarnolinsky, A., *The Jews and Other Minor Nationalities under the Soviets* (New York 1928).

**JEWISH EMANCIPATION** is that development which has been responsible for transforming Jewry from a distinct corporate group, concentrated in urban ghettos and living a social and intellectual life essentially different from that of the surrounding population, into a more or less integral part of the general population among which it resides. In a narrower and more technical sense it is the legal and political development which substituted the principle of equal rights and duties for the previous system of

rights and duties, which were always special in character although they varied from place to place and from period to period. While the term derives analogically from the emancipation of slaves and Catholics (it was apparently first used by Zöpl in 1831, two years after the British Catholics gained their signal victory), the history of Jewish emancipation is not strictly analogous. This emancipation began to be effective in western Europe and America in the eighteenth, in central Europe in the nineteenth and in eastern Europe (where the great majority of the Jewish people is to be found) in the twentieth century. This drift largely reflected general political and economic developments; the spread of industrial capitalism and democratic institutions was generally accompanied or followed by Jewish emancipation. The slow progress of the emancipatory movement in eastern Europe, however, and its susceptibility to frequent setbacks have been due in part to complex problems arising from the relative density of Jewish population in this region. While emancipation in the wider sense is still incomplete, legal and political emancipation—express or implied constitutional equality of rights—exists for Jews everywhere except in a few backward countries. In such countries as Poland, Rumania and Hungary there is still great disparity between legal theory and practise.

Conscious moves toward equalization of rights began in the eighteenth century, when the development of capitalism made the Jewish merchant and industrial entrepreneur a welcome acquisition to western countries. After the Reformation had established the principle of freedom of conscience and the modern state had begun to transform corporate mediaeval society into a society of more or less equal individual citizens, the legal emancipation of the Jews became inevitable. It was long hindered, however, by the complex structure of the Jewish group, involving peculiar religious, ethnic, social and economic characteristics and especially that purest expression of segregate, corporate life, the extensive system of Jewish autonomy. Non-Jewish opponents of emancipation declared that the existence of the Jewish "state within a state" would always prevent the Jews from identifying themselves with the main body of citizens; some elements of Jewry rejected equality of rights in so far as it endangered their inherited mode of life or their vested interests in the autonomous community. The latter type of opposition was particularly conscious and powerful in Holland

in 1796, in Baden in 1846 and in Galicia from 1848 to 1867; its most representative spokesmen were Rabbis Eger of Posen and Schreiber of Pressburg. Before 1850 frequent consideration given to a proposal (which was finally abandoned) to distinguish between equality in civil law and that in public law (*privatbürgerliche* and *bürgerliche Gleichberechtigung*) and to remove only the disabilities affecting economic activities while continuing both the political disfranchisement of Jews and their rights of self-government.

Down to the end of the nineteenth century it was generally assumed that there was a necessary connection between emancipation and the assimilation of the Jews to surrounding civilizations. Debate was limited to the question of whether assimilation had to precede emancipation or whether emancipation was to serve as the strongest stimulus to assimilation. As the failure of emancipation to solve the Jewish question immediately bred disillusion and as modern anti-semitism and Jewish nationalism arose, the idea of emancipation became divorced from that of assimilation. Equality of rights was now demanded both by Jews and by non-Jews who affirmed that the Jews were an ethnically distinct group. The minority rights guaranteed to the Jewries of several European countries by international treaty and independently adopted by the Soviet Union supplemented in theory the principle of equality. In America and western Europe minority rights in the technical sense were neither imposed by the peace treaties nor are they sought by the Jews themselves. An attempt made at the Council of the League of Nations to extend minority rights to all member countries failed.

The progress of emancipation was frequently stimulated in neighboring countries by states which had already granted equality. Prussia in particular excused several such interferences with the internal affairs of neighboring states by declaring that too many Jews were being attracted to her territories. Humanitarian reasons were frequently voiced, especially in the international gatherings from the congresses of Vienna and Aix-la-Chapelle to the Peace Conference of 1919. The emancipated Jews of the western and later of the central European countries also agitated for the emancipation of co-religionists abroad. After a period of hesitation, during which they had tried to accentuate their new national allegiance by severing ties with Jewries of other countries, came the active inter-

ventions of Sir Moses Montefiore and the Rothschilds for the oriental and east European Jews. In 1860 the Alliance Israélite Universelle was established in Paris to defend the rights of Jews throughout the world. With the same ends in view the British Joint Foreign Committee was organized in 1878, the American Jewish Committee in 1906 and the American Jewish Congress in 1916. At the Versailles Peace Conference in 1919 the Jewish question was raised by the Comité des Délégations Juives, which included representatives from the United States and several central and east European countries and cooperated with delegations of British and French Jews. A Jewish world congress with similar aims has long been debated but never convoked.

Although Holland in 1593 was the first western European country to readmit Jews after the mediaeval expulsions and to grant them extensive rights, it was an Englishman, John Toland, who first advocated full emancipation in his *Reasons for Naturalizing the Jews in Great Britain and Ireland, on the Same Foot with All Other Nations* (London 1714).

Pelham's Jew Bill of 1753, which was to remove the obstacles to the naturalization of Jews in England, provoked such public opposition that it had to be revoked in 1754; and not until 1829 under the impetus of Catholic emancipation was the struggle for Jewish emancipation reopened, with such liberals as Robert Grant, Lord Russell and Macaulay as its chief protagonists. Five emancipation bills adopted by the House of Commons between 1834 and 1857 were rejected by the Lords. In 1858 two House acts enabled Lionel de Rothschild, five times demonstratively elected to Parliament by the City of London, to take his seat. Subsequent amplifications in 1866, 1871 and 1878 opened to Jews the highest government and university offices. In other regions of the British Empire Jews have long enjoyed full equality; in Australia, New Zealand and South Africa, for example, since colonization.

As early as 1740 the Naturalization Act for the British American colonies dispensed with Christian ceremony for "such who profess the Jewish religion." The Virginia Declaration of Rights of 1776, the Constitution of the United States and its First Amendment in 1791 established general equality without specifically mentioning Jews. Remaining minor disabilities were gradually removed by state legislatures, in North Carolina as late as 1868. Most Latin American

republics proclaimed constitutional equality of all citizens in the early years of independence. In the binational parts of Canada there have arisen difficulties concerning the demand for state support of Jewish schools equal to that actually given to the Protestant (English) and Catholic (French) communities.

Of greater significance for the masses of Jews on the European continent was the emancipatory work of the French Revolution. The abolition of the corporal tax by Louis XVI in 1784, the appointment in 1788 of a committee headed by Malesherbes to study the Jewish question, Mirabeau's pamphlet of 1787 on Moses Mendelssohn and Jewish political reform and an essay contest to encourage the discovery of means for making the Jews "happy and useful" held by the Metz Königl. Gesellschaft der Wissenschaften und Künste in 1787 adumbrated forthcoming changes. Discussion of the Jewish question occupied a prominent place within and without the National Assembly from 1789 to 1791. Energetic advocates of emancipation were Abbé Grégoire, Mirabeau, Duport and Robespierre; leading opponents were Abbé Maury, representing conservative and clerical forces, and Reubell, spokesman of the Alsatian third estate, whose *cahiers* had expressed deep grievances against Jewish money lenders. In 1790 Jews of Portuguese and Spanish origin and those of Avignon and in 1791 all other Jews in France were declared full fledged citizens, and the civil equality of individual Jews was maintained even during the revolutionary drive against the various religious creeds.

The impact of these revolutionary measures was soon felt in all territories which came under French domination. The Jews of the Rhineland, Italy and Belgium were automatically enfranchised. Most important in view of its numerical, economic and intellectual importance Dutch Jewry was fully emancipated by the new Batavian Republic in 1796. The slow pace of Jewish assimilation as well as the economic conflict in Alsace led to reaction in France. Aroused by the ethnic tenacity and apparent lack of patriotism of the Jews, Napoleon convoked the assembly of Jewish notables in 1806 and the Great Sanhedrin of Paris in the following year. To twelve questions put by the government the carefully selected Jewish representatives gave answers largely prepared by Napoleon, refusing only to encourage intermarriage as a means of assimilation. In 1808 Napoleon decreed the reorganization of Jewish communal life under rigid govern-

ment control and put the Jews of most French provinces, the Rhineland and Italy under severe disabilities. Modified several times by the emperor, this decree expired in 1818, when even the reactionary government of Louis XVIII did not renew it. After the revolution of 1830 the last vestiges of discrimination were removed by law; beginning in 1831 the national Treasury subsidized the rabbinate, as it did Protestant and Catholic clergy, and in 1846 the Jewish oath (*more judaico*) was abolished. Strangely enough despite the influence of France in stimulating Jewish emancipation in general it is only in the French colonies of Tunis and Morocco (in addition to such backward regions as Abyssinia and Yemen) that the Jews are still legally as well as practically unemancipated. In Holland in 1815 and in Belgium in 1830 emancipation was also supplemented by state subvention to the Jewish cult. In Portugal and Spain, where Jews began to resettle during the nineteenth century, they were not definitely emancipated until the adoption of republican constitutions in 1911 and 1931 respectively. A Spanish decree of 1924 and more emphatically one of 1932 enable descendants of the refugee Spanish Jews of 1492 to naturalize as Spanish citizens regardless of their residence abroad.

In central Europe Jewish equality was demanded by Lessing in his *Nathan der Weise* (1779) and by Christian Dolm in his *Über die bürgerliche Verbesserung der Juden* (2 vols., Berlin 1781-83). Joseph II's Edict of Toleration in 1781 indicated the imperial government's awareness of the necessity of a change in Jewish status. Under the impulse of the French Revolution Westphalia in 1808 and Frankfurt in 1811 granted full equality and several other states granted limited equality. Even counter-revolutionary Prussia removed Jewish disabilities (except exclusion from government office) in 1812.

The period of Restoration, romanticism and the "historical schools" was one of general reaction. Attempts of Austria and Prussia at the Congress of Vienna and the German Diet to establish a uniform liberal policy in the new Germanic Confederation failed; the relevant article 16 of the Acts of Confederation was a compromise, ambiguous at the crucial point. From 1815 to 1824 the struggle between the newly reorganized "free cities" and the Jews assumed international proportions. Although Austria, Prussia, England and Russia, as signatories of the Treaty of Vienna, vigorously and repeatedly protested against anti-Jewish measures, only Frank-

fort was compelled to conclude an agreement with the Jewish community in 1824. Bremen and Lübeck expelled all Jews in 1821, and most other German states failed to grant them a uniform status. Prussia, for instance, retained in the provinces annexed in 1815 twenty different systems which ranged, as did those in the rest of Germany, from full emancipation to full corporate mediæval segregation. Under the leadership of Gabriel Riesser the struggle entered a new stage with the revolution of 1830. After the extension of Jewish rights by Hesse in 1833, Brunswick in 1834 and Prussia in 1847, the movement was crowned with temporary success through the acts of the Frankfurt National Assembly and the Austrian, Hungarian and Prussian diets in 1848-49. Following a few years of reaction, the Austrian and Hungarian constitutions of 1867, a law of the North German Confederation in 1869 and the German imperial constitution of 1871 definitively established equality of rights for all citizens. Since then there have been in Germany and Austria only minor administrative deviations, although the principle itself has been the target of antisemitic attacks from the days of Stöcker and Lügner to those of Hitler. In Hungary, however, where full equality had existed from 1867 until 1919, there have been ever since serious invasions of Jewish rights; and the establishment of minority rights by the Treaty of Trianon in 1920 has provided only a legal solution of the problem. In Czechoslovakia the Jews were granted both equality and minority rights from the outset, but their numerical insignificance in the former Austrian provinces and their conservative mode of life in those previously under Hungarian rule complicate the application of minority rights on the lines adopted for the German and other national minorities.

The restoration of legitimist rulers in Italy in 1815 was accompanied by the restoration of Jewish disabilities. In Rome the ghetto and the Inquisition were reinstated; in Piedmont a law requiring wearing of the badge was almost adopted; Parma alone held to emancipation. The reestablishment here and there of the principle of equality by the revolutionary upheavals of 1830 and 1848 was largely ephemeral; but agitation, initiated particularly by Massimo d'Azeglio, the author of *Della emancipazione civile degli israeliti* (Rome 1847), finally brought about enfranchisement in Sardinia in 1848, in Lombardy in 1859 and in the new kingdom of Italy by its constitution of 1861, which was soon extended

to Venice and Rome. Since then Italian Jewry has enjoyed full equality.

Most Swiss cantons stubbornly resisted even the admission of Jews, until the intervention of foreign powers (the United States in 1857, Holland in 1862 and France especially in 1864) forced the Swiss Confederation to exempt foreign Jews from discriminatory laws. In 1874 the Swiss constitution established full equality of rights. In Denmark the Jews obtained extensive rights in 1814, were admitted to municipal offices in 1837 and achieved full emancipation in 1849. The provinces of Schleswig and Holstein did not enfranchise Jews until 1854 and 1863 respectively. Jews were not allowed to settle in Sweden until 1782, and the attempt of Charles XIV to enlarge their rights failed. They were not permitted to own land before 1860, to vote before 1865 or to hold office before 1870. After the admission of Jews to Norway in 1851 disabilities were gradually removed; from 1891 on Jews were no longer barred from public office.

In the eastern regions of Jewish mass settlement the first signs of forthcoming change were perceptible in Poland during the last years of its independence. In 1882 an anonymous writer influenced by Dobn and Joseph II published in Polish a widely read pamphlet "On the Necessity of Jewish Reforms in the Lands of the Polish Crown." The Quadrennial Diet (1788-91) discussed the question without reaching a definite decision. Even in the short lived duchy of Warsaw, whose constitution of 1807 established the principle of equality in imitation of France, Jewish political rights were abolished after one year. In the part of Poland annexed by Russia agitation for emancipation never went beyond literary controversy, and even after the Jews of Posen and Galicia had been emancipated by Prussia and Austria conditions in Russian Poland remained unchanged except for a minor improvement under Wielopolski in 1862. As a result of the revolution of 1905 and the German occupation of 1915 some disabilities were removed, but full legal emancipation (including the granting of minority rights) awaited the Treaty of Versailles in 1919.

The peculiar structure of Russian society lent to the problem of Jewish emancipation novel and contradictory aspects. At the very beginning of Russian domination Catherine II admitted Jews to participation in municipal government while laying in 1791 the foundation of the future Pale of Settlement. Throughout the following century numerous imperial committees on the Jew-



ish question insisted upon assimilation as a prerequisite of emancipation. There seldom appeared a protagonist of full emancipation among opposition leaders or among the Jews; the Decembrist Muraviev was a rare exception. As industrialization proceeded under Alexander II exceptional laws against the Jews were mitigated, but beginning in 1880 policy was reversed until disabilities reached their height in the May Laws of 1882. Even after the revolution of 1905 Jews although reluctantly granted the franchise continued to suffer from severe discrimination. The revolution of February, 1917, proclaimed the principle of equality, reaffirmed by all the Soviet republics after October. The new independent states of Finland, Estonia, Latvia and Lithuania retained some old Russian laws but were forced to recognize legally the civic and political equality of all inhabitants as a prerequisite of their admission to the League of Nations.

Intolerance brought about international entanglements in Rumania even before that nation obtained full independence. By declaring all but an insignificant minority of Jews to be aliens the Rumanian government evaded the safeguards of general equality imposed by the Congress of Berlin, which had granted the country independence by treaty in 1878. Recurrent interventions of treaty signatories availed little. Only the Treaty of Bucharest in 1918 and more peremptorily those of Saint-Germain and the Trianon in 1919 emancipated the Jews; the last also granted them minority rights.

The other Balkan countries gave Jews full rights after emerging from Turkish domination: Greece as early as 1830, Bulgaria in 1878 and Serbia in 1878 and 1889 (from antecedents reaching back to 1817). Turkey, possessing an altogether different legal system, could proclaim the principle of equality in 1839 and 1856 without thereby altogether abolishing the disabilities of non-Moslems. Emancipation was achieved only by the Young Turk constitution of 1908, which followed western models. In the treaties of 1919-20 also Turkey and the Balkan states assumed international obligations to grant special rights to their minorities. The mandated succession states of Turkey (Palestine, Syria and Iraq) are based upon the principle of equality.

Although equality has been established in all advanced countries and minority rights have been enacted in several, there is often a sharp contrast between theory and practise. In many countries discrimination against Jews exists, especially in regard to public offices and employ-

ment in state monopolies. In many, a legal or administrative *numerus clausus* limits the admission of Jews to universities. A tax burden disproportionate both *per capita* and in relation to economic capacity is frequently carried by Jews. State support for their religious and cultural institutions is frequently negligible. Poland, Rumania and Hungary are the most frequent objects of complaint. In Turkey the government succeeded in persuading representatives of Ottoman Jewry along with those of the other minorities to renounce their minority rights. Although of dubious validity in international public law this renunciation facilitates non-application by the government of the clauses in the peace treaties pertaining to minority rights. It is in the Soviet Union that the principle of combined civic equality and national autonomy has been most completely carried out. While intolerant of the Jewish religion and of Zionism, which along with other religious and political movements it regards as actually or potentially counter-revolutionary, and of the propagation of Hebrew speech, which it regards as an accessory of political Zionism and an expression of bourgeois culture, the Soviet government encourages Jewish national and *yiddishist* cultural developments. Whole administrative districts are now Jewish in a national sense and projects for a Jewish republic, to enjoy equal status with other federated socialist Soviet republics, have been developed.

The effects of emancipation upon Jewish life have been marked throughout the world. The removal of disabilities has brought about a great economic restratification. While Jews were previously almost totally excluded from agriculture, the proportion of farmers among them rose to about 2 percent in 1900 and is almost 5 percent today. General admission to the medical, legal and teaching professions and to public offices as well as their induction into the cultural life of the surrounding nations has opened a vast range of opportunities to Jewish intellectuals. Nevertheless, the proportion of Jews in commercial occupations everywhere remains larger than their proportion in the population. The transition from craft to heavy industry has also been very slow among Jews except in the Soviet Union. As a whole, however, the preemancipation economic contrast between Jews and Gentiles is steadily disappearing.

In some countries rapprochement between Jew and Gentile resulted in a tremendous increase of intermarriage. At its highest, in Trieste in 1927 every other Jew or Jewess married a

Gentile. In Copenhagen and Hamburg the proportion is one third, in Germany as a whole one fifth, in the interior of Russia one sixth. In America, where it reached one sixth before 1880, it dropped suddenly during the "Russian immigration" of the 1880's but is again increasing. In the east European mass settlement, including White Russia and the Ukraine, however, it ranges between 1 and 5 percent. Perhaps in part because of an apparent low fecundity of such marriages, the change in the racial composition of the Jews is still comparatively small.

In the communal life of Jewry emancipation meant the abolition of the traditional form of self-government. In countries such as the United States and France the separation of state and church resulted in the substitution of freely organized congregations for the official communities in which membership was compulsory. In most European countries the community was retained, but its range of activities was limited to the religious field, a term under which was included a variety of competences. For instance, in eastern Europe and Palestine the community continues to exercise considerable control over marriages and divorces, birth registration and social work. In cultural life the transformation was the more obvious the more readily the Jews adopted the language of the surrounding population and partook of its cultural life. Even in "purely" Jewish expressions, such as Hebrew and Yiddish letters, the influx of foreign ideas and the adaptation of foreign patterns is fully evident. The early reform movement in Germany and the United States was an extreme application of emancipation to religious life, and the emancipation influenced even conservative and orthodox Jewry. The present religious crisis in Judaism is due not only to antireligious tendencies of the age but also to the impact of emancipation.

Jews are almost unanimously in favor of legal emancipation. Even Zionists, who formerly despaired of Diaspora life and demanded "self-emancipation" instead of emancipation from outside, today insist upon equality of rights in the Diaspora. As to emancipation in a wider sense opinions differ. While assimilationists of all shades favor it, both Zionists and Diaspora nationalists reject it, in so far as it implies loss of Jewish national identity. For them only the combination of equality and national minority rights presents a more or less satisfactory solution. But while Diaspora nationalists regard such a development as a definite and desirable solution of

the Jewish problem, Zionists postulate a Jewish homeland to supplement it.

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*See:* EMANCIPATION; GHETTO; DIASPORA; ANTISEMITISM; RACE CONFLICT; NATIONALISM; MINORITIES, NATIONAL; SOCIAL DISCRIMINATION; INTOLERANCE.

*Consult:* Dubnow, S. M., *Weltgeschichte des jüdischen Volkes*, tr. from Russian ms. by A. Steinberg, 10 vols. (Berlin 1928-30; vols. i and viii 3rd ed.) vols. viii-x; Philippson, Martin, *Neueste Geschichte des jüdischen Volkes*, 3 vols. (Leipzig 1910-22; vol. i 2nd ed. Frankfurt 1922); Jost, I. M., "Neuere Geschichte der Israeliten von 1815 bis 1845" in *his Geschichte der Israeliten seit der Zeit der Maccabäer bis auf unsere Tage*, 10 vols. (Berlin 1820-47) vol. x, pt. i; Ruppin, Arthur, *Soziologie der Juden*, 2 vols. (Berlin 1930-31); Cohen, Israel, *Jewish Life in Modern Times* (2nd ed. London 1929); Baron, Salo, "Ghetto and Emancipation" in *Menorah Journal*, vol. xiv (1928) 515-26; Hagani, Baruch, *L'émancipation des juifs* (Paris 1928); Sacher, H., *Jewish Emancipation, the Contract Myth* (London 1917); Brandt, Hans, *Der Staat und die Juden* (Königsberg 1928); Henriques, H. S. Q., *The Jews and the English Law* (Oxford 1908); Wiernik, Peter, *History of the Jews in America* (2nd ed. New York 1931); Lucien-Brun, H., *La condition des juifs en France depuis 1789* (Lyons 1900); Anchel, R., *Napoléon et les juifs* (Paris 1928); Seeligmann, Sigmund, *De emancipatie der joden in Nederland* (Amsterdam 1913); Pribram, A. F., *Urkunden und Akten zur Geschichte der Juden in Wien*, 2 vols. (Vienna 1918); Freund, I., *Die Emanzipation der Juden in Preussen*, 2 vols. (Berlin 1912); Eckstein, Adolf, *Der Kampf der Juden um ihre Emanzipation in Bayern* (Fürth 1905); Riesser, Gabriel, *Gesammelte Schriften*, ed. by M. Isler, 4 vols. (Frankfurt 1867-68); Zuckermann, M., *Die Vorarbeiten der hannoverschen Regierung zur Emanzipation der Juden* (Hanover 1900); Kruk, Joseph, *Die Rolle der ausserirdigen Staaten für die Emanzipation der Juden in der Schweiz* (Zurich 1913); Victor, Willi, *Die Emanzipation des Juden in Schleswig-Holstein* (Lübeck 1914); Friedmann, F., *Die galizischen Juden im Kampfe um ihre Gleichberechtigung* (Frankfurt 1929); Dubnow, S. M., *History of the Jews in Russia and Poland*, tr. from Russian ms. by I. Friedlaender, 3 vols. (Philadelphia 1916-20); Heller, Otto, *Der Untergang des Judentums* (Vienna 1931); Kohler, Max J., and Wolf, Simon, *Jewish Disabilities in the Balkan States* (New York 1916); Cohen, E., *La question juive devant le droit international public* (Paris 1922); Baron, Salo, *Die Judenfrage auf dem Wiener Kongress* (Vienna 1920); Kohler, Max J., "Jewish Rights at the Congresses of Vienna (1814-1815) and Aix-la-Chapelle (1818)" in *American Jewish Historical Society, Publications*, vol. xvi (1918) 33-125; Wolf, Lucien, *Notes on the Diplomatic History of the Jewish Question* (London 1919); Jacob, B., *Die Wissenschaft des Judentums, ihr Einfluss auf die Emanzipation der Juden* (Berlin 1907).

JEX-BLAKE, SOPHIA (1840-1912), British feminist and physician. After struggling to obtain an education Sophia Jex-Blake determined to found a college for women and for this purpose traveled in Germany and America. From

Dr. L. Sewall of Boston she received her first insight into the pressing need for women doctors, and although she had earlier rejected the suggestion of a medical career she made an unsuccessful attempt to enter Harvard Medical School. She next sought entrance to the University of Edinburgh and with ready speech and a biting pen surmounted the difficulties of examining boards and hospital committees and won a legal decision against the university in 1869 permitting her to study medicine there—only to be repulsed when the university obtained on appeal a judgment pronouncing the concession illegal. Ignoring the advice of those who urged that the time was not opportune in Britain she engaged in spectacular agitation to gain the right for women to study medicine. In 1874 she founded the London School of Medicine for Women, in 1876 succeeded in getting an act passed enabling universities to admit women medical students and in 1877 took her own degree at Berne. Her fighting qualities and singleness of purpose won popularity for the woman's education movement, but her uncompromising spirit alienated many from her and prevented her from winning fame as a doctor. Through her efforts the School of Medicine for Women and the Dispensary for Women and Children were established in Edinburgh.

GRACE FORD

*Works:* *A Visit to Some American Schools and Colleges* (London 1867); *Medical Women* (Edinburgh 1872, 2nd ed. 1886).

*Consult:* Todd, M., *The Life of Sophia Jex-Blake* (London 1918).

JHERING, RUDOLF VON (1818–92), German jurist. Jhering was successively professor at the universities of Basel, Rostock, Kiel, Giessen, Vienna and Göttingen. He began his career as a Romanist but developed into the most encyclopaedic mind in German law in the nineteenth century. His self-willed character and volatile temperament prevented his founding a dogmatic school, but possibly for that very reason he exercised a continuous influence upon the generation which followed him.

Jhering is of importance not only to jurisprudence but to sociology. While during his lifetime almost all other jurists remained within the narrow, formal bounds of their science, he was animated by the problem of the meaning of law for life. He did not, to be sure, begin in this way: in the first half of his career he too believed that the law was a self-contained system: it was only

necessary to know the logically constructed legal concepts to be able to solve any new problem of law by a process of dialectic. About the age of forty, however, he began to destroy that which he had hitherto regarded as sacred and sought to remove law from its position of isolation and to place it in the midst of the current of life.

The individual is the starting point of Jhering's philosophy. In his most celebrated work, *Der Kampf ums Recht* (Regensburg 1872, 19th ed. Vienna 1923; tr. by J. J. Lalor, 5th ed. Chicago 1915), which has been translated into twenty languages, he taught that an attack upon an individual's legal rights was at the same time an insult to his personality and that he was consequently under a moral duty to repel the attack. But even here the striving for the idea of community is already apparent: the assertion of the law is a duty that the individual owes to society. Jhering proceeded in the same manner in his most important work, *Der Zweck im Recht* (2 vols., Leipsic 1877–83; 4th ed. 1905; vol. i tr. by I. Husik, Boston 1913). Egoism is the unavoidable point of departure for all law, but it is not unreconcilable with the needs of the world, which enlists the individual in its service by giving him the reward that he desires. As long as the world attracts him to its purposes it can be sure of his cooperation. This enlistment of the service of the individual was the very basis of culture. At another time Jhering expressed the same ideas in his declaration that the three pillars of the law were the propositions "I exist for myself," "The world exists for me" and "I exist for the world." From the first he derived the whole law of persons; from the second the law of property, family law and the law of obligations; and from the third the concept of duty. He even projected the ideas, although only incidentally, into international law upon the analogy that the individual nations existed for the purposes of the world. To Jhering the state stood, so to speak, in a subordinate position; it was society that was the supreme concept. The state interfered by means of law only to protect the order which was determined by the purposes of society. Purpose was the creator of law. Moreover the law was not the only determining force: Jhering was interested particularly in such ethical factors of social intercourse as decorum and politeness. It is thus seen how strong was the sociological trend in his thinking.

Entirely new, considering the position of the jurists of his time, was Jhering's treatment of property. He does not deny—indeed he defends

—the right of private property. But unlike most of the contemporary jurists, who steeped in the Roman law attributed absolute powers of disposal to the owner, he insisted that it must be subordinated to social needs. Attacking the problem of possession in his *Beiträge zur Lehre vom Besitz* (Jena 1868; 2nd ed. 1869, with title *Über den Grund des Besitzesschutzes*) and over twenty years later in his *Der Besitzwille, zugleich eine Kritik der herrschenden juristischen Methode* (Jena 1889) he reacted against the conceptualism of the prevailing "will theory" and pointed to the social factors which had historically determined the protection of possession.

In addition to these works must be mentioned Jhering's celebrated *Der Geist des römischen Rechts auf den verschiedenen Stufen seiner Entwicklung* (3 vols., Leipsic 1852-65; 5th-6th eds. 1906-07), the significance of which he himself expressed in the motto, "I' through the Roman law but beyond it." Jhering's strong sense of humor, which achieved satiric heights, is reflected best in his spirited *Scherz und Ernst in der Jurisprudenz* (Leipsic 1885, 10th ed. 1909). In 1857 he founded with Gerber the *Jahrbücher für die Dogmatik des bürgerlichen Rechts*, which is still held in high regard. Almost all of Jhering's works have had influence beyond Germany, and the contemporary world may still find in him a source of inspiration.

J. WILHELM HEDEMANN

Consult: Dahn, Felix, *Die Vermunft im Recht* (Berlin 1879); Kuntze, J. E., *Jhering, Windscheid, Brinz* (Leipsic 1893), and *Zur Besitzlehre, für und wider Rudolph von Jhering* (Leipsic 1890); Poschinger, H. von, *Bismarck und Jhering* (Berlin 1908); Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880-1910) vol. iii, pt. ii, p. 788-825; Hurwicz, Elias, *Rudolf von Jhering und die deutsche Rechtswissenschaft*, Abhandlungen des kriminalistischen Seminars an der Universität Berlin, n.s., vol. vi, pt. iv (Berlin 1911); Rümelin, Max, *Rudolph von Jhering* (Tübingen 1922); Lange, Harry, *Die Wandlungen Jherings in seiner Auffassung vom Recht* (Berlin 1927); Smith, Munroe, "Four German Jurists" in his *A General View of European Legal History* (New York 1927) p. 110-255; Macdonell, John, in *Great Jurists of the World*, ed. by John Macdonell and Edward Manson, Continental Legal History series, vol. ii (Boston 1914) p. 590-99. See also the introductions and appendices to Husik's translation of *Der Zweck im Recht*, p. xv-lix and 425-78.

JIHAD, the battle on the path of Allah, approximates the western concept of holy war. Its history goes back to the early days of Islam when the religious obligation to disseminate the faith—either by persuasion or, failing that, by the

sword—explains in large part the tremendous momentum of early Islam and the unprecedented, triumphant growth of Mohammed's religion only a few decades after its founder's death.

Mohammed himself did not propound the obligation on such a scale. There is no mention of the jihad in the oldest portions of the Koran: the suras of the Meccan period preached patience in the face of attack because at that time no other attitude was possible. It was only in Medina, after Mohammed had become the leader of an entire community, that he commanded his adherents to return blow for blow and even to begin war independently. The Koran in speaking of the jihad against unbelievers often calls the latter unfaithful and dangerous, and Mohammed appears to have been less interested in their conversion than in their subjugation. They were to be fought not so much because of their unbelief as on the ground that they were hostile to his adherents. Thus the Koran (II: 186) states: "And fight for the cause of God against those who fight against you; but commit not the injustice of attacking them first: verily God loveth not the unjust."

Shortly after the death of the prophet, however, the war against unbelievers as such developed into a religious duty; numerous passages in the Koran were cited in which Allah using Mohammed as a mouthpiece commanded a struggle against the unbelieving Arabs. The jihad became accordingly almost a sixth "commandment" (*rukn*) and was in fact subsequently accepted as such by the descendants of the so-called Kharijites. Such a development was to be expected in a militant religion which arose among a warlike nomad people. It also became a political necessity, for after Mohammed's death a number of tribes weakened in their allegiance to the theocracy and external expansion seemed the best way of remedying the situation. The holy war with its promise of spoil made Islam understandable to the Bedouins and won back their loyalty and support, and the religious impetus in turn gave strength to the wars of conquest.

The jihad was to be supervised or led by a Moslem sovereign, or imam, and the entire world considered to be divided into the *dār al-harb*, the war area where Moslems were not in control, and the *dār al-islām*, or the regions already under Islamic rule. Theoretically the Moslem state was at permanent war with the non-Moslem world. Hence it was the purpose of

the jihad to transform the *dār al-ḥarb* into the *dār al-islām*. The implications of this concept were of course never completely realized and Moslem theologians were compelled very early to adapt the doctrine to changing needs. A people against whom a holy war was to be waged were first summoned to embrace Islam. In case of refusal they had the choice of submitting or fighting. In the first case they were granted mercy with certain limitations, whereas in the second they might expect the loss of their freedom as well as of their property. From the very beginnings of Islam large numbers of people of other faiths inhabited the Islamite areas and special provision was made for believers in religions based upon revealed scriptures, especially Jews and Christians, to allow them to enter into a protected relationship with the Islamic empire. Upon the payment of certain taxes they were guaranteed the free exercise of their religion as well as the safety of their lives and property. In fact their lives and property had to be defended to the end against enemies.

Gradually the whole doctrine of the jihad was modified, and at present it is interpreted as a joint and not an individual duty of all free, male, adult Moslems sound in mind and body who have the means to reach a Moslem army; this duty will continue to exist until the entire world has been subjected to Islam. It is held, however, that the obligation is fulfilled when a certain number of the faithful comply with it, and that the religious law is satisfied if a Moslem sovereign undertakes one campaign annually or even if he makes preparations for war and sees to the preparedness of the army. The imam alone is empowered to direct the jihad; and in cases such as that of the Shiites, whose imam is at present considered invisible, there can be no jihad until the imam reappears. If a Moslem country is invaded by unbelievers, the imam may issue a general call to arms to all the Moslems in the country and in case of need this summons may be extended to embrace the entire Moslem world. As territories once Moslem have come under the control of non-Moslems, however, the position has been taken that they do not become *dār al-ḥarb* except under certain conditions, the most important of which is the non-observance of legal decisions of Islam. When these conditions are violated the country must be won back or Moslems must emigrate from it.

These doctrines reflect those changes in the political and economic background of Islam which have not only influenced theory but have

also profoundly affected the jihad as a realistic force. While the duty of war conformed to tribal custom, the jihad remained a source of strength to Islam. The promises of rich rewards for those who die battling for the faith, depicted in the Koran and more vividly in the traditions (Hadith), naturally increased tremendously the courage and the contempt of death on the part of Moslem warriors. The belief in the martyrs' bliss has raised the courage of Moslem soldiers to an often unbelievable degree even down to recent times. Nevertheless, the significance of the jihad diminished consistently as Islam was accepted by large settled populations and as the Arabs themselves ceased to be a segregated military group. The doctrine of the holy war was based moreover upon the assumption of a unified Moslem religious-political state, an assumption which soon proved false. Various religious groups arose under rival imams, and even at the time of the Abbassides the empire was a very shaky structure which rapidly dissolved into a large number of rather independent governorships and sultanates. The Ottoman Empire, which united under its scepter most of the former Abbasside provinces as well as large new areas reaching as far as the gates of Vienna, was difficult to control and disintegrated rapidly during the nineteenth and the early twentieth century. The sense of unity, very strong in the past, was never able to take the place of an organized ecclesiastical union, which was thwarted by political circumstances as well as by the cultural level of the Moslem peoples.

The collapse of the jihad as a significant force was made clear in 1914 when the Ottoman sultan in his capacity of caliph summoned the whole Moslem world to a holy war against the Entente powers. The fact that Turkey was acting in alliance with infidel countries gave the command an unorthodox flavor and the only Moslem rulers to respond were the great Sanūsī and the imam of Šan'a. The enemy side endeavored scientifically to disprove the dubious claims of the caliphate; in fact the Moslems in countries controlled by the Entente could not have joined the Ottoman armies if they had wanted to. The pan-Islamic propaganda of the pre-war years bore little fruit, and it was probably the growing strength of nationalism among Moslem peoples which as much as any other factor played havoc with the 'Turks' appeal for Islamic unity and made possible the anomaly of Indians and Arabs fighting with Christian powers against their Turkish brethren in the hope of furthering their

own national interests. The summons to a jihad remained confined to Turkey; elsewhere there were only a few resolute and devout Moslems who were not deterred from rushing to arms.

Since the World War the jihad has had even less practical importance, especially since the abolition of the caliphate and the disintegration of the Ottoman Empire. Certain movements within Islam, such as Wahliabism in southern Arabia, still retain the jihad in their program, but modern theologians tend in general to diminish or discredit it. As a practical matter under present political conditions in the Orient a holy war for the further spread of Islam is entirely out of the question. Just as attacks were repeatedly made upon Turkey during previous centuries without being immediately denounced as attacks upon the caliphate and without all the Moslems being summoned to the defense, an aggression against a Moslem country in the near future will scarcely cause the unified Moslem community to rise against the invader.

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See: ISLAM; PAN-ISLAMISM; CALIPHATE; ISLAMIC LAW.

Consult: Arnold, T. W., *Preaching of Islam* (2nd ed. London 1913) app. 1; Carra de Vaux, B., *La doctrine de l'Islam* (Paris 1909) ch. vi; Pizzi, I., "L'islamismo e la guerra santa" in *Nuova antologia*, vol. lxix (1897) 5-35; Olshink, I. T., *De heilige oorlog volgens den Kuran* (Leyden 1901); Rescher, O., *Beiträge zur Dschihad-Literatur*, 3 vols. (Stuttgart 1920-21); Huart, C., *Histoire des arabes*, 2 vols. (Paris 1912-13) vol. i, p. 202-08; Snouck Hurgronje, C., *Politique musulmane de la Hollande* (Paris 1911) p. 16-20.

FOR THE WORLD WAR AS A JIHAD: Toynebee, A. J., "The Islamic World since the Peace Settlement" in *Survey of International Affairs 1925*, vol. i (Oxford 1927) p. 43-44; Al-Tūnist, Sālihal-Sharīf, *Die Wahrheit über den Glaubenskrieg*, tr. by K. E. Schabinger from Arabic ms. (Berlin 1915); Huart, C., "Le khalifat et la guerre sainte" in *Revue de l'histoire des religions*, vol. lxxii (1915) 288-302; Gottheil, I., *The Holy War* (New York 1915); Snouck Hurgronje, C., "Hellige oorlog Made in Germany" in *Gids* (1915) pt. 3, p. 115-47, tr. by J. B. Gillet as *The Holy War in Germany* (London 1915), and "Deutschland und der heilige Krieg" in *Internationale Monatsschrift für Wissenschaft, Kunst und Technik*, vol. ix (1914-15) 1025-33; Becker, C. H., "Deutschland und der heilige Krieg" in *Internationale Monatsschrift für Wissenschaft . . .*, vol. ix (1914-15) 631-62, 1034-42. Further references are given in Pfannmüller, D. G., *Handbuch der Islam-Literatur* (Berlin 1923) p. 248-49, 253-55.

JĪMŪTAVĀHANA, Hindu jurist. He was the founder of the Bengal, or Gauriya, school of law, which flourished probably from about 1090 to 1130. The acceptance of these dates, which are based on astrological minutiae in his works and on traditions of his descent and of his position

as chief justice and minister of one of the Sena kings of Bengal, leads to the assumption that Jimūtavāhana's legal eminence was only tardily recognized. Although he quotes no writer later than the twelfth century, he himself is not quoted until the fifteenth century; the earliest of his known manuscripts dates from the close of this century, and in fact Jolly and others assign him to this later period.

Three works of Jimūtavāhana are extant: the *Kāla-vivēka* (ed. by P. Tarkabhūṣana, Bibliotheca Indica, n.s., vol. lxix, Calcutta 1905), on the determination of the calendar and auspicious times and seasons; the *Vyavahāra Mātrikā* (ed. by A. Mookerjee in Asiatic Society of Bengal, *Memoirs*, vol. iii, 1912, p. 277-353), on judicial procedure; and the *Dāya-Bhāga* (tr. by H. T. Colebrooke in *Two Treatises on the Hindu Law of Inheritance*, Calcutta 1810, p. 1-240), literally "division of inheritance." Although Jimūtavāhana nowhere expressly names the *Mitākshara* of Vijnāneśvara (tr. in Colebrooke's *Two Treatises . . .*), an omission comprehensible in a contemporary but inexplicable in a fifteenth century writer, he unquestionably wrote the *Dāya-Bhāga* to combat certain doctrines of which that jurist was the protagonist. He negates the distinction between ancestral and self-acquired property; between unobstructed inheritance, the right to which accrues at birth, and obstructed inheritance, the right to which accrues only after the death of the property holder. He denies the doctrine of birth rights and replaces the Hindu paterfamilias on the pedestal which he occupied earlier in the *Manusmṛiti* as the unrestricted lord of the family property. The sons cannot demand a partition against his wishes; he may sell them into slavery and has rights over their personal earnings; he may spend or divide the property in his lifetime, even *mortis causa*, although not, strictly speaking, by will. It follows that father and sons do not in law constitute a joint family. In the same uncompromising individualism the members of the joint family are regarded not as joint tenants but as tenants in common. Their shares are freely assignable, and a childless widow succeeds to a share as the heir of her husband. On the other hand, if her husband dies before acquiring his right, she is not legally entitled even to maintenance. Jimūtavāhana's touchstone for the right to inherit is the duty to offer oblations to departed ancestors. In outline his scheme differs little from that of the *Mitākshara* for obstructed inheritance; but his theory

enables him to prefer the father to the mother and the daughter who has or is still capable of male offspring to one who is not. The duty of oblations to maternal ancestors serves as a peg to introduce a select list of cognates for a higher place in the scheme of inheritance than Vijnāṇesvara allows. Finally, Jīmūtavāhana says "An accomplished fact outweighs a hundred texts," which, however, means no more than *factum valet quod fieri non debuit*: the exercise of a legal right is not barred because in a particular case it happens to be the breach of a moral duty. Some Bengali scholars have argued against the prevailing acceptance of this text and have endeavored to show that the *Dāya-Bhāga* differs less from the *Mitākshara* than is commonly supposed. These views, however, have not carried general conviction even in Bengal, although it is unquestionable that the sentiment of the *Dāya-Bhāga* joint family is nearer to the *Mitākshara* than the bare letter of the law. The system of law which Jīmūtavāhana propounded is still followed by Bengalis and is administered for them by the British courts.

SEYMOUR VESEY-FITZGERALD

*Consult:* Kane, P. V., *History of Dharmasastra*, Bhandarkar Oriental Research Institute, Government Oriental Series, Class II, no. 6, vol. i— (Poona 1930—) p. 318–27; Sarkar, G. C., *Sāstri, Hindu Law* (Calcutta 1906); Ghose, J. C., *Principles of Hindu Law* (2nd ed. Calcutta 1906); Chakravarti Bahadur, R. M., "Contributions to the History of Smṛti in Bengal and Mithilā" in Asiatic Society of Bengal, *Journal and Proceedings*, n.s., vol. xi (1915) 311–406, especially 313–27.

JINGOISM. *See* CHAUVINISM.

JIREČEK, JOSEF KONSTANTIN (1854–1918), Austro-Czech historian. Jireček was born in Vienna of a family of celebrated Czechish scholars. He studied at the University of Prague and lectured there as *Privatdozent* from 1877 to 1879. His historical interests centered almost exclusively about the Balkan peoples in the Middle Ages; at first he devoted his attention to the Bulgars and Serbs, then for a time only to the Bulgars and later in an increasing degree to the southwestern part of the Balkan Peninsula—the Serbs, Balkan Romans and Albanians—and Byzantium. Political, social, economic and cultural history as well as historical geography and ethnography were included in the scope of his researches. His first major work, *Die Geschichte der Bulgaren* (Prague 1876), written at the age of twenty-one and at a time when the Bulgarian question was to the fore, secured him a world

wide reputation and special recognition in Bulgaria. In 1879 the Bulgarian government invited him to Sofia. In the course of his five years' activity as secretary general of the Ministry of Education, as minister of education and as director of the National Library he won lasting renown in the organization and extension of the entire Bulgarian educational system. His work was especially significant in regard to the primary and intermediate schools and cultural institutions (the university, the National Library, the National Museum and the Bureau of Statistics). His fame rested also upon his valuable advice in the formation of the modern machinery of governmental administration. The profound first hand knowledge of the Balkan Peninsula which he acquired through his influential position and extensive travels led him to write *Das Fürstenthum Bulgarien* (Prague 1891), which is still essential for a study of Bulgaria. In the succeeding decades he was active in Prague and Vienna, became increasingly interested in Rumanian, Serbian and Byzantine history and after exhaustive research in the rich Dalmatian archives treated the most complicated problems of Balkan, Roman and Albanian history. He not only collected an enormous mass of entirely new historical facts but also laid the foundations of present day knowledge of the ancient history of the Balkan Peninsula. After his great work on the Romans in the cities of Dalmatia, which is of basic importance for late Roman, Byzantine and mediaeval western history, ethnography, topography and linguistics, he composed his masterpiece, the *Geschichte der Serben* (Allgemeine Staatengeschichte, pt. i, no. 38, 2 vols., Gotha 1911–18), which carries the narrative to 1537 and is still the best work on the subject; it complements his "Staat und Gesellschaft im mittelalterlichen Serbien" (Kaiserliche Akademie der Wissenschaften, Vienna, Philosophisch-historische Klasse, *Denkschriften*, vol. lvi, 1912, nos. 2–3, vol. lviii, 1914, pt. ii, and vol. lxiv, 1919, pt. ii), which extends to 1459 and is equally fundamental for the older cultural history of the Balkans and southern Slavs, especially of the southwest.

Jireček was the most important representative among the Slavs of the German critical method in historical science and is recognized as the leading authority on the past of the Balkan Peninsula, its historical geography and ethnography. The originality and importance of his contribution to Balkan historiography proceed from his critical examination of sources, espe-

cially archives; his break with the constructions and hypotheses based on the former combination of history and philology; and the extended scope of his researches and observations whereby he secured a mass of separate pieces of information and was able to correct former concepts concerning the most difficult problems; but especially from the fact that he supported political data by legal, socio-economic and historico-ethnographic data and that in his works on cultural history he emphasized as fundamental socio-economic and legal relations. He thus succeeded in demonstrating to what extent western influences prevailed along with the Byzantine in the governmental as well as the social and economic structure of the Balkans.

JOSEF MATI.

Consult: Murko, M., in *Neue österreichische Biographie*, vol. i (1918-19) 537-97; Zlatarski, V. N., in *Bulgariska Akademiyā na Naukite, Jletopis*, vol. iv (1919) 85-110; Radojević, N., in *Narodna starina*, vol. vi (1923) 193-216.

JITTA, DANIEL JOSEPHUS (1854-1925), Dutch jurist. Jitta was educated in Holland and Belgium; after a period of law practise he became professor of commercial and private international law at the University of Amsterdam. Subsequently he served as a counselor of state at The Hague.

His writings, which are characterized by a cosmopolitan, somewhat idealistic spirit and by a philosophy of tolerance and reconciliation, are significant contributions to the theory of private international law. The most important are: *The Method of Private International Law* (The Hague 1890); *The Substance of Obligations in Private International Law* (2 vols., The Hague 1906-07); *The Renovation of International Law, on the Basis of a Juridical Community of Mankind* (The Hague 1919). Jitta regarded mankind not only as a de facto community but also as a de jure community which should be governed by principles based upon the requirements of the universal social group. These principles are the fundamentals of international law and aim at establishing a universal reign of law. They must be respected by the states, which derive their sovereignty from mankind itself and are obligated to insure order not only for their own national local groups but also for all society. Private international law should not be called the "conflict of laws" but rather "private law considered from the point of view of what the juridical community of mankind demands,"

since the solution of conflicts is not its aim but only an expedient. In the sphere of private law he distinguishes between the relations which are relatively international and those which are absolutely international. The first are relations of foreign origin, existing between foreigners, in which the foreign law applies; except where it conflicts with the public policy, order and morals of the state in which the case is being adjudicated. The absolutely international relations are those which do not belong preponderantly to the juridical life of any single state but which affect more than one. Here the rules of the common international law are applicable. Frequently they can be formulated by resolving the conflict of laws and adopting the law of one of the competing states. Sometimes, however, this method is not satisfactory and then a fully independent, newly formulated rule should be adopted. In settling questions of private international law the rule suitable to the universal society of mankind applies by virtue of reason, except when the positive law of the state in which it is adjudicated is opposed to it; for the judge is bound by the positive law of his own state.

J. KOSTERS

Consult: Baty, T., "A Modern *Jus Gentium*" in *Juridical Review*, vol. xx (1908-09) 109-20; Calch, Marcel, *Essai sur le principe de l'autonomie de la volonté en droit international privé* (Paris 1927) p. 376-79; Beale, J. H., *A Treatise on the Conflict of Laws*, vol. i— (Cambridge, Mass. 1916—) p. 95-98.

JOACHIM OF FLORA (c. 1131-c. 1202), Calabrian mystic and prophet. Legends have sprung up luxuriantly about the name of Joachim of Flora, but nothing is certain concerning his life except that he was born at Celico of humble parentage, that while still very young he entered the Cistercian order shortly after the reconciliation of Roger II of Sicily and St. Bernard and that he later abandoned it to found a monastic congregation more faithful to the rigorous Benedictine rule. Although a renegade from the Cistercians Joachim represented and expressed better than any other figure the democratic and cooperative ideas of organization which the Cistercian movement was propagating throughout Europe in opposition to feudalism. In Joachim's interpretation of the Bible may be found a repercussion of these ideas. Joachim divides revelation into three stages, each corresponding to a historical epoch: the Age of the Father, or of the Old Testament; the Age of the Son, or of the New Testament; and the Age of the Holy Ghost, or of the future. The first was



the time of spouses—that is, patriarchs and kings—and of slaves; the second of freemen and priests; the third and final era would be that of friends and mystics, living without class or social distinctions. The visible church of Rome, to which Joachim ascribed a merely symbolical and provisional function, would according to his reckoning have fulfilled its function in 1260. In that year it would collapse, making way for the new epoch of equality and peace, which would be ushered in by a purified monachism. Thus at a time when the revival of trade was everywhere sharpening the acquisitive sense Joachim resurrected the message of primitive Christianity. In 1254, following the attempt of a fervent disciple to give the Joachite faith a canonical form with the fatidical title of *Evangelium aeternum*, Rome condemned Joachism. But the faith, which had reverberated throughout Italy and southern France, survived the condemnation. The Spirituals of the Franciscan order were led by the striking similarity between the Franciscan religion and the Joachite Age of the Holy Ghost to proclaim Francis as the inaugurator of the third era. Joachism became the creed of the Spirituals and of the Fraticelli; and it was a logical consequence of their Joachite faith that these groups became fervent advocates of poverty and communism. Through them it continued to be a vital element in the spiritual atmosphere of Italy and southern France until, after experiencing an illusory realization under the brief pontificate of Celestine V (1294), Joachism and with it mediaeval ecclesiastical communism were finally overwhelmed by the persecutions under Boniface VIII (1294–1303) and John XXII (1316–34).

ERNESTO BUONAIUTI

*Works:* *Divini vatis abbatiss Joachim liber concordia Novi ac Veteris Testamenti* (Venice 1519); *Expositio magni prophete abbatiss Joachim in Apocalypsum* (Venice 1527); *Psalterium decem cordarum (abbatiss Joachim)* (Venice 1527); *Tractatus super Quatuor Evangelia*, ed. by Ernesto Buonaiuti, Istituto Storico Italiano, Fonti per la Storia d'Italia, vol. lxvii (Rome 1930).

*Consult:* Buonaiuti, E., *Gioacchino da Fiore*, Collezione di Studi Meridionali, vol. xiv (Rome 1931); Grundmann, H., *Studien über Joachim von Floris*, Beiträge zur Kulturgeschichte des Mittelalters und der Renaissance, vol. xxxii (Leipzig 1927); Bondatti, G., *Gioacchinismo e francescanesimo nel Duecento* (S. Maria degli Angeli 1924); Benz, Ernst, "Joachim-Studien I. Die Kategorien der religiösen Geschichtsdeutung Joachims" in *Zeitschrift für Kirchengeschichte*, 3rd ser., vol. 1 (1931) 24–111; Gebhart, N.-E., *L'Italie mystique* (7th ed. Paris 1911), tr. by E. M. Hulme as *Mystics and Heretics in Italy* (London 1922) ch. ii.

JOHANN MORITZ, FÜRST VON NASSAU-SIEGEN (1604–79), German colonial administrator. Johann Moritz was born in Dillenburg and after an excellent Calvinistic education in Germany and Switzerland achieved distinction in the Dutch army. In 1636 he was made governor of "New Holland," the Dutch West India Company's foothold in northern Brazil. The company, organized primarily as a military weapon to weaken Spain by threatening and appropriating its bullion supply, had chosen the more vulnerable Portuguese part of the Spanish empire in America as the main object of its attack. It had acquired New Holland after a hard struggle, but the colony was grossly neglected until the failure of the company's freebooting enterprise to cover expenses led the directors to seek an added source of revenue in sugar production. For the task of transforming New Holland into a colony with a developed social and economic life Johann Moritz was eminently qualified by his statesmanlike vision and his military talents. He pushed back the Portuguese and greatly increased the area of the colony. He placed all responsible posts in reliable hands, furthered Protestant missions, organized the care of the poor, built schools and brought scholars and artists to the capital, Mauritsstad. The Portuguese planters who had fled were guaranteed free exercise of their religion and assured of the return of their property. For a time, however, many were afraid to return; the government sold the unclaimed sugar mills and plantations at auction on long term credits and by conquests in Africa provided an adequate supply of slave labor on similar terms. On the governor's advice the company's all inclusive trade monopoly granted in 1621 was restricted in 1638 to the importation of slaves and ammunition and the export of brazilwood. All these favorable conditions brought many settlers, among whom Portuguese Jews predominated. The governor attempted to maintain friendly relations among the Dutch, Portuguese and natives; but the unwise agitation of Calvinist zealots, the encroachments of soldiers and the company's officials on the population and above all the growing indebtedness of the planters gave rise to increasing dissatisfaction. The danger of the situation was aggravated when the directors, burdened with a badly paying colony, ordered a diminution of the defense forces and an increase of the sugar export. Finally they suspected Johann Moritz of seeking to create a principality for himself, and he resigned in 1644. When Portu-

guese revolts culminated in the loss of Brazil in 1654, the miserable planning and support of the company's Brazilian enterprise were fully revealed.

#### HERMANN WÄTJEN

*Consult:* Baerle, Casper van, *C. Barlaei rerum per octennium in Brasilia* . . . (2nd ed. Clèves 1660), tr. into German as *Brasilianische Geschichte* . . . (Clèves 1659); Driesen, L., *Leben des Fürsten Johann Moritz von Nassau-Siegen* (Berlin 1849); Fabius, A. N. J., *Johan Maurits de braziliaan (1604-70)* (Utrecht 1915); Kruse, H., *Johann Moritz von Nassau Siegen, Westfälische Lebensbilder*, vol. 1 (Münster 1930) p. 68-86; Wätjen, H., *Das holländische Kolonialreich in Brasilien* (The Hague 1921).

JOHN DUNS SCOTUS. *See* DUNS SCOTUS, JOHN.

JOHN QUIDORT OF PARIS (d. 1306), mediæval theologian and political theorist. John was a Dominican in St. Jacob in Paris and late in life he became a licentiate at the University of Paris. He is the author of a commentary on the *Sentences* of Peter Lombard and of other theological works which mark him as a penetrating and independent thinker. His chief political work is his *Tractatus de potestate regia et papali* written in 1302 or 1303 during the controversy between Pope Boniface VIII and Philip the Fair of France. John, although not extreme in his claims, took the side of the king and particularly attacked the views of such defenders of the pope as Aegidius Romanus, James of Viterbo and Henry of Cremona. Seeking a middle position between the extreme adherents of the doctrines of temporal and spiritual supremacy, he held that church and state are each independent within their respective spheres although there is a reciprocal influence between them. While allowing for the material basis of the church John maintained that its authority should be limited to spiritual matters. A sharp analysis of the essence of spiritual power, he declared, reveals that it does not involve the use of secular authority or of force but is confined solely to the exercise of moral influence. The church, it is true, may possess temporal sovereignty and jurisdiction but only when so endowed by the state. It can punish offenses against the church only indirectly by persuading the temporal power to take action against the offenders. John recognized the divine basis of the papal authority but asserted that the spiritual powers of the bishops and priests are likewise derived directly from God. The pope is not the absolute ruler, but only the responsible

leader of the universal church which is made up of a series of communities and churches. Possession of church property is always vested in these communities and churches and not in the hands of an individual, even though he be pope. John favored a representative and constitutional organization of the church with the college of cardinals, the emperor and the general council possessing the power to limit the rule of the pope and if necessary to depose him. The general council, not the pope, is the supreme authority in matters of faith. Germs of the conciliar theory are undoubtedly present in John's theories; Gerson and others were influenced by him and Bellarmine cites him as the representative of the most moderate theory concerning church and state relations.

In his political philosophy John is a follower of Aristotle and Thomas Aquinas but he emphasizes the social contract and restricts the ethical ends of the state to the moral and not the theological spheres. The ideal form of political organization is the national state with a representative form of government. He attacked the idea of a universal empire and declared the Roman Empire to be extinct.

#### RICHARD SCHOLZ

*Consult:* Scholz, Richard, *Die Publizistik zur Zeit Philipps des Schönen und Bonifaz VIII* (Stuttgart 1903) p. 275-333; Rivière, Jean, *Le problème de l'Église et de l'État au temps de Philippe le Bel*, *Spicilegium Sacrum Lovaniense, Études et Documents*, vol. 8 (Louvain 1926) p. 281-300; Grahlmann, Martin, "Studien zu Johannes Quidort von Paris" in *Bayerische Akademie der Wissenschaften, Philosophisch-philologische und historische Klasse, Sitzungsberichte*, 1922, no. 3 (Munich 1922); Carlyle, R. W. and A. J., *A History of Mediæval Political Theory in the West*, 5 vols. (Edinburgh 1903-28) vol. v, p. 422-37; Lajard, Félix, in *Histoire littéraire de la France*, vol. xxv (Paris 1869) p. 244-70.

JOHN OF SALISBURY (c. 1120-80), English churchman and scholar. John, author of the first treatise of strongly sacerdotal tendency written in England, was, in Stubbs's words, "the most learned man of his day." Trained at Paris, where he attended the lectures of Abélard, and at Chartres, John divided his official career during the period from 1148 to 1159 between the papal court and the service of Archbishop Theobald of Canterbury. In 1159 he remarked that he had crossed the Alps ten times since he first left England. That year he fell under the displeasure of Henry II and was deprived of some of his official duties, an event which gave him time to complete his two main works, the *Policraticus* and

the *Metalogicus*. The latter describes his student years and early philosophical pursuits; the former, headed also *De nugis curialium, et vestigiis philosophorum*, enunciates two political doctrines—the distinction of the legitimate prince from the tyrant and the subordination of the imperial to the priestly authority. The prince is not absolved from obedience to law; his position is that of “a minister of the public welfare and a servant of equity,” since the state exists to promote equity. From the church the prince receives the whole authority he wields. The fifth and sixth books are based upon a work called by John *Institutio Traiani*, from which he draws a lengthy comparison of the state with the human body: the head is the prince, the soul the priesthood. But if John was a sacerdotalist he was also a genuine Englishman, as can be judged by the remark that we must normally tolerate the weaknesses of our rulers and by his invectives against clerical rapacity.

Soon after the Council of Clarendon in 1164 John found it expedient to leave England. In this year he began to revise his remarkable *Historia pontificalis*, which carried on from the year 1148 the Gembloux continuation of Sigebert's chronicle. For the next six years he lived with his friend Peter de la Celle at Reims. From abroad he did his best to reconcile Becket with the king; and when peace appeared to be in sight he returned in November, 1170, and was with the archbishop at Canterbury when the murderers entered the cathedral. In 1176 he became bishop of Chartres and in 1179 attended the Third Lateran Council.

E. F. JACOB

*Works: Opera omnia*, ed. by J. A. Giles, 5 vols. (Oxford 1848); the *Policraticus*, 2 vols. (Oxford 1909), and the *Metalogicus* (Oxford 1929) have been edited by C. C. J. Webb; *Historia pontificalis*, ed. by R. L. Poole (Oxford 1927).

*Consult: Materials for the History of Thomas Becket*, ed. by J. C. Robertson, *Rerum britannicarum medii aevi scriptores*, no. 67, 7 vols. (London 1875–85); Schaarschmidt, C., *Johannes Saresburiensis nach Leben und Studien* (Leipzig 1862); Deminuid, M., *Jean de Salisbury* (Paris 1873); Webb, C. C. J., *John of Salisbury* (London 1932); Poole, R. L., *Illustrations of the History of Medieval Thought and Learning* (2nd ed. London 1920) ch. vii, and “The Masters of the Schools at Paris and Chartres in John of Salisbury's Time” in *English Historical Review*, vol. xxxv (1920) 321–42, and “The Early Correspondence of John of Salisbury” in *British Academy, Proceedings*, vol. xi (1924–25) 27–53; Stubbs, William, *Seventeen Lectures on the Study of Medieval and Modern History* (Oxford 1886) chs. vi–vii; Carlyle, R. W. and A. J., *A History of Mediaeval Political Theory in the West*, vols. i–v

(Edinburgh 1903–28) vol. iii, p. 136–46, vol. iv, p. 330–41; Dickinson, J., “The Mediaeval Conception of Kingship . . . in the *Policraticus* of John of Salisbury” in *Speculum*, vol. i (1926) 308–37; Jacob, E. F., “John of Salisbury and the Policraticus” in *The Social and Political Ideas of Some Great Mediaeval Thinkers*, ed. by F. J. C. Hearnshaw (London 1923) p. 53–84.

JOHNSON, GEORGE (1837–1911), Canadian statistician. Johnson entered upon a journalistic career in Halifax, became editor of the *Halifax Reporter* and then Ottawa correspondent of the *Toronto Mail*. An early advocate of the confederation of the Canadian provinces, he took a prominent part in the troubled politics of the Maritime Provinces in the confederation era; subsequently he strongly espoused the adoption of protection as a Canadian national policy and the building of the Canadian Pacific Railway. His first official position was that of chief census commissioner for Nova Scotia in 1881. From 1887 to 1906 he was chief government statistician and directed the taking of the third census of the dominion in 1891. In 1886 he was instrumental in founding the official *Statistical Year Book of Canada*, and he edited the issues for the years 1892 to 1904 inclusive. The *Statistical Year Book* was a noteworthy compilation for its day; Johnson realizing that the state is not a series of heterogeneous activities was among the first to grasp the importance of a general purview in statistical organization. His memoranda to this end, and in particular one which was officially printed in 1890, were of pronounced effect.

R. H. COATS

*Important works: Canada, Department of Agriculture, Canada: Its History, Productions and Natural Resources* (Ottawa 1886), and *Canada: Its History, Productions and Natural Resources* (Ottawa 1900, rev. ed. 1904); *Alphabet of First Things in Canada* (Ottawa 1889, 3rd ed. 1897); *Johnson's Graphic Statistics of Canada* (Ottawa 1887); “Railways” in *Canada, Department of Agriculture, Statistical Year Book of Canada*, vol. x (Ottawa 1895) ch. vii. Johnson also edited *The All Red Line: the Annals and Aims of the Pacific Cable Project* (Ottawa 1903).

JOHNSON, JOSEPH FRENCH (1853–1925), American pioneer in commercial education. Johnson's most significant work lay in organizing the teaching and the training of teachers of business subjects. Under his guidance the School of Commerce, Accounts and Finance of New York University, of which he was dean from its early formative years until his death, expanded steadily. The success of the Alexander Hamilton Institute, which he founded in 1900 to bring his

teaching material and methods by means of home study to people actively engaged in business, indicates how effectively he met the need for executive training. As a teacher Johnson made the principles of economics understandable to the business man through vivid concrete illustrations of business problems. Here his early experience as a journalist stood him in good stead. He felt, however, that economics for the business man should include not only a presentation of the general principles but an inductive and descriptive study of specific fields of economic activity. To this end he organized at the School of Commerce groups of courses in such subjects as accounting, banking, investments and corporation finance, a grouping which is now found in all collegiate schools of business. For the same purpose he edited for the Alexander Hamilton Institute a popular series of texts on *Modern Business*. Throughout his work as teacher and organizer Johnson insisted on economic theory as a basis for the more specialized fields of study. He believed, however, that those engaged in business were especially interested in and in many respects best qualified to study the science of business. In his own work as a member of the National Monetary Commission, in his writings on questions of money and banking and in his studies of governmental control of business activity Johnson stressed the importance of economics in the practical affairs of business and statecraft.

#### A. WELLINGTON TAYLOR

*Important works:* *Money and Currency in Relation to Industry, Prices and the Rate of Interest* (Boston 1905, new ed. 1921); *The Canadian Banking System*, Publication of the United States National Monetary Commission (Washington 1910); *Organized Business Knowledge* (New York 1923).

JOHNSON, SAMUEL (1709-84), English journalist, lexicographer, critic. Johnson has been called the first "man of letters" in the sense that he made all of literature his field and pursued it as a profession, disdaining the support of patronage. The famous letter to Lord Chesterfield in fact has been held to symbolize the end of literary patronage as a means of subsistence for the writer. For the latter half of his life Johnson was the dominating force in English letters, ruling taste, fixing a prose style and enforcing his personality to an extent that well merited his nickname of the "Great Cham." His *Dictionary of the English Language* (2 vols., London 1755; new ed. by P. A. Nuttall, London 1855), published after eight years of prepara-

tion, was the first English dictionary to be compiled with a scholarly and profound talent for definition despite the current ignorance of etymology. It was an important influence in molding English usage, and even today, although the works of specialists have surpassed it in many ways, it remains a masterpiece in clarity of thinking.

Johnson's political ideas, which apart from a few pamphlets written at the request of the government appear mostly in the form of *obiter dicta*, are those of a strong eighteenth century Tory but are too individual to be regarded as typical. His devotion to the monarchy was fundamentally emotional, but his belief in the absolute power of sovereignty was reasoned. "There must in every society be some power or other from which there is no appeal." This was to him a matter of fact; but it was equally true that if the government abused its position too much the people would rebel. Johnson's objection to the American Revolution (as seen especially in *Taxation No Tyranny*, 1775) was not entirely mere prejudice; it arose also partly because the revolution did not appear to him to be based on such practical grievances as alone might explain—one can hardly say justify—rebellion and partly because any claim founded on principles of equality could not be put forward, he thought, on behalf of a slave owning society. Although he abused Rousseau, Johnson had a certain belief in the natural rights of man which made him an early and uncompromising enemy to slavery. Similarly, although devoted to the Church of England he criticized severely the intolerance of the English government in Ireland. In economic matters he took little interest, his sole work of the slightest importance in this field being a tract entitled *Considerations on the Corn Laws* (1766, first published in W. G. Hamilton's *Parliamentary Logick*, London 1808). This defends the export bounty on corn on the ground that by stimulating production it lowers the price and decreases the risk of famine. A believer in the rule of the landed proprietorship, he insisted on its responsibilities and approved, for instance, the English system of poor laws. His nature was fundamentally religious and his conservatism at bottom a belief that man being naturally rebellious requires the control provided by custom and strong government.

#### ALFRED COBBAN

*Works:* In addition to his literary works Samuel Johnson wrote the following political pamphlets: *The False Alarm* (London 1770); *Thoughts on the Late*

*Transactions respecting Falkland's Islands* (London 1771); *The Patriot* (London 1774); *Taxation No Tyranny* (London 1775).

*Consult:* Boswell, James, *Life of Johnson*, ed. by G. B. Hill, 6 vols. (Oxford 1887); Stephen, Leslie, *Samuel Johnson*, English Men of Letters series (London 1878), and *History of English Thought in the Eighteenth Century*, 2 vols. (3rd ed. London 1902) vol. ii, p. 206-09, 374-76; O'Brien, George, "Dr. Samuel Johnson as an Economist" in *Studies* (Dublin), vol. xiv (1925) 80-101; Harvey, C. W., "Johnson's Hatred of America" in *Cornhill Magazine*, n.s., vol. lxvii (1920) 655-68.

JOHNSON, TOM LOFTIN (1854-1911), American municipal reformer. Johnson acquired a substantial fortune in his early twenties through his inventions and his skill in managing street car properties; he later obtained traction interests in Indianapolis, Cleveland, Detroit and Brooklyn, as well as iron manufactures in Ohio and Pennsylvania. Through a casual reading of *Social Problems* he became a convert to the doctrines of Henry George. Convinced of the injustice of a society which permitted large fortunes like his own to be acquired through monopolistic practices, Johnson determined by political action to strike a blow at monopoly. After one defeat he was elected to Congress as a free trade, single tax Democrat and served two terms in the House of Representatives (1891-95).

A convinced believer in decentralized government and direct democracy, he conceived the city to be the most promising field of political activity. He sold his railroad properties and in 1901 was elected mayor of Cleveland on a public ownership, three-cent fare platform. He was three times reelected but encountered strong opposition to his plans for cheap traction. A settlement achieved in 1908 was repudiated by a narrow majority in a referendum; lowered earnings, an economic depression and a strike had destroyed public confidence in his traction policy. However, the three-cent fare he had established remained in effect for a time under the privately owned company.

Johnson's administration was also distinguished by improvements in parks and playgrounds, municipal sanitation and city purchasing and by the establishment of farm colonies for defectives and delinquents and group planning for city building. He was described by a co-worker as "the greatest administrator, the most efficient executive that the radical movement has produced in this country." He brought into public life such leaders as Newton D. Baker, John N. Stockwell, W. B. Colver, Edward W. Bemis and Frederic C. Howe. Johnson's most

notable achievement was the creation of a civic spirit in Cleveland which stimulated the municipal reform movement throughout the country.

CARROLL H. WOODYDY

*Consult:* Johnson, Tom L., *My Story*, ed. by Elizabeth J. Hauser (New York 1911); Lorenz, Carl, *Tom L. Johnson, Mayor of Cleveland* (New York 1911); Howe, Frederic C., *Confessions of a Reformer* (New York 1926); Steffens, Lincoln, *Autobiography*, 2 vols. (New York 1931) chs. xvi and xvii.

JOHNSTON, SIR HARRY HAMILTON (1858-1927), British colonial administrator and ethnographer. Johnston's career provides an outstanding example of the mingling of scientific curiosity with imperialistic and administrative ardor in the "scramble for Africa." After engaging in explorations in Angola and along Stanley's Congo trail Johnston in 1884 led an expedition to Mount Kilimanjaro; this expedition, scientific in its nature, masked the negotiation of numerous treaties and concessions with native princes, some of which became the basis of British rule in Kenya. An article in the London *Times* of August 22, 1888, in which he outlined the course, which British expansion was to attempt to follow in Africa, including the "Cape to Cairo" idea, was the sequel to a discussion with Lord Salisbury. Johnston began his administrative and consular career in the Cameroons in 1885. From 1889 to 1896 he was engaged in the acquisition and administration of the Nyasaland protectorate, aided financially by Cecil Rhodes, for whom he also administered other territories within this period. From 1899 to 1901 he undertook the definite organization of the Uganda protectorate. His last African mission, undertaken on behalf of British rubber interests in Liberia, was unsuccessful in its objects, although Johnston aided the establishment there of an American financial protectorate. His administrative policies emphasized watchful cooperation with other colonial powers, free trade, the suppression of the slave traffic, neutrality toward missionary enterprise and marked sympathy for native institutions, with the partial exception of communal land tenures. In large volumes he collated the data of the physical and economic geography, biology, physical anthropology, ethnography and linguistics of the regions in which he served. He wrote voluminously upon the history and problems of expansion and of the contacts of white and colored races, including the American Negro question. He maintained that the so-called backward peoples benefited by these contacts in so far as they implied gradual assimila-

tion of European culture under benevolent white mastery. His outstanding work is the *Comparative Study of the Bantu and Semi-Bantu Languages* (2 vols., Oxford 1919-22), a compendium of contemporary knowledge of the subject. Although his formal and theoretical training was limited, art studies and a freedom from theological preconceptions brought acuteness and objectivity to Johnston's observations.

#### LELAND H. JENKS

*Works:* *The Story of My Life* (London 1923), with bibliography; *The Kilima-Njaro Expedition* (London 1886); *British Central Africa* (London 1897, 2nd ed. 1898); *The Uganda Protectorate*, 2 vols. (London 1902, 2nd ed. 1904); *Liberia*, 2 vols. (London 1906); *Livingstone and the Exploration of Central Africa* (London 1891); *George Greenfell and the Congo*, 2 vols. (London 1908); *A History of the Colonization of Africa by Alien Races* (Cambridge, Eng. 1899; rev. ed. 1913); *Britain across the Seas . . . A History and Description of the British Empire in Africa* (London 1910); *The Negro in the New World* (London 1910); *The Backward Peoples and Our Relations with Them* (London 1920); *Common Sense in Foreign Policy* (London 1913); *Views and Reviews from the Outlook of an Anthropologist* (London 1912).

*Consult:* Shepherd, W. R., "Common Sense in Foreign Policy" in *Political Science Quarterly*, vol. xxxi (1916) 122-42.

JOINT COST. *See* COST; OVERHEAD COSTS.

JOINT STOCK COMPANY. The phrase joint stock company is capable of various interpretations. Interpreted broadly it signifies a company or group of persons associating in the provision of a fund of goods or money to undertake some common business enterprise. It is, however, more commonly interpreted to include only associations of persons providing a joint stock and pursuing a common enterprise, membership in which is evidenced by transferable shares.

The earliest English trading corporations, the "regulated" or "open" companies, such as the Merchant Adventurers, do not fall within this definition. As corporations they held exclusive trading rights and possessed a common purse which was employed for collective defense, the maintenance of ambassadors and the charitable assistance of members. But the members traded on their own behalf and supposedly in competition with each other. Groups of members did, however, cooperate to trade with a joint stock and in the sixteenth century the ideas of the incorporated company and of joint stock trading were united in the incorporation of the Muscovy, Levant, East India and other companies, all of

which possessed exclusive trading privileges. The device of permanent stock freely transferable developed but slowly during the succeeding century. Toward the end of the seventeenth century the speculative possibilities of transferable stocks and the profitableness of company promotion greatly stimulated the formation of unincorporated associations, called companies but regarded at law as partnerships and possessing no exclusive trading privileges. Their inability to sue or to be sued except in the names of all their members as well as the unlimited liability of their members gave rise to confusion, and the frenzied speculation in the shares of such companies during the early years of the eighteenth century resulted in the Bubble Act of 1719 prohibiting the formation of joint stock companies except by royal charter. The act was never effective, largely because of its unenforceability, and when it was repealed in 1825 the aggregate capital of the unincorporated companies in existence was estimated at between £160,000,000 and £200,000,000. The statute then passed amended the common law to permit the chartering of companies without endowing them with unlimited liability; unchartered companies remained subject to the common law, the provisions of which with regard to such companies were still far from clear. In 1834 authority was given to endow them by letters patent with the right to sue and to be sued in their own names; in 1844 provision was made for registration and incorporation without limitation upon liability, the latter privilege being finally granted in 1855. Since 1862 it has been illegal to form any new company, association or partnership consisting of more than twenty persons (ten if engaged in banking) for the acquisition of gain without registering the formation under the companies acts (unless the company is regulated by special statute or protected by letters patent). As all companies registered are incorporated, the unincorporated joint stock company no longer exists in England. Not all incorporated companies, however, are strictly joint stock companies: companies are incorporated which are "limited by guarantee" and such companies need have no capital stock. Nor do all incorporated companies enjoy limited liability: provision is made for incorporation with unlimited liability. Incorporated associations which would in America be called corporations are commonly referred to in England as joint stock companies or more loosely and less accurately as limited companies.

In the United States the common law right to

form unincorporated joint stock companies has never been withdrawn by statute and the term joint stock company has a technical meaning differentiating such common law associations from partnerships on the one hand and corporations on the other. Such a company is defined as an unincorporated partnership with a capital divided into shares (not necessarily all of one class) which are freely transferable, and ownership of at least one of which is essential to membership in the company. Relations between the members are regulated by a contract (the articles of association), which brings the association into being without any charter or grant by the state, except in jurisdictions where the common law has been modified by statute. A number of states, including Michigan, New Jersey, New York, Ohio, Pennsylvania and Virginia, have imposed varying degrees of statutory control, equivalent in some to the control exercised over corporations. Elsewhere joint stock companies pay no franchise tax and make no report to any public officer upon their formation or their transactions. In law such companies resemble corporations only in that they possess sufficient continuity of existence apart from their members for the withdrawal of a member not to terminate the existence of the company. In practice, however, they resemble corporations in that active control is exercised by a board of directors elected by the members (who have no power to contract on behalf of the company). The company cannot sue or be sued in its own name, although in many jurisdictions it may—in some it must—be sued through its officers in the first instance. It is incapable of holding real estate, which is usually vested in trustees appointed for the purpose. The members are jointly and severally responsible without limit for the debts of the company unless every contract provides that the property of the company alone shall be bound. The joint stock company is not now a common form of business organization, partly on account of the liability of members for all the debts of the company and partly on account of the greater convenience of the corporation (*q.v.*), facilities for the formation of which have been rapidly extended since the removal in the early nineteenth century of the necessity of special legislation to secure incorporation.

The development of the limited partnership in many jurisdictions has given rise to a form of organization allied to the joint stock company. Partnership in which the liability of some partners for the debts of the group is limited (such

partners usually having only restricted rights to participate in management) is permitted in France, where it is known as a *société en commandite*; in Germany, where it is known as a *Kommanditgesellschaft*; in England and in most American states. In both France and Germany, however, the rights of the members whose liability is limited may be represented by shares similar in all respects to those issued by corporations. Such a *société en commandite par actions* in France or *Kommanditgesellschaft auf Aktien* in Germany resembles a corporation at least one of whose members is responsible without limit for the debts of the corporation. In Pennsylvania and Michigan provision is made for quasi-corporations known as partnership associations, the liability of all the members of which is limited and which may issue stock certificates representing the interests of the partners; the certificates are, however, not freely transferable and members have the right to refuse to accept any transference as a member.

Special facilities have also been provided since 1892 in Germany and since 1900 in England for the further extension of the privilege of incorporation with limited liability to firms owned by a relatively small number of persons desirous of avoiding the publicity and regulation imposed upon corporations. Both the *Gesellschaft mit beschränkter Haftung* (G.M.B.H.) in Germany and the private company in England have a capital divided into shares. The shares of the former are not negotiable, the company having the right to control their transfer. The transfer of the shares of the private company must always be restricted. It may not invite public subscription to issues of shares or bonds nor may it permit the number of its stockholders to exceed fifty (subject to exceptions arising out of employee stock ownership) or to fall below two. The G.M.B.H. although intended for small enterprises has been more widely used than was anticipated, and many of the largest and best known German enterprises are organized in this form.

The most evident consequence of the employment of the principle of joint stock is the development of enterprises of enormous size under single control. In the sixteenth and seventeenth centuries, however, the opportunities it offered for the distribution of risk appear to have been more important. Political incapacity to provide for the security of property and the difficulties of transportation attached considerable risk to trade with distant parts; these risks were diminished by the establishment of large companies capable

of providing for the defense of their property and were more widely spread by the inclusion of a number of voyage risks within a single account and the facilitation of membership in a number of companies. The opportunities for fraud offered by the divorce of the control of property from its ownership in the joint stock company were first exploited on a large scale in the early years of the eighteenth century. Although two joint stock companies were incorporated in England in 1568 to engage in mining, it was not until the nineteenth century that changes in the technique of production involving division of labor and the employment of durable equipment upon a scale larger than ever before stimulated the general application of the principle of joint stock first to canals and railroads and later to manufacturing. The rapid and progressive increase in the size of corporate units gives rise to serious questions concerning the consequences of the increasingly wide separation of ownership from control and the progressive concentration of control. Theoretical analysis of these consequences has made little progress, and, partly in consequence, the problem of the proper policy of social control remains unsolved.

ARTHUR ROBERT BURNS

See: CORPORATION; CHARTERED COMPANIES; STOCKS; PARTNERSHIP; RIBBLES; SPECULATIVE.

Consult: United States, Library of Congress, Division of Bibliography, *List of References on Joint-Stock Companies*, Select List of References, no. 319 (1919); Scott, William Robert, *The Constitution and Finance of English, Scottish and Irish Joint-Stock Companies to 1720*, 3 vols. (Cambridge, Eng. 1910-12) vol. i; Lipson, Ephraim, *An Introduction to the Economic History of England*, 3 vols. (vol. i 4th ed., vols. ii-iii 1st ed. London 1926-31) vol. ii; Shannon, H. A., "The Coming of General Limited Liability" in *Economic History*, vol. ii (1930-32) 267-91; Berle, A. A., Jr., *Studies in the Law of Corporation Finance* (Chicago 1928) p. 59-63; Stockder, A. H., *Business Ownership Organization* (New York 1922) ch. vi; Liepmann, Robert, *Die Unternehmensformen* (4th ed. rev. Stuttgart 1928) p. 73-102; Liebel, Leonard, *Die wirtschaftliche Struktur der Gesellschaft mit beschränkter Haftung*, Betriebs- und finanzwirtschaftliche Forschungen, 2nd ser., vol. iv (Berlin 1931); Pic, P. J. V., *Des sociétés commerciales*, 3 vols. (2nd ed. Paris 1925-26) vol. ii, and vol. iii, sects. 1219-1734.

JOLY, CLAUDE (1607-1700), French political theorist. Joly first became a lawyer but at the age of twenty-four took orders and was later appointed canon of Notre Dame in Paris. He accompanied the duke of Longueville to the Congress of Münster and retired to Rome during the *Fronde*.

Joly's writings are characteristic of the intellectual unrest which marked the troubled period of the *Fronde* and which inspired the many timely political pamphlets known as *Mazarinades*. Among them his pamphlets stand out because of their synthetic and philosophic treatment of the problems of government. His most significant work is the *Recueil . . .*, which was condemned by the tribunal of the Châtelet. Joly maintained that this work was by no means factional but on the contrary conformed to traditional French political principles. Opposed to despotism, he declared that the people had actually instituted the kingship and that consequently kings derived their authority from them. This theory he attempted to reconcile by rather subtle arguments with the principle of the divine right of kings.

Since the royal power is derived and is therefore not unlimited, as self-interested counselors pretend, sovereigns cannot infringe upon certain individual rights specifically reserved to the people by a sort of pact between rulers and their individual subjects. Of these rights, Joly pronounced himself vigorously in favor of liberty of the press and of religious toleration as formulated by the Edict of Nantes. Moreover kings have no authority to impose taxes without the consent of their subjects. Fortifying his position with examples from history Joly held that every new tax should be submitted to the Estates General or in lieu of this institution to the *parlement*, which he believed had issued from it. The king moreover cannot undertake war without consulting his subjects. The people may also demand the dismissal of incompetent ministers—a statement which evidently alludes to Mazarin.

Joly offers few precise ideas for the practical reform of administration. He showed some hostility toward the institutions of the intendant and the governor and stressed the vexatious abuses of power by the military. On the religious question he favored the liberties of the Gallican church. Joly considered himself quite the opposite of revolutionary; nevertheless, as an adversary of the absolutist principles which triumphed under Louis XIV he is a precursor of the liberal writers of the eighteenth century.

HENRI SÉE

Important works: *Recueil de maximes véritables et importantes pour l'institution du roy* (Paris 1652; new ed. with two lettres apologetiques, 1663); *Traité des restitutions des grands* (Paris 1665, 2nd ed. 1680); *Le codicille d'or* (Paris 1665).

Consult: Brissaud, Jean, *Un libéral au XVII<sup>e</sup> siècle*,



Claude Joly (1607-1700) (Paris 1898); Kotowitsch, I. M., *Die Staatstheorien im Zeitalter der Fronde 1648-1652*, Zürcher Beiträge zur Rechtswissenschaft, vol. xlviii (Aarau 1913) p. 110-23; Sée, Henri *Les idées politiques en France au XVII<sup>e</sup> siècle* (Paris 1923) p. 108-23; Lacour-Goyet, Georges, *L'éducation politique de Louis XIV* (2nd ed. Paris 1923) p. 59-65, 233-39.

JONES, ABSALOM (1746-1818), American Negro religious organizer. In 1762 Jones, who was born a slave in Sussex, Delaware, came with his master to Philadelphia, where he was permitted to enter night school. In 1784 he was granted his freedom, but he continued to work for his former master and accumulated property of considerable value.

The Negro worshippers in St. George's Methodist Episcopal Church in Philadelphia, humiliated by the treatment accorded them, withdrew in 1787 under the leadership of Jones and Richard Allen and formed the Free African Society. The objects of the organization, which represents the first attempt in the United States at group organization by the Negro people, were the exercise of discipline over the personal lives of its members and the extension of mutual aid in the time of distress without regard to religious tenets. Divisions arose within the organization over religious attachments. Allen decided to establish the African Methodist Episcopal church, of which he became the first bishop. Jones sympathized with Allen but finally yielded to the opinion of the majority and affiliated with the Protestant Episcopal church. In 1791 the society changed its name to the Elders and Deacons of the African Church and in 1794 to the St. Thomas African Episcopal Church of Philadelphia. Jones was ordained to the priesthood in 1804; he was the first Negro priest of this denomination in the United States.

In 1793, when an epidemic spread throughout Philadelphia, Jones and Allen took the leadership in the organization of relief measures for the Negro population and later published an account of these efforts. Jones also founded and operated an insurance company, organized a society for the suppression of vice and immorality and with Allen and James Forten raised a brigade of 3000 Negro soldiers for the War of 1812.

CHARLES H. WESLEY

*Consult:* Jones, Absalom, and Allen, Richard, *A Narrative of the Proceedings of the Black People during the Late Awful Calamity in Philadelphia in the Year 1793* (Philadelphia 1794); Bragg, George F., *The First Negro Organization* (Baltimore 1924), and Richard Allen

and Absalom Jones (Baltimore 1916); Douglass, William, *Annals of . . . the African Episcopal Church of St. Thomas, Philadelphia* (Philadelphia 1862) p. 118-22; DuBois, W. E. B., *The Negro Church*, Atlanta University publications, no. viii (Atlanta 1903).

JONES, ERNEST CHARLES (1819-69), English politician. After a youth passed in aristocratic circles in Germany and England, Ernest Jones became a barrister and litterateur. An early tendency toward radicalism increased until he became in 1846 a leader of the Chartist movement, then approaching its final stage. As member of the Fraternal Democrats, an association largely composed of foreign refugees, he helped impart to Chartism an international outlook. While Jones made no important contribution to socialist thought, his leadership of the Chartist movement was characterized by a spirit of militant socialism which was intensified by direct contact with Karl Marx in the early 1850's. His newspapers, *Notes to the People* (1851-52) and the *People's Paper* (1852-58), propagated Marxian doctrines, especially that of the class struggle; and Engels said in 1869 that Jones was the only prominent English politician who thoroughly understood the socialist movement.

Failing to win over the mass of workers to a class struggle position, he adopted the program of a middle class political alliance. In 1858 he formed a manhood suffrage association of both classes which helped launch the movement that secured the franchise for urban workers in 1867. Throughout the agitation Jones was the uncompromising advocate of democracy and was the chief bridge between Chartism and working class radicalism. In the election of 1868 his strength with labor electors forced the Liberals to accept him as a candidate for Manchester; although he was defeated he received a large vote.

FRANCES E. GILLESPIE

*Consult:* Hovell, M., *The Chartist Movement* (Manchester 1918); Gillespie, F. E., *Labor and Politics in England 1850-1867* (Durham, N. C. 1927); Beer, M., *A History of British Socialism*, 2 vols. (London 1919-20) vol. ii; Rothstein, Theodore, *From Chartism to Labourism* (London 1929).

JONES, I. L. OYD (1811-86), British cooperator. A skilled tailor and trade unionist, Jones was converted to Owenite socialism in his twenties. His attitude to the labor movement was largely determined by the view that the central problem was "the relation of the workman to his work." As an Owenite missionary upholding the principle of "reason" he frequently clashed with Chartist leaders. Although indifferent to religion

he was attracted by those elements in Christian Socialism which stressed cooperative production and the importance of social as distinct from political evils, and he brought to this movement not only exceptional gifts of tongue and pen but a wide knowledge of the labor movement.

While he approved of arbitration and acted as union advocate in arbitration proceedings he opposed sliding scales and held that the overstocking of a market should be met not by reducing wages but by restricting supply. The maintenance of wage levels alone left untouched the social evils arising from the divorce of the workman from his work, and Jones asserted that to deal with these wider problems cooperation was necessary.

He was active in federating retail cooperative societies. He approved of the cooperative dividend and held that the main question of distributive cooperation was whether the shareholders would be willing to share profits with the workmen instead of treating them as mere "hands" and, if they did, whether they could make their capital remunerative in a competitive world. Distributive cooperation had, he said, broken down in generosity on this crucial point.

PERCY FORD

*Important works:* *Cooperation; Its Position, Its Policy and Prospects* (London 1877); *The Life, Times and Labour of Robert Owen*, ed. by W. C. Jones, 2 vols. (London 1890) with biographical sketch; *Progress of the Working Class*, written in collaboration with J. M. Ludlow (London 1867).

*Consult:* Beer, Max, *History of British Socialism*, 2 vols. (London 1919-20) vol. ii; Holyoake, G. J., *The History of Cooperation*, 2 vols. (rev. ed. London 1906) vol. i.

JONES, MARY (Mother) (1830-1930), American labor agitator. Mother Jones was born in Ireland of a working class family and came to America when she was six years old. After a series of misfortunes which left her destitute she was inspired by the Knights of Labor movement to become a crusader in behalf of American labor. In 1873 she took part in the strike of the Baltimore and Ohio Railroad employees and from that year until her death was actively associated with the labor struggle. For years she appeared in most of the major strikes, often by invitation of the leaders but many times by her ability to insinuate herself into a lead. She did most of her work among the miners, with whose union she remained closely associated all her life, and her work was particularly effective in West Virginia and Colorado, where as a result

of her complete fearlessness she was frequently in jail.

Essentially she was a revolutionist, although she never fully analyzed her own program or adopted any one revolutionary philosophy. She participated as effectively in strikes of the Industrial Workers of the World and other revolutionary bodies as in those of the ultraconservative unions of the American Federation of Labor, but from every platform she urged the workers to destroy capitalist society. She had no sympathy with woman suffrage or any other woman's movement, but she urged women to play their part in the class struggle and organized them into brigades for all strikes. Child labor was particularly abhorrent to her, arousing her to her most spectacular activities.

In the union office she was out of place, quarreling with officials, offering no constructive policy of her own and constantly violating union policy. It was in the field that she made her real contribution. With one speech she often threw a whole community on strike and she could keep the strikers loyal month after month on empty stomachs and behind prison bars. By virtue of her outstanding personality, intrepid daring and complete devotion to their cause Mother Jones captured the imagination of the American workers as no other woman has yet done.

TOM TIPPETT

*Consult:* *Autobiography of Mother Jones*, ed. by M. F. Parton (Chicago 1925).

JONES, RICHARD (1790-1855), English economist, cleric and administrator. Jones, who was educated at Cambridge, became professor of political economy at King's College, London, in 1833 and two years later succeeded Malthus at East India College, Haileybury, where he continued to teach until shortly before his death. Between 1836 and 1851 as a commissioner of tithes he played an important part in administering the act providing for the commutation of tithes, publishing various pamphlets on the subject; after 1851 he was active in other administrative capacities.

At a time when the Ricardian approach dominated English economic thought Jones asserted the claims of the historical method, stressed the significance of statistics and emphasized the influence of past experience and social institutions upon human behavior. He is best known for his attack upon the Ricardian theory of rent. He claimed that the pessimistic conclusion that rents could increase only at the expense of other in-

comes arose out of a confusion between proportions and absolute amounts and that the Ricardian assumption of diminishing returns ignored the inventive capacity of man and the effect upon production of increasing investment in capital equipment. Attributing Ricardo's theory to a too exclusive attention to English institutions he attempted to demonstrate by a comparative study of systems of land tenure the variety of influences determining rent. The first part of his *An Essay on the Distribution of Wealth and the Sources of Taxation* (London 1831) has been republished under the title *Peasant Rents* (London 1895). While his failure adequately to appreciate the concept of differential rent exposed him to attack, his emphasis upon property laws as a determinant of distribution has now been accepted by economists. Approaching the theory of production from the same standpoint he emphasized the influence of institutional factors in determining the reaction of the labor force to an increase in remuneration, advancing thereby powerful arguments against the contemporary view that increases in wages almost inevitably stimulate population growth. His analysis of the influences affecting the accumulation of capital, wherein he again took issue with Ricardo, was later elaborated by Sidgwick and Cannan.

Despite its freshness of approach the relatively minor influence of Jones' work must be attributed in part to the entrenched position of the Ricardian group but perhaps even more to the pressure of his teaching and administrative duties and to his disinclination to writing. He published no comprehensive and systematic development of his ideas; his lectures, occasional essays and comments were published after his death, together with a sympathetic memoir, by his admirer William Whewell as *Literary Remains* (London 1859). Despite repetition and lack of order they reveal an original and occasionally brilliant mind.

E. M. BURNS

*Consult:* Chao Nai-Tuan, *Richard Jones* (New York 1930); Ingram, John Kells, *A History of Political Economy* (London 1915) p. 139-42; Hilferding, Rudolf, in *Neue Zeit*, vol. xxx, pt. i (1911-12) 343-54.

JONESCU, TAKE. *See* IONESCU, TAKE.

JORDAN, DAVID STARR (1851-1931), American naturalist, educator and social philosopher. Jordan's contributions in various fields of natural science, notably in ichthyology, were reflections of his underlying interest in the relation

of the species to environment. In a number of works written between 1902 and 1915 he developed the concept of the devastating effects of war on the human species. Although this hypothesis had been anticipated by Darwin in 1871 and developed by Novikov in 1894, Jordan was the first to give it thorough scientific support. His thesis that war by reverse selection leaves the weaker and less heroic to perpetuate the race was not universally accepted by authorities but furnished effective ammunition against popular social Darwinism. Jordan's researches and reflections confirmed his faith in democracy as the necessary condition of world peace. While rejecting socialism he insisted that profits must be eliminated from the war system. Just as he desired the students at Leland Stanford University, which he organized in 1891 and of which he was president and later president emeritus, to have the greatest freedom of choice after all the facts had been presented to them, so he wished to promote peace by an enlightened public opinion. As a lecturer at home and abroad, as a director of the World Peace Foundation and as the recipient of the Raphael Herman Award he turned the attention of the peace movement toward fact finding techniques. His consistent and at times heroic work for international peace gives him a permanent place in the history of the effort to apply science to social problems.

MERLE E. CURTIS

*Important works:* *The Days of a Man*, 2 vols. (Yonkers, N. Y. 1922); *The Blood of the Nation* (Boston 1902); *The Human Harvest* (Boston 1907); *War's Aftermath* (Boston 1914); *War and the Breed* (Boston 1915); *War and Waste* (New York 1913); *The Unseen Empire* (Boston 1912); *Ways to Lasting Peace* (Indianapolis 1916); *Democracy and World Relations* (Yonkers 1918).

*Consult:* Evermann, B. W., in *Science*, vol. lxxiv (1931) 327-29; Rieber, C., "Apostles of World Unity: David Starr Jordan" in *World Unity*, vol. i (1927) 13-20.

JÖRG, JOSEPH EDMUND (1819-1901), Bavarian politician and Catholic publicist. Jörg served as assistant to Dollinger while engaged in historical studies which resulted in the publication of his *Deutschland in der Revolutions-Periode von 1522 bis 1526* (Freiburg i. Br. 1851). In 1852 he took over the direction of the *Historisch-politische Blätter* founded by Görres. From 1865 to 1881 he was a member of the Bavarian chamber, from 1874 to 1879 of the German Reichstag. He played a prominent role in Bavarian politics as leader of the patriotic People's party, which in 1869 secured the ma-

jority and brought about the fall of the liberal premier Hohenlohe. The party did not follow his lead, however, when in 1870 he opposed participation in the war with France and demanded an armed neutrality for Bavaria. He was likewise deserted by the party in 1871 when he repudiated the Versailles treaties for the foundation of the empire, which appeared to him an insufficient guaranty of the rights of Bavaria.

Jörg's basic political and social position was anti-Prussian and antiliberal. He had originally hoped that by agreement with Prussia there would be formed a Christian-German *Mittel Europa* under Austrian-Hapsburg leadership, in which Bavaria could have a strong position. In the unification of Germany under Prussian leadership through the policies of Bismarck he saw a threat to the independence of Bavaria, a mediocrization of all states by the house of Hohenzollern. Prussia appeared to him as a Protestant power and as the representative of a centralization directed against historical development and the cultivation of local peculiarities. Jörg's antiliberalism is displayed in a sharp critique of liberal economics. In his *Geschichte der sozial-politischen Parteien in Deutschland* (Freiburg i. Br. 1867) he welcomed the labor movement promoted by Lassalle, since it was directed against bourgeois liberalism, but definitely rejected Lassalle's general *Weltanschauung*. A healthy social reform, which preserves itself from excessive industrialism and consequent pauperism, he held, is possible only for a Christian society. Bismarck's socio-political legislation based on the state was contemptuously characterized by Jörg as centralistic and unmindful of the organic construction of society.

Jörg was gradually forgotten in the Catholic movement of Germany. No connection was possible between his position and the political and social evolution in which the Catholics in the Center party were cooperating through affirmation of the existing state and prominent participation in the construction of socio-political legislation. Only in late years since the crisis of 1918 in Bismarck's empire has there been a noticeable revival of interest in Jörg, especially in his unsystematically formulated critique of liberal economics interpreted as an actual critique of capitalism.

WALDEMAR GURIAN

*Consult: Wöhler, Fritz, Joseph Edmund Jörg und die sozialpolitischen Richtungen im deutschen Katholizismus* (Leipzig 1929), with an extensive bibliography.

JOSEPH II (1741-90), 1101y Roman emperor. Joseph II represents the purest type of enlightened despot. Even while coregent with his mother, Maria Theresa, he sought to put into practise the new concept of the state which he had learned from the example of Frederick the Great, from Voltaire and from the French *encyclopédistes* and physiocrats. The monarch must be the first servant of the state and devote himself to the welfare of the people. But in order to be able to fulfil his duties he must be absolutely sovereign; he must not be bound by either statute or privilege, by church authority or by ancient law and custom. It is incorrect to consider Joseph II as the forerunner of modern democracy and equally so to see in him only a violent absolutist. His significance lies in the fact that he tried to combine the idea of the welfare state with that of the authoritarian state.

His foreign policy was imperialistic. He favored the partition of Poland in 1772, took Bukovina from Turkey in 1775, helped incite the war of Bavarian succession in 1778 in order to put the house of Austria in possession of lower Bavaria, pursued the scheme of a Hapsburg-Wittelsbach exchange of territories (the Netherlands for Bavaria) in 1785, concluded an alliance with Catherine II against the Porte in 1781 and played with the idea of a division of the world between Austria and Russia with Rome and Constantinople as the capitals. In his rule of the empire he revived the centralistic imperial policy of Charles V and Ferdinand II, reformed the decadent High Court of Justice in Vienna and endeavored to break the power of the German princes.

In his internal policy also Joseph endeavored primarily to strengthen and increase the national potentiality. He created new administrative districts, placed in the cities magistrates appointed by the throne, instituted paid judges and new rules of judicial procedure. He forcibly united the various states in Austrian territory, making German the official language in Hungary in 1784. This emphasis of state authority led necessarily to conflict with the church. In place of an ultramontane church Joseph wished to institute an Austrian national church and to bring it securely under the control of the emperor. "Josephinism" is accordingly an exact parallel to the Gallicanism of the French kings. The state was to educate the priests, manage the church's patrimony, regulate the forms of service and through its placet allow or deny church ordinances. Contact between the religious orders and

the generals of the orders outside Austria was forbidden. Marriage was removed from the church's jurisdiction and considered a purely civil contract.

Even his ecclesiastical policy was guided by his concept of the welfare state. Religion was judged according to its civil utility: of the two thousand monasteries a third were abolished by the law of 1781 since they served only asceticism and represented therefore "dead human capital"; the Protestants, Greek Catholics and Jews were granted toleration by the Patent of Tolerance, 1781, because they were farmers and workmen performing necessary functions. The humane views of the Enlightenment bore fruit in all possible fields. Joseph introduced general compulsory schooling; he built the first national hospitals, founding homes and insane asylums, thus becoming known as "the good Samaritan on the throne"; he did away with torture and trials for witchcraft, punished dueling and exercised a very tolerant censorship. More important was the struggle against the aristocracy and the abolition of the serfdom of the peasants, who moreover were thenceforth to remain on their property not as owners but as free copyholders. If the new land taxes which Joseph had planned had been preserved after his death they would have altered the entire social structure of Austria by virtue of the heavy burden they placed on the estates of the nobility. His reforms, however, were without permanent results. After ten years of illustrious but precipitate rule Joseph, the public benefactor, lived to see revolution break out against him in Belgium and Hungary because of his disregard for the old constitutional privileges of Brabant and for the national autonomy of Hungary.

RUDOLF STADELMANN

Consult: Häusser, L., *Deutsche Geschichte vom Tode Friedrichs des Grossen bis zur Gründung des deutschen Bundes*, 4 vols. (4th ed. Berlin 1869); Heigel, T. von, *Deutsche Geschichte vom Tode Friedrichs des Grossen bis zur Auflösung des alten Reiches*, 2 vols. (Stuttgart 1899-1911); Mitrofanov, P. P., *Politicheskaya deyatelnost' Iosifa II* (St. Petersburg 1907), tr. into German by Vera Demelić as *Joseph II.: seine politische und kulturelle Tätigkeit*, 2 vols. (Vienna 1910); Bright, J. D., *Joseph II* (London 1897); Menzel, A., "Kaiser Josef II. und das Naturrecht" in *Zeitschrift für öffentliches Recht*, vol. i (1919-20) 511-28; Moog, G., "Die kirchliche Reform Josefs II." in *Internationale kirchliche Zeitschrift*, n.s., vol. vii (1917) 83-92; Ilwof, F., "Kaiser Joseph II. als Volkswirt" in *Preussische Jahrbücher*, vol. cxxix (1907) 277-301; Wolf, G., *Das Unterrichtswesen in Oesterreich unter Joseph II.* (Vienna 1880); Gnau, Hermann, *Die Zensur unter Joseph II.* (Strasbourg 1910).

JOSEPHUS, FLAVIUS (Joseph ben Matthias) (c. 37-c. 100 A.D.), Jewish historian. Josephus was a scion of the high priests of Judea. He spent two years, 64 and 65, in Rome moving in circles close to the emperor Nero and became imbued with a very strong faith in the power of the sovereignty of the Roman Empire. Moved by Jewish patriotism, however, he joined for a brief period the insurrection in Judea in 66 and commanded the insurgents in Galilee. But the first attacks by the Roman army convinced him of the utter uselessness of the struggle of a small country against the world empire and he left his own people, joined the camp of the Roman chief Vespasian and during the siege of Jerusalem assumed the role of mediator between the two fighting armies. After the destruction of Jerusalem and the devastation of Judea (70-73) Josephus went to Rome in the retinue of the conquerors and lived thereafter at the court of the emperors Vespasian and Titus. Here he wrote in Greek his remarkable historical works, which are among the foremost masterpieces of ancient rhetorical historiography.

In his first important work, *The Jewish War*, Josephus recounted the cruelties of the Roman procurators in Judea which had driven the people to revolt and told of his own participation in the defense of Galilee. He placed the entire responsibility for the struggle and the subsequent destruction of Judea, however, upon the party of fanatical Judean Zealots, who continued to fight Rome even after it had become evident that the struggle was doomed. His work was apparently inspired by the Roman conquerors and was intended to serve as a warning to other peoples in the East against opposition and revolt. In his *Jewish Antiquities*, motivated by the desire to magnify Jewish civilization in the eyes of the Gentile world, Josephus attained the level of a historiographer of national scope in linking his own epoch to the remote period of the rise of the Jewish people. In his rhetorical fashion he recounts the contents of the historical books of the Bible and on the basis of Greek sources which have not survived and from the Apocryphal books, *Maccabees*, he describes the Greek domination in Judea, the independent reign of the Hasmonaean, the reign of Herod and the Roman rule down to the last procurators. In spite of all the characteristic shortcomings of his historiographical method the presentation of the post-Biblical epochs in the two works of Josephus are of tremendous significance for the political and social history not only of Judea but of the

Graeco-Roman world in general. Josephus has saved from oblivion an extensive period in Jewish history and the sources pertinent to it. His works constitute a direct but more secularized continuation of the historical books of the Bible and of the Apocrypha. His autobiography is also of some social-historical interest as well as his apology for Judaism, *Against Apion*, in which he cites all examples of Judophobia in antiquity, particularly in the Jewish-Hellenic metropolis of Alexandria.

## SIMON DUBNOW

*Works: Opera*, ed. by Benedict Niese, 7 vols. (Berlin 1885-95); *Oeuvres complètes de Flavius Josephus*, tr. by Théodore Reinach, J. Weill, and J. Chamonard, vols. i-v, vii (Paris 1900-20); *Josephus*, original Greek text and translation by H. St. J. Thackeray, Loeb Classical Library, vols. i-iv (London 1926-30). The first part of the Slavic Josephus has been translated into German by Alexander Berendts and Konrad Grass, *Vom jüdischen Kriege, Buch 1-19, nach der slavischen Übersetzung*, 2 vols. (Dorpat 1924-27).

*Consult: Thackeray, H. St. John, Josephus, the Man and the Historian* (New York 1929); Laqueur, R. A., *Der jüdische Historiker Flavius Josephus* (Giessen 1920); Fonkes Jackson, F. J., *Josephus and the Jews* (London 1930); Niese, Benedict, "Der jüdische Historiker Josephus" in *Historische Zeitschrift*, vol. lxxvi (1896) 193-237; Schürer, Emil, *Geschichte des jüdischen Volkes im Zeitalter Jesu Christi*, 4 vols. (4th ed. Leipzig 1901-11), tr. by Sophia Taylor and Peter Christie, 5 vols. (2nd ed. Edinburgh 1886-90) vol. 1, p. 77-110. For the problem of the Slavic Josephus see Eisler, Robert, "Ἰστορία Βασιλείου οὐ Βασυλείου: Die messianische Unabhängigkeitsbewegung vom Auftreten Johannes des Täufers bis zum Untergang Jakobs des Gerechten . . .", 2 vols. (Heidelberg 1929-30), partly tr. by A. H. Krappe as *The Messiah Jesus and John the Baptist* (London 1931).

JOST, ISAAC MARCUS (1793-1860), Jewish historian. Jost was born at Bernburg in Anhalt and after attending the Samsonschule at Wolfenbüttel he continued his studies at the universities of Berlin and Göttingen. He was principal of a private *Gymnasium* from 1825 to 1834 and passed the rest of his life as teacher at the Jewish Philanthropin in Frankfurt on the Main. For two years from 1839 to 1841 he edited the *Israelitische Annalen* for the purpose of collecting materials for Jewish history.

Jost is deservedly called the father of Jewish historiography. With no predecessors except the Frenchman Basnage, whose compilation he utilized, he collected and worked over the various sources of Jewish history. A rationalist, Jost displays not the slightest throb of romantic exaltation in his discussion of even the most martyr crowded eras of Jewish history. His rationalist

convictions, however, did not prevent him from being conservative in his analysis of sources, particularly those of the Biblical epoch. Although he held the view that the Talmud was the cause of Jewish misfortunes he appraised this collective creation of the Jewish people as an important historical source. A skeptic by nature, he still defended the "good will" of the Christian rulers and kings toward the Jews in the period of their exile. The most important part of his historical work, all of which retains its full value as a historical source, is the section in which he deals with his own epoch, the years 1815 to 1846. The parts dealing with the Jewish settlements in Germany in the Middle Ages are also of pioneer significance.

Jost made no contributions to historical methodology and he did not evince the analytical keenness characteristic of Graetz. His style is dry, his descriptions devoid of animation and fantasy; but for a long period his works were the only sources from which the Christian world drew its information concerning Judaism and the Jews. In his social and religious beliefs Jost was a moderate assimilationist and a supporter of the moderate reform movement.

## JACOB SHATZKY

*Important works: Geschichte der Israeliten seit der Zeit der Maccabäer bis auf unsere Tage*, 10 vols. (Berlin 1820-47); *Geschichte des Judenthums und seiner Sekten*, 3 vols. (Leipzig 1857-59).

*Consult: Baron, S., "I. M. Jost the Historian" in American Academy for Jewish Research, Proceedings (1928-30) 7-32; Meisl, Josef, "Die jüdische Geschichtsschreibung" in Jude, vol. vi (1921-22) 283-96; Zirndorf, H., Isaac Markus Jost und seine Freunde (Cincinnati 1886).*

JOURDAN, ALFRED (1823-91), French economist. Jourdan was one of the small group of twelve professors appointed to teach political economy in the faculties of law in France when the subject was introduced in 1878. Apart from a mediocre work, *Épargne et capital* (Aix 1879), which is overloaded with moral and philosophical considerations and fails to achieve an exact analysis of the concept of capital, Jourdan left behind him two works on economics which are still read with interest. In *Du rôle de l'état dans l'ordre économique* (Paris 1882), crowned by the Institut de France in 1882, he develops the doctrine of individualism while avoiding the exaggerations of the orthodox school. A study of history, the laboratory of the social sciences, led Jourdan to conclude that the development of civilization is marked by a steady decline in state

regulation of economic activity. But at the same time that the state was abandoning direct economic paternalism it was engaging to an increasing degree in the task of providing the social facilities prerequisite to economic development, such as educational opportunities and social legislation. This double, parallel evolution expresses the law of progress. The recognition of this law led Jourdan to reject the extreme solutions of both socialism and uncompromising *anti-étatisme* and formulate the theory of moderate individualism. This "true" liberalism is notable for the support which it provided for the foundation of the *Revue d'économie politique* in 1887. Not allowing himself to be intimidated by the violent hostility of orthodox quarters, Jourdan accepted a post on the directing committee, where he represented, with Edmond Villey, the individualistic tendency, while Charles Gide and Léon Duguit supplied the note of interventionism and solidarism. In *Des rapports entre le droit et l'économie politique* (Paris 1885) Jourdan stressed the close relation of law and economics and argued that the two may be legitimately included in the same educational institutions.

GAËTAN PIROU

*Consult:* Waha, Raymond de, *Die Nationalökonomie in Frankreich* (Stuttgart 1910) p. 150-62; Gide, Charles, in *Revue d'économie politique*, vol. v (1891) 765-70; Schatz, Albert, *L'individualisme économique et social* (Paris 1907) p. 480-86.

JOURNALISM is one of the younger professions. Courants, gazettes and newshooks flourished in England and on the continent in the second quarter of the seventeenth century and there were more than twenty English newspapers by the time of the Restoration, but until the latter part of the eighteenth century journalism remained rather a business or an adjunct of politics than a true profession. Only in a very loose sense are journalists justified in regarding Addison and Steele, Defoe, Swift (who edited the *Examiner* in 1710), Franklin and Marmontel as early figures in their profession. Addison and Steele, Swift and Marmontel were men of letters, Defoe was a pamphleteer and Franklin was a versatile business man. Assuming that a profession deserves the name only when it stands alone, requires a distinctive training, employs men for a lifetime of single minded endeavor and has a fixed set of non-commercial standards and aims, the profession of journalism was scarcely born until after 1760. Between then and 1800 there were in both Europe and

America a small but steadily increasing number of journalists who were something more than printers, party hacks or literary men temporarily using a newspaper or magazine as a mouthpiece. By 1776 there were well established and important newspapers in Germany (the *Frankfurter Postzeitung*, *Vossische Zeitung*, *Hamburgischer Correspondent* and others) and in France (the *Gazette de France*, the *Mercure de France*), fifty-three newspapers were published in London and the American colonies had thirty-seven—a firm basis for development.

Beginning with 1760 or 1770, four stages may be marked in the professional evolution of journalism. The first was the achievement of that degree of freedom of speech which is essential to enterprise, dignity and independence. In the United States the revolution completely unfettered the press; in England the battles of John Wilkes and Henry St. John Woodfall for journalistic liberty, the establishment in 1771 of the right to print parliamentary proceedings and the passage in 1792 of Fox's Libel Act did almost as much; and on the continent the French Revolution had liberating effects. The second stage was the emergence of the press from party subservience to a broad appeal to the reading public. Until after 1815 the most important newspapers in Europe and the United States, apart from commercial gazettes, were supported by political groups. The ablest American editors, Philip Freneau and William Coleman, were set up by Jefferson and Hamilton respectively; the London *Public Advertiser*, in which the "Letters of Junius" appeared, the *North Briton* and the *Morning Post*, in which Coleridge's articles were said to have led to the rupture of the Treaty of Amiens, were all party organs; and in France Condorcet, Mirabeau and Brissot de Warville brought politics and journalism into the closest union. The divorce of the press from a servile dependence upon party took place first in the English speaking countries. It was achieved partly through political changes; partly by broadening the basis of newspaper support, the penny press of London about 1830 and of New York a few years later showing that the masses might be reached; and above all by an immense development of general news gathering at the expense of political articles. The enterprise of the Walter family in England and of James Gordon Bennett in the United States proved that far larger rewards might come from the sale of fresh and comprehensive intelligence than from that of party opinion.

The third stage in the development of the profession, that of individualistic leadership, witnessed the rise of a series of great editorial moulders of opinion. In the United States there were Greeley, Bryant, Dana and Godkin; in England Edward Sterling, John T. Delane and F. H. Hill; in France Lamennais and Prévost-Paradol. The profession now at its best level not only was dignified and lucrative but offered some great prizes in fame and influence. The leading Anglo-American editors exercised a power not inferior to that of the principal statesmen, and independence was an indispensable part of this power. On the continent and especially in France the professional journalist had close relations with the professional literary man, and in figures like Sainte-Beuve, whose essays appeared in the *Constitutionnel*, the *Temps* and the *Moniteur*, the two often became one. The fourth phase in the evolution of journalism witnessed a singular obliteration, at least in English speaking countries, of this individualistic leadership. Journalism was more and more affected by the vast proliferation of newspapers and other periodicals, the rise of news associations and syndicates, the increase in the semi-educated public, the ever growing demand for news over opinion and the heavier financial dependence on advertising. It became more of an impersonal mechanism—more complicated, more departmentalized and more standardized.

The professional character of the journalist has thus closely reflected social and economic changes from generation to generation. In the United States, for example, we find first a printer running a job-office and stationery shop in connection with a dingy weekly; then a party pamphleteer publishing long essays signed Brutus or Camillus; then an alert purveyor of news like the elder Bennett or a master of editorial thrust like Samuel Bowles; then a specialist sinking his personality in some department of a huge machine—answering to the cras of colonial provincialism, of eager political speculation, of pioneering individualism and economic laissez faire, and finally to the complex society of modern times. In Europe the evolution of the profession has similarly corresponded to that of society itself.

The journalist's early conception of his work in all countries lacked dignity. Dr. Johnson and others speak of the Grub Street hacks and political hirelings who infested the profession in England, and much French journalism during and after the Revolution was disgraceful. Bal-

zac's picture of the calling in *Les illusions perdues* is scathing. In the United States Bryant in the 1830's decried journalism as wrangling, brutal and vulgar; it attracted many ill trained men and Greeley thought a college education a positive disqualification; its ethical standards were weak and until long after the Civil War few American journals were closed to the more insidious forms of bribery; its relations to other callings were vague and it was widely regarded as a feeder to letters, law, politics or business. As reflected in literature, from Dickens' Jefferson Brick of the New York "Rowdy Journal" in *Martin Chuzzlewit* to Howells' Bartley Hubbard in *A Modern Instance*, the working journalist was likely to be a sorry figure. Some traditions of the printer-journalist era still survive and to many practitioners in all countries journalism is still a craft or "game." But as the profession has developed it has gained steadily in dignity. Lincoln greeted W. H. Russell of the London *Times* as he would have greeted a foreign minister, and in fact told him that the *Times* was the greatest power he knew except perhaps the Mississippi River.

The greatest recent change in the profession has been the specialization entailed by the complex task of gathering news from a thousand sources to satisfy a multitude of different demands. This specialization has gone furthest in English speaking countries, where newspapers are most bulky and comprehensive, but it is felt everywhere. Until the latter part of the nineteenth century the typical newspaperman was necessarily a jack-of-all-trades, as on small newspapers he must still be. But the large city daily of today from Buenos Aires to London includes two separate categories of specialized workers. Under the business manager (to use American nomenclature) are the advertising manager, circulation manager, promotion manager, mechanical superintendent and auditor, each with a force of skilled workers. The editorial department includes the editor and editorial writers—managing editor, city editor, telegraph editor, financial editor, dramatic and literary editors, sports editor and perhaps also the political editor, women's editor and real estate editor, with reporters and correspondents. News gathering now requires reporters skilled in some branch of human activity, such as politics, aviation or finance; expert rewrite men to handle not only copy from correspondents, press associations and other sources, but information telephoned from street reporters; and experi-



enced copyreaders. In metropolitan dailies headline writing, make up and feature writing are each assigned to specialists. Journalism in its larger definition now includes trade papers, magazines, sports papers, press associations, free lance writing and publicity work, and each of these also demands some special equipment. Thus training for the profession increasingly requires not only a general education and some talent or flair, but technical knowledge of a particular kind. Nearly all newspapermen have mastered a set of fundamental tools; the best must learn to master some unique tool as well.

As in law and medicine specialization has meant a steady increase in the tuition period, the establishment of schools and college courses to prepare men for the profession, a sharper distinction between the expert and the amateur and more insistence within the calling upon standards of ethics, dignity and accuracy. Journalists in all countries are still largely recruited from high schools, trade schools and general college courses, but they must go through a protracted apprenticeship. In some countries this apprenticeship has taken on a fairly formal character. In Austria, for example, the beginner enters as an "editorial stenographer" (roughly what the Anglo-American press calls a copyreader) and mounts the rungs.

Since 1900 there has been an almost world wide debate upon the value of schools of journalism, many defending such schools as making for a more expert profession and others declaring that practise is the best training and that schools will force a host of untalented and ill adapted men into the calling and lower the conditions of employment. It is in the United States that schools of journalism have been most highly developed. The first was founded in 1908 at the University of Missouri; others rapidly followed in other state universities; in 1912 the Pulitzer School was established at Columbia University; and in the same year the American Association of Teachers of Journalism was organized. By 1930 more than fifty American colleges and universities were offering full curricula in journalism, and hundreds of single courses were being given in other colleges and in high schools. The average annual number of graduates of schools of journalism in the years preceding 1932 approached 1000. Initial distrust has been largely overcome and until the depression which began in 1929 employment was easily found. The special training had largely justified itself.

In other countries the development was later but almost equally rapid. In Germany during the ten years after the World War schools of journalism were established in sixteen universities, two technical schools and five higher commercial schools; some, like the institute of journalism at Heidelberg, are notable for thoroughness. The University of London in 1919 opened a cycle of courses in journalism leading to a diploma in two years. The British National Union of Journalists at first distrustful of such schools has recently attempted to promote courses in journalism in various centers and has arranged university courses for the supplementary education of newspapermen already practising their profession. Australian universities have developed courses in journalism and the University of Queensland offers a special degree; several Canadian universities have schools like those of the United States; and there is a school of journalism at the University of Madras. In Italy one of the five sections of the Fascist Faculty of Political Sciences created at Perugia in 1928 is devoted to politics and journalism. The International Labour Office in 1928 found that special education, while still experimental, is making progress the world over.

Professional organization like professional training is as yet new and uneven. In numerous countries it received a strong impulse from the economic difficulties which journalists experienced after the World War. But there are parts of Europe in which journalism is as yet scarcely a full time profession; in Spain, for example, it is carried on largely by men in other callings who make it a spare time employment. Organization is impeded in other countries and especially in the United States by the fluidity of the profession, which finds recruits everywhere and whose members are highly migratory. The strongest professional organization numerically is the National Union of Journalists in Great Britain which was founded in 1907 and twenty years later numbered nearly half of the 10,000 working journalists of the country. It has followed a resolute trade union policy and is affiliated with the Printing and Kindred Trades Federation. Australia also has a strong Journalists' Association with a trade union character. In Germany the Reichsverband der Deutschen Presse divided into twenty regional unions had a membership of about 4400 in 1928 and has been able to do much in safeguarding the social and economic interests of the members. Organization in Italy has a considerable history,

culminating in the establishment in 1925 of the *Sindacato Nazionale Fascista dei Giornalisti*, partly political and partly trade union in character. The only comprehensive French organization is the *Syndicat des Journalistes*, numbering about 1200 members in 1927, which has a defensive economic aim. Various efforts have been made in American cities and in Canada to form professional bodies of a trade union character, but they have uniformly broken down. In Europe and Australia not a little has been accomplished in negotiating collective agreements on hours, salaries, holidays and the settlement of disputes; uniform contracts have sometimes been drawn up, and in Austria, Hungary, Italy and a few minor countries protective legislation has been obtained.

The opportunities and rewards of the newspaper profession, although uncertain and irregular, have manifestly risen in recent years. The great body of working journalists probably receive a little less than the general body of doctors and lawyers and a little more than the general body of teachers. In France in 1926 the *Syndicat des Journalistes* obtained a Paris agreement that journalists of two years' experience should receive not less than 1200 francs monthly. In Berlin a journalist may not be paid less than 440 marks a month. The highest pay is found in English speaking countries. In Great Britain in 1921 the National Union of Journalists negotiated a minimum weekly salary of £5/15 for its members working in cities of more than 250,000 people and £5/3 for members on dailies in towns of less than 100,000. Some London journalists have munificent incomes. In New South Wales and Victoria an agreement of 1924 fixed salaries for three categories of journalists, ranging from £5/19 weekly for juniors on evening metropolitan dailies to £10/12/6 for seniors on morning dailies. American reporters are in general given small salaries, but the best rewards run very high. In New York City in 1929 salaries to department heads and special writers reached \$500 a week, and in a typical city of 500,000 they were \$225 a week; noted syndicate writers make from \$40,000 to \$100,000 a year; one or two column writers make even more; "accounts executives" in advertising departments on metropolitan dailies make \$25,000 to \$75,000 a year; exceptional men in the fields of publicity and "comic strip" illustration may have an annual income between \$100,000 and \$150,000. The chance of obtaining an exceptional income and the fear that a minimum wage

would also become a standard wage have been among the chief forces militating against a trade union movement in America.

Journalism is notoriously a harassing and exhausting profession. Hours are long and on morning journals often extend to 2 or 3 a.m. The frequent changes in proprietorship, the numerous consolidations of newspapers in the United States, Great Britain and the dominions, the revolutionary upheavals in ideas on the continent have all made employment precarious; and the working life is short, many men being worn out at fifty. Press associations in France, Germany, Austria and Great Britain have made active efforts to deal with unemployment, but no such assistance is given in the United States. Provident institutions of a professional character are numerous in Europe; Great Britain, Germany, Italy, France and other countries possess mutual aid funds which furnish old age pensions and often unemployment and sickness benefits. They are unknown in Australia and the United States, although a number of large American papers have instituted insurance funds for their own employees and there are two American homes for aged journalists, one founded by the second James Gordon Bennett. Better provision for professional casualties is in general a crying need in the newspaper world.

For the dignity and repute of the profession nothing is more important than the organized promotion of good ethics and accuracy. There is in all countries a large field for improvement in this respect. The venality of much of the French press has been exposed in repeated scandals. It is matched in other Latin countries of Europe and South America. In the United States vulgarity, slovenliness and sensationalism are far greater evils. The most honest, sober and intellectually respectable journalism is that of Great Britain, where a long line of journalistic leaders have established traditions of continuing power. Professional standards there are watched over by the Institute of Journalists, founded in 1880 by royal charter and including newspaper proprietors as well as workers. The National Union of Journalists with its monthly organ the *Journalist* also gives effective attention to the subject. The United States has no similar body, although there is manifest room for a journalistic counterpart of the American Bar Association or Medical Association. State and national associations of newspaper publishers, maintained for many years, have confined themselves mainly to business ob-

jects. The American Society of Newspaper Editors founded in 1922 had a membership two years later of 174 editors in cities of 50,000 or more, but it lacks scope and authority. At its second meeting in 1923 a code of ethics dealing with independence, truthfulness, accuracy, impartiality and decency was adopted, and although it had more resonance than practical value it marked a beginning. In 1912 the first National Newspaper Conference, addressed by many leaders, was held at the University of Wisconsin. In 1914 the second conference met at the University of Kansas and others met subsequently. State press associations have adopted codes of ethics. One valuable force for honesty in American business offices is the Audit Bureau of Circulations which carefully audits publishers' statements of circulation and issues standardized and accurate statistics for the benefit of advertisers. Bills introduced in state legislatures to license journalists in the same fashion as doctors and lawyers have invariably failed. Several newspapers, notably the New York *World* in its last years, have set up bureaus of accuracy and fair play. The old evils of bribe taking and blackmailing have largely disappeared in the United States. But newspapers are frequently unjust to individuals and news of libel suits is tacitly but systematically suppressed in most newspaper offices. Many journals color or suppress news to suit their advertisers; there is much mendacity, distortion and sensationalism in weaker parts of the press and particularly among the "tabloids" or small size dailies; and a subcommission of the New York State Crime Commission declared in 1927 that many newspapers made heroes of criminals, tried cases in their columns and influenced adolescents to emulate crooks and gangsters.

As a profession journalism the world over suffers from the brevity of its history and a consequent lack of firm traditions; from the process continued generation after generation of annexing new bodies of readers by establishing journals which reach out to the ignorant, illiterate and vulgar minded; from the frequent difficulty of reconciling the objects of the editorial departments with those of the counting room; and from the great recent tendency in many countries toward consolidating rival newspapers, suppressing individuality of tone and making the surviving journals commercial in character. A constant struggle is required to maintain or elevate journalistic standards. In Great Britain and the United States, the two countries where

journalism has counted for most, persistent complaints of deterioration have been heard in recent years. Yet materially the newspaper has had and is still having a prodigious development. Great strides have been made since 1900 in developing a specialized education, in bringing into existence professional organizations of a trade union character and in improving both the economic status and the general repute of the profession. It has more esprit de corps than before, manifest in local, national and even world associations; it presents a steadily widening range of openings for individual talent; in some directions it is more progressive than heretofore. It furnishes less of strong personal leadership and striking individual talent than it did in the nineteenth century, but as a routine occupation for a great mass of workers it is slowly rising to better levels and offering increased attractions.

ALLAN NEVINS

See: PRESS; PROPAGANDA; PUBLICITY; PUBLIC OPINION; CENSORSHIP; FREEDOM OF SPEECH AND OF THE PRESS; PROFESSIONS; PROFESSIONAL ETHICS.

Consult: International Labour Office, "Conditions of Work and Life of Journalists," *Studies and Reports*, ser. 1., no. 2 (Geneva 1928); Flint, L. N., *The Conscience of the Newspaper* (New York 1925); Rogers, Charles E., *Journalistic Vocations* (New York 1931); Bleyer, Willard G., *Main Currents in the History of American Journalism* (Boston 1927); Bent, Silas, *Ballyhoo, the Voice of the Press* (New York 1927); Carr, C. F., and Stevens, F. E., *Modern Journalism* (London 1931); Bömer, Karl, *Bibliographisches Handbuch der Zeitungswissenschaft* (Leipzig 1929); Bourdon, G., and others, *Le journalisme d'aujourd'hui* (Paris 1931); Botscharow, J., *Die Entwicklungsgesetze der russischen Presse, 1621-1928* (Moscow 1928).

JOURNEYMEN'S SOCIETIES were created in the period of the decay of the mediaeval craft guild by artisans (*valets*, *varlets* or *compagnons* in France; *Gesellen* in Germany; journeymen or yeomen in England) who had completed their apprenticeship but had not attained mastership. In theory at least the mediaeval guild had united journeymen and masters, treating them not as fixed classes but as two different stages in the development of any competent artisan. But with the first appearance of capitalism and the drive toward the attainment of a monopoly of the sources of private gain the masters deprived the journeymen of representation in the guild assemblies. In the cloth industry, which because of its technique and commercial position was the first to assume a capitalistic character, the differentiation into classes began not later than the

fourteenth century. By the sixteenth century a permanent class of journeymen had been created throughout western Europe. Various devices were contrived by the masters and through them by the government to place the mastership virtually beyond the reach of journeymen. The period of apprenticeship was extended; according to the provisions of the English Statute of Artificers (5 Eliz., c. 4), for instance, it was fixed at seven years. Dues and entrance fees were increased and more costly gifts and banquets demanded of candidates for the mastership. The masterpiece, which the prospective master was obliged to furnish everywhere on the continent as well as in several crafts in England, became a virtually prohibitive requirement, as it was made progressively more costly and difficult to achieve. The journeyman might with difficulty rise to the intermediate rank of small master. But the latter class was subjected to the same treatment, until by the seventeenth century it consisted almost entirely of wage earners. The masters of the *corps de métier* in France and of the livery companies in England came to form closed oligarchies tending to bequeath their jealously guarded monopolies from father to son. Sometimes as a direct result of their elimination from all influence in the guild, sometimes, as in Paris in 1530, by special decree, the journeymen—now unhonored *gens mécaniques*—were ousted from the government of the city. The maltreatment of them occasionally took a violent form, as at Chester in 1358; and there is evidence that they were persecuted by law throughout Germany and at Paris, Châlons, Rouen, Amiens and Troyes in France.

In self-defense the journeymen began to form independent associations with their own chiefs and treasuries. The early *compagnonnages* in France, particularly those in the southwest, had a religious, charitable character, like the *Bruderschaften*, which were the first *Gesellenverbände* in Germany. In the fifteenth century fraternities of journeymen or yeoman cordwainers, saddlers, tailors and other craftsmen were founded in London and later in other English cities. Through these organizations the journeymen were able to defend their position in the companies, an aim which they pursued first in cooperation with the small masters and then independently. From 1434 the Blacksmith Company in London was forced to accept the presence in its midst of a special organization of journeymen.

The journeymen's societies soon undertook the surveillance of handicraft. Such superin-

tendence had been initiated in Paris in 1406, when the masters filed a complaint that every journeyman arriving in the city had to regale the other workers in a roisterous holiday at his expense. Especially in Germany and France the working population was largely mobile. The idea that the workman must travel in order to perfect his moral education and his professional training was deeply embedded; if he were a mason, for instance, he had to see the famous monuments. The obligation to travel, the *Wanderschaft*, seems to have been first introduced in Germany, probably in the fourteenth century; in that country the period sometimes lasted as long as five years. The *tour de France*, as the same requirement was called in France, was still practised in the middle of the nineteenth century, as evinced by Agricol Perdiguer's *Le livre du compagnonnage* (1839) and George Sand's *Le compagnon du tour de France* (1840). In each town that he visited the young journeyman had to register at the *Herberge* of his craft—in France the innkeeper's wife was called the mother of the journeymen—and then to present the password to the secretary of the society, who provided him with work or, if none was available, with funds to continue his travels (*viaticum*).

Out of these practices there evolved a complex and, to outsiders, mysterious ritual. Assumed names, cryptic gestures and words, the wearing of colored ribbons and the carrying of canes provided means of identification. Elaborate festivals were held; a system of dues, fees and fines was established; "secret" correspondence was conducted between the various local branches of the craft. The ceremony of initiating new members under pledge of secrecy represented a naïve imitation of the church cult. Through these rites a connection has been traced between the journeymen's society and the origins of Freemasonry. The name is thought to have derived from a fraternity of *freie Maurer*; according to one theory the *freie Maurer* founded in the thirteenth century at the Cathedral of Strasbourg constituted the first *Bauhütte*, or lodge, of the order. The myths of the French societies are strongly suggestive of a link with Freemasonry. Divided into three large groups or *devoirs* on the basis of their legends and professed genealogy, the *compagnonnages* claimed descent from the Order of Templars or even more remotely from the architects of the Temple of Solomon. The most likely hypothesis is that the intellectual societies created in England and

Scotland in all probability at the end of the seventeenth century took over the rites and symbols of the journeymen builders together with the name of Freemasons.

Because of the secrecy involved the symbolism of the societies inevitably aroused suspicion and led to charges of sacrilege. In 1655 after information had been furnished by spies of the *Confrérie du Saint-Sacrement*, a society of the devout which served the interests of the employers, the Sorbonne condemned the French *compagnonnages* as impious. The political authorities pursued them also as disturbers of the peace—an accusation not without some foundation since the members of the rival *devoirs* were constantly squabbling and sometimes engaged in sanguinary battles.

The picturesqueness of the journeymen's societies has tended to divert attention from their essential purpose. Primarily they were organs of workers' defense against nascent capitalism. Through their hold over the traveling worker upon his arrival in town the societies could attempt to monopolize the placement of workers and to exercise an indirect control of the labor market. When their demands were refused, they withheld a supply of workers from the masters and sometimes even from an entire city. Similarly, those workmen were banned who disobeyed the orders of the group, failed to pay their assessments or agreed to work at bargain rates. The societies, in short, conducted an organized persecution of scabs. The masters found themselves at odds with the societies if they exceeded the number of apprentices authorized by the rules of the trade, thus diminishing the number of paid workmen, or if they reduced wages, nominal or in "bread, meat and drink." The complaint of the printers of Lyons in 1539 included both charges; the cloth workers of London petitioned against the first action in 1568, 1574 and 1577, on the last occasion eliciting the reply from the Court of Assistants—the title of the oligarchical councils of the English guilds—that "they must come to their work at such time as they ought to do by the ordynance of this house, and to do their work justly and truly as they ought to do, and to be content with such reasonable fare." A third object of protest on the part of the societies was the excessive length of the working day.

These conflicts frequently ended in strikes, called variously monopoly, *taquehan*, *tric*, *cabale*. During the thirteenth century the cloth workers struck at Rouen, Provins and Beauvais.

The great printers' strike which broke out at Lyons in 1539, ten years after the general rebellion of the *secte artisanne* of the same city, spread to Paris in 1541 and was finally settled only in 1571. These strikers had a strike fund and an almost military type of organization and the strike was punctuated with outbursts of violence. It was against such activities as well as for religious reasons that the *Confrérie du Saint-Sacrement* organized devout, docile workmen into *bons compagnonnages*, which became genuine strike breaking societies. In general government was at all times and in all places hostile to journeymen combinations. The Imperial Decree of 1731 provoked by the strike of the Augsburg shoemakers was one of innumerable attempts at suppression made by the German authorities. In England immediately after Elizabeth's comprehensive statute on industrial regulation journeymen were condemned for having "unlawfully consulted and assembled together from their master's service." In France journeymen combinations were prohibited in 1539 by the royal decree of Villers-Cotterets, which was many times reissued under the *ancien régime*. During the revolution the Law of Chapelier of 1791, making it a crime for citizens of the same profession and for any workmen to organize or to attempt to regulate their alleged interests, was dictated by fear of journeymen's strikes, particularly in the food industry and builders' and carpenters' trades. All the laws in France against combination down to 1864 and against association down to 1884 may be connected with a similar fear.

Explicable partly by the emergence of large scale industry, partly by the universalization of the *Wanderpflicht*, a general federative movement linking up local societies into powerful organizations set in sometime before 1700 and lasted until the end of the eighteenth century. This provides at least one explanation for the survival of the societies in the face of the intermittent hostility which they aroused. In Germany, where the *Wanderpflicht* had become established earliest, great federations spreading a network sometimes over the entire nation had been created in the sixteenth and seventeenth centuries. Letters patent of 1777 state that throughout France the paper makers, who were particularly susceptible to the movement because of the scattered distribution of the paper mills along the waterways, "have united in a general association by means of which they control the industry as they please." In eighteenth century

England on the eve of the modern trade union movement the journeymen hat makers had a widely ramified organization. The London Felt-makers' Company consisting of the master employers registered a denunciation in 1777 of a journeymen hat makers' combination, "called a Congress," which made by-laws for the whole trade and had a system of fines and sanctions. The comparatively veiled activities of the hatters during the century eventuated in 1798 in the formation of the Journeymen Hatters' Trade Union of Great Britain and Ireland, which is still in existence. Sometimes the federation exceeded state limits; for instance, the hat makers of Brussels were in correspondence with their fellow craftsmen in French towns.

After temporarily subsiding during the revolution the French journeymen's societies revived and gave the imperial administration as well as the Restoration government more than one occasion for concern. But the progressive development of the factory system and of machine technique, the emergence of specialization, standardization rendering the *Wanderschaft* superfluous, as well as internal weaknesses arising from exclusivism and feuds with rival societies, made journeymen's societies increasingly insignificant. Since the advent of the trade unions they have lost all influence in France as in England, although traces of them are to be found even today. Associations formed among the workers of various trades in America toward the end of the eighteenth century took the name of journeymen's societies. The primary object of most of these early American societies was mutual aid and benefit, but during the first half of the nineteenth century many American journeymen's societies organized strikes. In Germany *Gesellenvereine* still exist, for instance, among the bakers, while the journeymen's committees, *Innungen* and craft guilds recognized by the *Gewerbeordnung* of 1929 represent vestiges of the old institution. The Catholic *Gesellenvereine*, founded at Elberfeld in 1845 and at Cologne in 1853 by Adolf Kolping, "father of the journeymen," reckon more than 300,000 members and are in correspondence with a Kolping Society of America.

Admitting only able and conscientious artisans, the journeymen's societies set for their members a high standard of workmanship as well as of moral conduct. They improved and diffused the techniques of industry. In general they were animated by a lively fraternal spirit which found expression not only in festivals but

in a generous expenditure from their treasuries for purposes of mutual aid and in the establishment of funds for non-interest bearing loans. They rather than the craft guilds are to be regarded as the real forerunners of the trade unions. While their protests against the employers were comparatively sporadic, they occupied a position in the defense of labor for which no other organization before the trade unions competed.

#### HENRI HAUSER

See: GUILDS; APPRENTICESHIP; HANDICRAFT; TRADE UNIONS; LABOR.

Consult: Kulischer, J. M., *Allgemeine Wirtschaftsgeschichte*, Handbuch der mittelalterlichen und neueren Geschichte, pt. iii, 2 vols. (Munich 1928-29); Schanz, G., *Zur Geschichte der deutschen Gesellen-Verbände* (Leipzig 1876); Stieda, W., "Zur Geschichte des deutschen Gesellenwesens" in *Jahrbücher für Nationalökonomie und Statistik*, vol. xxxiii (1879) 334-39; Schanz, G., and others, "Gesellenverbände" in *Handwörterbuch der Staatswissenschaften*, vol. iv (3rd ed. Jena 1909) p. 662-80; Wissell, R., *Des alten Handwerks Recht und Gewohnheit*, 2 vols. (Berlin 1929); Hauser, H., "Les compagnonnages d'arts et métiers à Dijon aux XVII<sup>e</sup> et XVIII<sup>e</sup> siècles" in *Revue bourguignonne*, vol. xvii (1907) no. iv; Marex, G. des, "Le compagnonnage des chapeliers bruxellois" in *Société d'Archéologie de Bruxelles, Annales*, vol. xxiii (1909) 137-244; Allier, Raoul, *La cabale des dévots* (Paris 1902); Brentano, Lajo, "On the History and Development of Guilds and the Origin of Trade Unions" in *English Guilds*, ed. by Toulmin Smith (London 1870); Ashley, W. J., "Journeyman's Clubs," in his *Surveys, Historic and Economic* (London 1900) p. 249-62; Unwin, G., *Industrial Organisation in the Sixteenth and Seventeenth Centuries* (Oxford 1904); Renard, G. F., and Weulersse, G., *Le travail dans l'Europe moderne* (Paris 1920), tr. by M. Richards as *Life and Work in Modern Europe* (London 1926); Commons, J. R., and associates, *History of Labour in the United States*, 2 vols. (New York 1918).

JOVELLANOS, GASPARD MELCHOR DE (1744-1811), Spanish statesman, economist and educator. Jovellanos studied philosophy, theology and law at the universities of Oviedo, Ávila and Alcalá. In 1767 he was appointed magistrate in Seville and eleven years later was transferred to Madrid. He served as minister of justice under Charles IV in the year 1797-98. Because of his political affiliations he was twice exiled. He refused the Ministry of the Interior which was offered him after the French invasion by Joseph Bonaparte and became a member of the Junta Central for Asturias, collaborating actively in the work preparatory to the Cortes of Cadiz. In his *Memoria en que se rebaten las calumnias . . . contra los individuos de la junta central* (2 vols., La Coruña 1811) he propounds his conception of

the ideal state: a limited constitutional monarchy in which the executive, legislative and judicial powers are clearly separated.

Jovellanos is identified in general with the group of enlightened Spanish statesmen of the eighteenth century who sought to improve the economic position of Spain. He was distinguished for his encyclopaedic learning and wrote poetry and drama as well as innumerable treatises on economic and political questions. Although he accepted in general the theses of the liberal school of economists he frequently offered opinions in contradiction to their teachings. His chief work in this field is his famous *Informe . . . en el expediente de la ley agraria* (Madrid 1795, new ed. Gijón 1891), a report made to the Supreme Council of Castile for the Sociedad Económica of Madrid. The document, still a classic in Spain, contains a clear and methodical exposition of the obstacles to Spanish agricultural progress, obstacles including not only the nature of the soil and adverse climatic conditions but also existing law and custom. To remedy the situation he advocated irrigation and improved roads, the break up, for sale or lease, of the commons and waste lands, the abrogation of the privileges of the Mesta and the education of the peasants. He favored free trade in grain within the country but objected to its export and believed that its importation should be limited. In *Informe que dió á la junta de comercio y moneda sobre el libre ejercicio de las artes* (Madrid 1785) Jovellanos urged the abolition of the craft guilds, maintaining, however, that some regulation of the crafts was necessary.

Conscious of the needs of practical and technical education, he founded the still existing Real Instituto Astoriano in Gijón and organized the curriculum, which in addition to mineralogy, mathematics, physics and the nautical sciences included courses in modern languages, history and geography. Jovellanos himself wrote a number of the textbooks, covering a variety of subjects. His *Reglamento* (Salamanca 1790) for the Imperial College of Calatrava outlined the most complete plan of studies to be found at that time in Europe. Jovellanos held that with the extension of the suffrage popular education became a social necessity and that the government must provide it.

C. BERNALDO DE QUIRÓS

*Works:* *Obras publicadas e inéditas*, ed. by Candido Locedad, Biblioteca de Autores Españoles, vols. xlv and l (Madrid 1858-59).

*Consult:* González Blanco, E., *Jovellanos, su vida y su*

*obra* (Madrid 1911); Juderías y Loyot, J., *Don Gaspar Melchor de Jovellanos* (Madrid 1913); Artigiano y de Galdácano, G. de, *Jovellanos y su España* (Madrid 1913); Yaben Yaben, H., *Juicio crítico de las doctrinas de Jovellanos en lo referente á las ciencias morales y políticas* (Madrid 1913); Villar Grangel, D., *Jovellanos y la reforma agraria* (2nd ed. Madrid 1925); Bareño, F., *Ideas pedagógicas de Jovellanos* (Gijón 1910); Mérimée, E., "Études sur la littérature espagnole au XIX<sup>e</sup> siècle: Jovellanos" in *Revue hispanique*, vol. i (1894) 34-68. For a complete bibliography of works by and about Jovellanos consult Somoza de Montsoriñ, J., *Inventario de un jovellanista* (Madrid 1901).

JOWETT, BENJAMIN (1817-93), English scholar and educational leader. Jowett was tutor of Balliol College, Oxford, for twenty-eight years and master for another twenty-three. His fundamental educational principles were sympathetic intimacy between tutor and pupil, strict but unmechanical discipline, examinations which would be selective of ability and acceptance of the obligations of corporate life. He urged the opening of all doors to poor students of intellectual promise and worked for the extension of secondary and adult education. His devotion to Balliol was unsparring and his labors for its improvement endless: he enlarged buildings, spending much of his own money on the college; encouraged athletics; fostered the teaching of physical science; inaugurated intercollegiate lectures; reduced expenses for poorer men. During four years as vice chancellor of the university (1882-86) he safeguarded the beauties of the parks, drained the floods, accelerated the production of the Oxford *New English Dictionary*, encouraged oriental studies and the drama.

Jowett believed strongly in the vitality of classical culture; and his translations of Plato (1871), Thucydides (1881) and the *Politics* of Aristotle (1885) are classics in themselves. His theological writings, however, exposed him to suspicion of heresy. Although he remained unshaken in the innermost chamber of personal faith he was a rationalist in criticism of formulated dogmas. He held that the perfect liturgy will contain no creeds and that the spirit of Christianity is not always identical with the letter of the Bible. Such views, which were first apparent in his edition of the epistles of St. Paul (. . . *Epistles to the Thessalonians, Galatians, Romans*, 2 vols., London 1855; 2nd ed. 1859), were very distasteful to orthodox opinion, but established a place for him among the leaders in modern Biblical interpretation.

MICHAEL E. SADLER

*Consult:* Abbott, E., and Campbell, L., *Life and Let-*

ters of Benjamin Jowett, 2 vols. (London 1897); *Letters of Benjamin Jowett*, ed. by E. Abbott and L. Campbell (London 1899); Stephen, Leslie, *Studies of a Biographer*, 4 vols. (London 1891-1902) vol. ii, p. 123-59; Montefiore, C. G., "The Religious Teaching of Jowett" in *Jewish Quarterly Review*, vol. xii (1899-1900) 299-377.

JUÁREZ, BENITO PABLO (1806-72), Mexican statesman. Juárez, a pure blooded Indian of peasant stock, was educated in the law. In 1855 an uprising of mestizo and provincial interests against the church and the great landowners expelled the dictator Santa Anna and initiated a great Mexican reform movement, which Juárez supported; he became minister of justice and chief justice and when intrigues brought about the downfall of the reform government proclaimed himself acting president. He achieved victory in the bloody War of the Reform from 1858 to 1861 and expelled the papal nuncio and other ecclesiastics who resisted his decrees. The clericals and monarchists sought foreign support for their cause, but Juárez met the joint military intervention of Great Britain, France and Spain in 1861-62—ostensibly for the purpose of collecting debts and reparations for damages suffered by their nationals in the civil conflicts—with dignified and prudent negotiations. When the French remained behind to wage a war of conquest in the clerical interest and to establish a Hapsburg empire under Maximilian, he displayed a courageous and untiring resistance, which contributed toward a great development of the national consciousness. The initial measure of the reform was the so-called Juárez Law of 1855, which practically suppressed the military and ecclesiastical tribunals as class courts. More anticlerical legislation followed and a national convention established the liberal, federal constitution of 1857, the basic document, in spite of all vicissitudes, of Mexican political life down to 1917. During the civil war Juárez promulgated a comprehensive group of reform laws, which in part confirmed previous legislation and which together with other measures confiscated the immense landed holdings of the church, dissolved the monasteries and convents, proclaimed the separation of church and state, secularized the cemeteries and made marriage a civil contract. His government also enacted measures contemplating the creation of a class of small landowners. Upon the downfall of the empire Juárez reestablished the federal and republican regime; he was elected constitutional president in 1867 and reelected in 1871. Al-

though his administration showed less concern with implanting a genuinely popular and constitutional government than with its continuance in power, he negotiated advantageous treaties, strove to keep the military in their place and gradually restored a considerable degree of civil order. Today he is revered by most Mexicans as their greatest national hero and the champion of their popular rights. Some, however, have condemned the rather onerous conditions which he accepted in 1859 as the price of recognition by the United States and many have questioned the wisdom of the occasionally radical application of the principles of liberalism and individualism, as developed in Europe and the United States, to Mexico, with its large aboriginal population and its religious and collective traditions.

CLARENCE H. HARING

*Works:* *Archivos privados de D. Benito Juárez y D. Pedro Sontacilia*, vol. i— (Mexico 1928—), containing autobiographical material; *Exposiciones*, compiled by Ángel Pola, Biblioteca Reformista, vol. v (Mexico 1902); *Discursos y manifestos*, compiled by Ángel Pola, Biblioteca Reformista, vol. vi (Mexico 1905).

*Consult:* Burke, U. R., *A Life of Benito Juárez* (London 1894); Zayas Enriquez, Rafael de, *Benito Juárez, su vida, su obra* (Mexico 1897); Búlness, Francisco, *El verdadero Juárez y la verdad sobre la intervención y el imperio* (Paris 1904), and *Juárez y las revoluciones de Ayutla y de reforma* (Mexico 1905); García, Genaro, *Juárez: refutación a Don Francisco Búlness* (Mexico 1904); Balbás, Manuel, *Los destructores de Juárez*, vol. i— (Mexico 1916—); Pereyra, Carlos, *Juárez discutido como dictador y estadista* (Mexico 1904); Priestley, H. L., *The Mexican Nation, a History* (New York 1923) p. 322-27, 331-44, 348-70, and 375-76.

JUBAINVILLE, HENRI D'ARBOIS DE (1827-1910), French historian, philologist and jurist. D'Arbois de Jubainville was the founder of Celtic studies in France. Archivist at Troyes from 1852 to 1880, he published numerous works on the archives and the archaeology of the Aube and a seven-volume history on the counts of Champagne from the fifth to the fourteenth century. In order that he might understand the origins of France he learned the Celtic languages and became a philologist and historian of antiquity. In this new domain he attracted universal attention with a great work, *Les premiers habitants de l'Europe* (Paris 1877; 2nd enlarged ed., 2 vols., 1889-94). The chair of Celtic was created for him at the Collège de France in 1882, and he became a member of the French Institute in 1884. He was the author of many articles on Celtic philology and published a *Cours de littérature celtique* (12 vols., Paris 1883-1902), of



which seven volumes were composed by him, the others by his pupils.

Since his youth d'Arbois de Jubainville had been interested in the history of law. He had indeed begun by studying law at the *École des Chartes*. He now returned to the law by way of philology and published a famous work, *Recherches sur l'origine de la propriété foncière et des noms de lieux habités en France* (Paris 1890). Thereafter he occupied himself almost exclusively with Celtic law, which he alone was equipped to study at its sources since he was both Celtist and jurist. He devoted particular attention to Irish law, especially the *Senchus Mór*. His "Études sur le droit celtique" (vols. vii-viii of *Cours de littérature celtique*) and his *La famille celtique* (Paris 1905) are among his most important works in Celtic law. As historian he dissipated many of the fantasies concerning the ancient Gauls, and as jurist he put the study of Celtic law upon a scientific basis.

PAUL COLLINET

*Consult:* Collinet, Paul, in *Nouvelle revue historique de droit français et étranger*, vol. xxxiv (1910) 399-403; Loth, J., in *Revue celtique*, vol. xxxii (1911) 453-74; Morel-Fatio, A., in *Revue internationale de l'enseignement*, vol. lxvi (1913) 162-75, and 245-55; Chénou, Émile, in *Société Nationale des Antiquaires de France*, Paris, *Bulletin* (1912) 69-120, with bibliography.

**JUDAISM.** Nineteenth century historians of religion, especially Christian historians, have used the term Judaism to denote the religion of the Jews since the time of Ezra (c. 444 B.C.) in contrast to the pre-exilic religion, which they called the religion of Israel. This attitude was prompted primarily by the belief that postexilic Judaism was a retrogression, due to foreign influences, from the teachings of the prophets and that the true prophetic tradition was continued in the religion of Christianity. Closer study of the sources has revealed more and more clearly, however, that Judaism is but a continued development of the teachings of the prophets. Like every other religion Judaism passed through a certain historical evolution, throwing off old elements and acquiring new ones. Foreign influences were always operating—from the earliest influences of Egypt, Babylonia, Assyria and Persia through the Hellenistic period, the contacts with Arab culture in the Middle Ages, the humanistic tradition of the Renaissance down to the influence of Protestantism on the development of reform Judaism. One or another aspect or tendency may have been especially stressed or become dominant, but until the close of the

eighteenth century there was never a radical break with the main tradition and characteristic form which Judaism assumed during the period from Ezra to Akiba (c. 135 A.D.). Rather it was constantly reinterpreted in the course of centuries and adhered to with astonishing fidelity.

The most primitive form of the religion of Israel was developed probably during the nomad period. It was characterized by a belief in demonic powers and spirits, by distinctions between clean and unclean animals and by adherence to certain death customs. It already contained, however, the germs of the ethical ideas later developed by Moses and the prophets, and monolatry rather than polytheism prevailed. With the entry of the Hebrews into Canaan and their development as an agricultural people came also a development of a cultus marked by sacrifices, festivals and sanctuaries. This period is also marked by a struggle between the religion of Yahweh and the continued attempts at incorporating the worship of local deities.

It was in connection with this struggle that there appeared in Israel a group of men unique in the history of the ancient world who brought the development of the Hebrew religion to its highest point. The prophets were men of diverse social classes whose authority was based on the fact that they were responsible to their God alone and who were independent and courageous enough to proclaim what had been revealed to them, even though their prophecies announced serious disasters involving the ruin of the whole nation or the destruction of the temple. Their teaching was marked by a pure ethical monotheism and universalism, a passion for social justice and a repudiation of the sacrificial cult as the most distinctive mark of the Hebrew religion. But the prophets were never able to establish the complete supremacy of their ideas and the cruder forms of popular belief persisted side by side with these more spiritualized religious and ethical precepts.

After the Babylonian exile the leadership of the people became hereditary in the priestly house of Zadok. By this time too the Law had been reduced to writing and through the efforts of Ezra and the traditional Men of the Great Synagogue had been restored as the most essential factor in the Hebrew religion. This Mosaic law circumscribed the activities of the priestly class and became the most effective means of making the teachings of the prophets the inheritance of the individual. The task of furthering this usage of the Torah (Law) was assumed by

a new order of scribes, who came from the people and who by their personal qualifications proved their fitness for this high calling. The prestige of the scribes grew especially during the period when the hereditary priesthood temporized with the inroads of Hellenism. The scribes assumed the leadership of the middle class and peasantry in a successful fight for the preservation of their national and religious integrity. When a new priestly class developed which gathered about it the Sadducee aristocracy and founded a new dynasty, they were challenged by the pietists of the middle class, now known as Pharisees, who continued the tradition of the scribes. The Pharisees set up an ideal based on the democratic belief in universal priesthood and on the conviction that man's entire life and activity should be permeated by a sense of piety. It was at this time too that the concept of an oral tradition in addition to the written law came to the fore. The Pharisees, in opposition to the Sadducees, affirmed the divine and binding character of the oral law as developed by the scribes and the rabbis. Although this doctrine was at first vehemently contested by the various sects yet it was this doctrine more than anything else that preserved the vitality of the Torah and made possible the development of Jewish life. The Pharisaic conception was the only one that was able to maintain itself after the fall of the Jewish state and the destruction of the temple. The teachers of the Torah became henceforth the unchallenged leaders of the people.

The Pharisees, later known as tana'im and then as amoraim, were likewise men of diverse social classes; they were kept together and enabled to exert their influence over the people by their common work and ideal. It was they who transmitted and developed the oral tradition and it was their doctrine and their opinions that became decisive for the Jews of the whole world. Their decisions determined the laws, customs and religious ceremonies of Jewry. These, however, were never promulgated in either dogmatic or mandatory form; they were accompanied by statements of the controversies and discussions which their formulation had required, in order that later generations might be able adequately to understand the mind and will of their predecessors.

The opinions and decisions of the tana'im and amoraim are contained in what has come to be known as the Talmud, a vast encyclopaedic storehouse of legal opinions, controversies and

decisions; of ethical precepts and maxims; and of legends, history and traditions, which received its definite written form about the year 500. Only a secondary place was given in the Talmud to the treatment of religious creed, for in this sphere considerable latitude was allowed. Chief attention was directed to the practises which were to regulate the legal and ritual life of the Jews. With the exception of the Karaites, who, beginning in the eighth century, formed a separate sect and refused to recognize the validity of the oral tradition, all the Jews willingly submitted to the authority of the Talmud. The initial success of Karaism (today it has about 12,000 adherents) was of short duration. The whole movement soon became culturally petrified. The principles of rabbinical Judaism, on the other hand, made possible a continuous cultural development. The Talmud met with recognition but never with blind worship; no matter how strong the bonds of tradition, alert and eager commentators and codifiers always started afresh and by their work tried to do justice to the changes in social and cultural conditions. Because there were no rigid and absolutely binding rules of interpretation and no central or final authority, each commentator decided on the basis of his personal convictions how much weight to give to the work of his predecessors. In most cases, however, the commentators endeavored to find substantiation for their views in the Bible and the Talmud or in the work of a previous rabbi; it was seldom that they dared to contradict an uncontested opinion in the older literature. Codification of the vast material soon proved to be necessary, but even the *Mishna Torah* of Moses Maimonides (1135-1204), which is distinguished for its completeness and logical unity, did not meet with general approval. The *Shulchan Aruch* of Joseph Caro (1488-1575) also aroused great opposition at first, but it was gradually accepted after the glosses of Moses Isserles (died 1572) had been incorporated into it and after it had been further modified and reinterpreted by numerous commentators. In orthodox circles the *Shulchan Aruch* thus amended still enjoys decisive authority. The critical attitude toward it which Chassidism originally assumed was soon abandoned and its authority was submissively acknowledged.

Traditional Judaism as developed in the Talmud, the rabbinical literature and codes of the succeeding ages came to regulate the entire life of the Jew. Judaism made no distinct cleavage

between the sacred and secular aspects of life. Problems of morality, family life, hygiene, dietetics, business relations, sexual life, education and dress as well as of the more distinctly religious elements of ritual were encompassed within the range of rabbinic authority. All the legal minutiae were created by the rabbis as a "fence around the Law" to assure the preservation of the essential features of Judaism. Attacks have been made on this legalism of rabbinic Judaism, but it was this body of doctrine that supplied the independent Jewish communities scattered throughout the world with what Heine called a "portable fatherland," with a common possession which gave to the entire Jewry a common consciousness and a stamp of unity. This traditional literature of the Jews was the source both of the cultural life from which they derived their spiritual unity and of their continued cultural and spiritual progress. The system performed a further service for Judaism in identifying religion with the earthly life and in general removing the religious struggles within Judaism from the realm of dogma to that of the concrete, thus liberating human energy for human activity.

Side by side with the development of rabbinic Judaism there developed a doctrine of mysticism known as the Kabbala. Indications of these mystic strains in Judaism are already evident in the Talmud and in the Midrashic literature. The first important book of the Kabbala was the *Sefer yetzirah* (Book of creation), which became current about the ninth century. Kabbalistic literature continued to be developed among the Jews of France and Germany and in the sixteenth century flourished especially in Palestine, where it was cultivated by the schools of Moses Cordovero (1522-70) and Isaac Luria (1535-72). The *Zohar*, a work of unknown authorship, which became current in the fourteenth century, came to be considered as the most sacred of Kabbalistic writings. The Kabbala was developed along two lines. On the one hand it flourished as a metaphysical system concerned with the doctrine of divine emanation, with the concept of God as the Infinite (*En-Sof*), with the ten intermediaries, or *sefirot*, of God and with the doctrine of transmigration of souls (*gilgul*). Alongside of this speculative mysticism there developed a practical Kabbala which stressed the sinfulness of human nature, built up a system of demonology and magic, encouraged asceticism and was above all concerned with Messianism and the problem of the salvation of

Israel. It was this Messianic strain which inspired the later activities of Sabbatai Zevi and the Frankist sects. In a very much modified form the Kabbala was also one of the sources of the movement of Chassidism (*q.v.*). Related to the Kabbala was the didactic literature (*musar*) which grew up to satisfy the more emotional needs of the masses. The *Sefer chassidim* of Samuel Chassid (1115-80) and his son Judah Chassid (1150-1217) is the most typical example of this aspect of Judaism. It is a mixture of noble ethical principles with popular superstitions concerning evil spirits and demons. Generally speaking, both of these currents served as reactions to overdeveloped rationalism and as a correction for the overassertion of legalism. They had distinct social roots also, in that their appeal was greatest among the more humble classes.

The religious institutions of the Jews varied with the different periods of development. The centralization of the cultus at Jerusalem during the period of the first kingdom resulted in the displacement of the old local sanctuaries by the temple in Jerusalem. The temple became the central religious institution of Jewish life where all the important rites were to be performed. During the Babylonian exile the Jews preserved their religious traditions in assemblies where the scriptures were interpreted, the psalms or other religious poems recited, confessions made and prayers said either collectively or individually. This gave rise to a new religious practise, the prayer service, which from a casual and purely exilic device became a permanent practise recognized in Palestine and one of the most important innovations in the field of religion. There was brought into being a form of religious service which was independent of consecrated places, buildings, objects, classes and persons and which requires only the will of a group.

These assemblies knew no distinctions of rank; all their members no matter whether they were natives or strangers were treated as equals; even women were at first not excluded from the performance of certain functions. With these congregations the Jews created an extremely mobile type of institution. The synagogues, which were centers both of religious worship and of learning, accompanied the Jews in all their migrations, springing up spontaneously everywhere. It is from Judaism that its two offshoots, Christianity and Islam, borrowed this religious institution.

The prayer service acquired such an impor-

tance in Jewish life that it found its way also into the temple at Jerusalem; and when the temple was destroyed for the second time, the synagogue, this "sanctum in miniature," was sufficiently popular to offer in its devotional practices a substitute for sacrificial services. The victory of the secular synagogue was by this time complete, despite the few survivals of temple customs and the slight privileges which were granted "for the sake of peace" to the descendants of the old priests. The emergence of a class of professional readers was caused not by a desire to create a consecrated caste but by the technical needs of recitation. Even today all synagogal functions are open to every member of the community. The difference between laymen and ministers which characterized the synagogue in the last century marks a definitely backward step.

Evidence of proselytizing efforts on the part of Jews is found as early as the Exile period. During the Hellenistic period Jewish missionary activity was carried on through the Jewish literature in Greek, through the synagogue with its readings from the Bible and through personal influence, especially of the Jewish merchants. Conversion to Judaism was quite frequent during the early years of the common era. After the triumph of Christianity Jewish proselytizing was carried on chiefly in non-Christian countries, like Arabia and Abyssinia. The conversion of the Chazars is the most important instance of mass conversion to Judaism. A more subtle form of proselytizing is evidenced in the Judaizing sects of Protestantism and those of Russia. It was not until the time of Moses Mendelssohn that the doctrine was formulated whereby no one not born into the Jewish religion should be converted to it.

An attempt to construct a generalized statement of the leading social and ethical doctrines of Judaism is made difficult by the fact that the Bible and rabbinic literature abound in conflicting statements and opinions which can be used to support contradictory views on the same problems. The difficulty is intensified also by the absence of any central authority or court of last resort in the formulation and interpretation of religious problems. Certain leading principles have, however, been fairly constant; and in instances where earlier conflict existed one or the other opinion has come to be stressed and accepted under the influence of external conditions and the historical experiences of the Jewish people.

The basic idea of Judaism is its belief in revelation, that God revealed Himself to the people of Israel, that He disclosed to them His nature and will and that He made a covenant with them. The idea of God in Judaism is a direct continuation of the Mosaic concept of Yahweh as a single spiritual God of whom nothing but Being is predicated, and who is never worshiped in the form of images or statues. This doctrine precluded all polytheism, all worship of female deities with its consequent lasciviousness, all worship of animals and of the heavenly bodies. It forbade the worship of nature with its good and evil forces. It forbade child sacrifice, prohibited every form of magic and witchcraft and rejected ancestor worship and ancestor incantations.

The major prophets conceived of Yahweh as perfect and holy, as the principle of all spirituality; that is, as the one and only God. They dedicated all their efforts to supporting this conception and to eliminating all anthropomorphic elements from Judaism. There was thus established a solid foundation for the monistic conception of God and for the repudiation of all anthropomorphism which was able to withstand the force of foreign influences during the period of the Exile. No definite attitude was ever adopted concerning the question of angels and demons. The scribes paid little attention to them; following the old Biblical writers they regarded them simply as "messengers" and "instruments" of God. In the popular imagination, on the other hand, these beings grew in number and significance because of Babylonian and Persian influences. They were regarded by the people after the fashion of the retinues of earthly kings at court although still as subordinate creatures of God, whose unity was not thereby in the least impugned.

In Greek culture Judaism for the first time came into contact with a systematic and philosophic doctrine of God. The antithesis between immanence and transcendence, the dualism between God and the world, was most keenly perceived by the Greeks, who solved the difficulties involved by assuming the concept of a mediator. Greek culture gave rise to Philo's doctrine of the Logos—the Son of God—and also to the gnostic conception of the demiurge—God the Creator who, because He is an emanation from the perfect, infinite and fathomless God, is able to bring about a union with the material world. These doctrines of the mediator and the Son of God created an impassable gulf

between Christianity and Judaism. Gnosis was of course revived and further developed during the Middle Ages, especially in the Kabbalistic tradition, when the belief in God seemed too abstract and the way from God to man too long and difficult. The gnostic solution was preceded by a philosophic examination of the problem of the divine attributes, finally solved by Moses Maimonides. In order to preserve the idea of the strict singleness and unity of God, Maimonides resorted to the assumption that only negative propositions can be predicated of God and that even these negations can have only a figurative meaning. It is true that the philosophy of Maimonides and the study of philosophy in general met with strong opposition in rabbinical circles and that the Kabbala with its appeal to the human imagination became highly popular. But the doctrine of a God devoid of all plurality or corporeality remained henceforth dominant and incontestable.

This concept of God always carried with it the germ of universality. The prophets especially preached such a universalism. They proclaimed their God as the judge over all the nations in the whole earth; alien nations are instruments in God's hand for meting out punishment to Israel. The universal significance of the concepts "world" and "humanity" became much clearer during and after the Exile and Judaism was transformed from a community based upon blood into a confession. National ideals were preserved but this did not interfere with the belief in the ultimate union of all humanity, as is strikingly illustrated by the attempts to interpret certain of the Jewish religious ceremonies as symbolizing a time when all nations will be united and equal; for example, the seventy sacrifices performed on the Feast of Tabernacles were interpreted as representing the seventy nations of the globe.

Cult and rites were without significance in the religion of Moses; the Decalogue does not mention them. Fanes, altars and places of pilgrimage did not exist and the prophets radically questioned the existence of a sacrificial cult during the desert period. But in Canaan the conquerors found a widely ramified and extensive cult of fertility deities, whose favors were sought after by all kinds of gifts, magical devices, festivals and orgies. In this way pilgrimages, sacrifices and rites became popular among the Israelites and were as far as possible incorporated into the ideas of the covenant and assimilated by it. These practises gained ground rapidly. Cult

centers, particularly royal ones, acquired also political influence. The prophets fought not so much against the cultus as such as against the attempts to attach to it intrinsic value, to regard it as a fulfilment of the terms of the covenant. The polemic of the prophets, which is found also in certain psalms, was instrumental in eliminating cult centers but not in abolishing sacrifices, which remained the joy and the support of the simple man. According to the statement of Maimonides, the Torah sanctioned sacrifices and rites as a concession to the low cultural level of the people of that time.

With the destruction of the temple at Jerusalem in 586 B.C. the sacrificial cult was eliminated; the Exile allowed only for the performance of those rites which were independent of the temple; Sabbath and circumcision were regarded as signs of the covenant and their observance and practise were granted also to non-Israelites. But neither temple, priests nor sacrifices were altogether given up; only sacrifices ceased to be a matter concerning the priests alone, for the lay community demanded and obtained the right to participate in these rites and even raised the necessary expenses through a poll tax. More than this, prayer gained for itself a place of equality with sacrifice and after the Dispersion completely replaced it.

Since the days of Mosaism the idea of obligation toward one's fellow beings has been ascendant in Judaism. The system of law introduced by Moses was not the morality of the master class but of free citizens possessing equal rights. It demanded recognition of man by man. It created the ideal of "the fellow being" and of "the neighbor." This system of morality sprang from the experience of the Jew as an alien, even as a slave in Egypt, and demanded respect for human dignity. The oldest Biblical collection of laws, the *Book of the Covenant*, was undoubtedly influenced by the code of the Babylonian king Hammurabi. It greatly resembles it in systematic arrangement but towers above it in its enlightened social views. While Hammurabi, for instance, conceived law in accordance with wealth and social position, while he applied the *lex talionis* literally and allowed its brutality to fall upon the shoulders of innocent people, Israel practised the doctrine of equal rights for all and recognized the *lex talionis* only as a general principle to be sparingly applied. Post-exilic Judaism finally abolished it entirely, substituting a money fine. The prophets of Israel raised thundering accusation against injustice

and oppression of every sort. Not that social conditions among the Jews were worse than in other countries nor that Israel was ever threatened by a social revolution, but the Jewish conscience was more sensitive; social injustice weighed more heavily upon it because it was regarded as a sin against God and a denial of His covenant. The morality of the prophets has subsequently become incorporated into the morality of civilized humanity. Under its influence Israelite legislation assumed that social and charitable character which comes to light especially in *Deuteronomy*. Special attention was given to the protection and care of the propertyless and the alien (metic). God was regarded as the avenger of the poor, the father of the orphans and the friend of the metics. Since the Law wished to restrict wealth and to prevent poverty or at least to mitigate it as far as possible, the propertyless were given the right to share in the crops. Legal procedure and the administration of justice were based on principles of humanity and mildness; labor and service contracts were inspired by a highly developed social spirit. The humanization of society was developed systematically in post-Biblical Judaism. The word *tsedaka* came to designate works of charity, thus making it an obligation to aid the needy. In all Jewish communities there was established a well ordered system of poor relief, for which regular taxes were raised; and even today many Jews willingly pay the traditional tithe from their income for welfare work.

The institution of slavery was never officially abolished in Judaism. A distinction was made between a Hebrew and an alien slave. The former was permitted to sell himself for only a limited number of years. If at the expiration of his servitude he still desired to continue in his master's service he was forced to undergo the ordeal of the "boring of the ear" and to serve his master forever. Rabbinic interpretation later provided for his release in the jubilee year. The slave was taken into the family and humane treatment of him was prescribed by law. The Jewish community always made strenuous efforts to redeem a Jew who was enslaved by a non-Jew. The attitude toward pagan slaves differed little from the attitude generally prevalent in the ancient world, but mildness and considerate treatment were recommended.

The most important social laws in Judaism are those which are connected with the Sabbath ideal. Whatever the influence of the Babylonian *Sapattu* may have been upon the Sabbath insti-

tution, it was only in Israel that the idea acquired a great social importance. After six days all work must cease, even such important labor as plowing and harvesting; and not only must the master celebrate but also the slave, the metic and even the cattle must have their rest. After six years a fallow year is declared for the soil; the fields are not cultivated, the grapes are not gathered, whatever grows uncultivated belongs to the poor of the locality; debts are canceled so that poverty shall not oppress the people. After seven times seven years a jubilee year is declared for all the inhabitants of the country; in this year all the slaves become free, even those who have voluntarily entered into servitude. The soil is reapportioned and reverts to the tribe; for it is considered essentially that the land belongs to God, that men are only God's servants and metics, that they can therefore sell only the yearly produce, never the soil. The regulation concerning the jubilee and its revolutionization of property relationship was never completely carried out, but its principle proved an ever effective exhortation for a more just distribution of wealth and a means of preventing the impoverishment of the masses.

The acquisition of wealth and riches although not glorified in itself was never expressly condemned. Except as found in isolated ascetic writings the idealization of poverty as found, for example, in Francis of Assisi and the mendicant orders is absent in Jewish religious ethics. The rich were, however, enjoined to consider their wealth as a trust from God and were to use it for the relief of their fellow beings. In the matter of business relations a strict ethical code was enforced which forbade any resort to trickery and dishonesty in relations with non-Jews as well as with Jews. The Bible and the Talmud allowed the Jews in their dealings with strangers certain privileges that were forbidden them in dealings with Jews, and many Jews during the Middle Ages and modern times have doubtless practised a double code of business ethics; generally speaking, however, the mediaeval rabbis ruled that this had applied only to the old pagan peoples and explicitly emphasized the fact that it had no validity for the monotheistic peoples in whose midst the Jews of the Diaspora live. The didactic books like the *Sefer chassidim* especially emphasized the need for rigid ethical relations with non-Jews.

Interest on loans to a Jew either in kind or in money was expressly forbidden. Post-Biblical Judaism interpreted this law with extraordinary

vigor and forbade any transaction which bore even the remotest resemblance to usury. *Deuteronomy* allowed interest to be taken from the stranger (XXIII: 20); but some of the rabbis, basing their view on the verse in *Proverbs*, "He that by usury and unjust gain increaseth his substance, he shall gather it for him that will pity the poor" (xxviii: 8), inferred that no interest is to be taken even from the alien (*Baba metzia* 70b, and *Makkoth* 24a). Moses Maimonides' assertion that the taking of interest from aliens was made obligatory by Biblical law has generally been repudiated; Maimonides himself declared that this exaction had finally been abolished by rabbinical decision. With the increased participation of the Jews in money lending and the growth of capitalism a legal fiction in the form of a contract, known as a *shetar isska*, was developed whereby the taking of interest was made possible even from a Jew. This resort to legal fictions was often utilized in later Judaism as a means of modifying the rigor of the law to meet the realities of new social and economic development.

Political theory occupies a relatively insignificant place in Jewish religious doctrine. This is perhaps accounted for by the fact that the Jews have lived almost continuously under foreign rule. In ancient Israel the monarchic form of government was at first accepted with an aversion which was a natural result of rankling memories of oppression; but the idealized conception of David surrounded royalty with a poetic halo, and the perfect state of the future came to be associated with the rule of a scion of the house of Jesse. The prophets were interested in their country only when it aimed to achieve righteousness and justice. Postexilic Jewry adjusted itself to foreign rule and lived under its laws with resignation, altogether indifferent to ruling power. The Pharisees also combated the Jewish rulers of Israel whenever they violated the laws of the Torah. The yoke of Rome, "the Kingdom of Evil," was borne with reluctance, but a *modus vivendi* was finally worked out. The compromise of Jesus, "Render to Cesar the things that are Cesar's, and to God the things that are God's," was probably chosen by the great majority of the Jews. It was only a relatively small party, that of the Zealots, which refused to recognize any other master but God, and its rebellion against Rome resulted in the loss of Jewish political independence. The Jews began to lose interest in political life and to yearn for the days of the Messiah in which God will restore the

ideal world kingdom and in which Israel will enjoy full freedom and will have the rank of *primus inter pares* among the nations. In the meantime the Jews felt that they were in Galuth (Diaspora); a Palestinian teacher of the third century maintained that God made the Jews swear that they would not revolt against the nations among whom they were destined to live and promised that the latter in their turn would not oppress them over much (*Kethuboth* 111a). With this the principle of loyalty toward the state was established, provided it did not jeopardize the integrity of the Jewish religion. The Babylonian teacher Mar Samuel coined the expression *Dina demalehutha dina*, which made the civil law of the state valid, thus enabling the Jews to submit to alien legal rule and to take the oath in alien courts with an easier conscience.

Ancient Jewish life was not devoid of a warlike spirit. Yahweh was characterized as a "man of war." The prescriptions of the Torah with regard to the extermination of the Canaanites and the story in the book of *Joshua* describing the manner in which it was carried out were extremely cruel expressions of the resentment engendered by the fact that the absorption of the Canaanitish population was slower than anticipated. The progress of religious ideas among the Jews is attested by the peaceful spirit that pervades the stories of the patriarchs and by the Deuteronomic prescriptions with regard to humanizing warfare. Despite the fact that the prophets lived in mortal dread of the Assyrian military power they proclaimed the ideal of eternal peace. The ideal ruler of the future, it was foretold, would be a prince of peace. Jewish tradition transformed King David from a warrior into a pious hero who leads his herd in the ways of God. The Talmud repudiates every war of aggression and sanctions only wars of defense. When the Hasmoneans wished to build the Jewish state on a military basis, the Pharisees opposed them with their pacifist ideal. The leaders could not prevent the people from giving free vent to their passions in bloody revolts, but the latter persistently clung to the Messianic ideal and regarded their struggle against Rome as the birth throes of a better and more ideal day. The destruction of their political independence robbed the Jews of all military ambitions; the state laws even excluded them from military service. World peace was and still is one of the most fervent of the Messianic hopes of Judaism.

The family in Judaism is considered as the corner stone of Jewish communal life. Its pur-

pose is not only to propagate but also to promote moral adhesion between its component members. Marriage is ordained by God; therefore woman, who like man was created in His image, was allotted her place in this world in order that she might be "a helpmeet for him." Polygamy was permitted, although monogamy was in very early times the customary form of marriage. For western Jewry the principle of monogamy was established by a ruling of Gershom ben Jehuda in Mainz (c. 1000) and since then has had the force of a law. Although divorce is allowed it is looked upon with disapproval in some circles and in general is regarded as a painful experience. About the time Christianity arose the prevailing conception was that divorce was forbidden by divine law—a belief which has been preserved by the Roman Catholic church down to our own time. The Pharisees, on the contrary, sanctioned divorce; there was difference of opinion among them with regard merely to the conditions under which it was justified. According to Biblical law a woman was powerless to prevent her husband from divorcing her; but the Talmud and later the mediaeval rabbis insisted that some consideration be given to the woman's wishes. The legal status of woman in Jewish law is far below that of man; as, for instance, in her right to inherit and to bring suit at court. Even her domestic duties are prescribed. Despite all these disqualifications woman was never regarded as merely the property of man and as completely without rights, as were Babylonian, Greek and Roman women. In this respect social customs under the quiet influence of religion were far more advanced than the codified laws. In the course of ages they have assigned to woman a high social plane, which she still maintains in the Jewish family. The close intimacy of Jewish family life has always and everywhere been recognized as a special characteristic of Judaism.

Learning and education were particularly emphasized in Judaism; throughout Jewish history learning has in fact been the most admired of accomplishments. The Pentateuch enjoins all parents to give religious instruction to their children; and in post-Biblical Judaism the unique attempt was made to educate the whole people in its religion through the institutions of the synagogue and the school, or *beth ha-midrash*, which usually existed in connection with it. This emphasis on learning, which is responsible for the overdeveloped intellectuality of the Jew, resulted from time to time in the creation of a

social cleavage between the intellectual aristocracy and the more uncultivated masses. In Talmudic times a division appeared between the learned and the "people of the land" (*am ha-aretz*), whose strict observance of the Law was questioned and who as a result were not trusted as witnesses and with whom intermarriage was discouraged. This overemphasis upon learning served also to provoke reaction in the form of mystical movements, which had a greater appeal to the masses, and was likewise one of the prime factors in the rise of Chassidism.

The practise of the Jewish religion has had considerable influence upon the characteristics of the Jews, their social behavior and their social and economic status. The observance of the numerous regulations imposed on the Jew by his faith has led to a strong disciplining of the will as well as to a marked practical rationalization of life. Above all it has given the Jew a feeling of otherness, a feeling that he is a stranger. Observances such as the dietary laws have prevented him from accepting alien hospitality; his Sabbath and festivals with all their attendant rites have marked him off from the surrounding world. This feeling of otherness was further strengthened by the Jewish belief in the doctrine of the election of Israel; even as early as the Hellenistic period in Alexandria enemies of the Jews continually attacked them for their exclusiveness. On the other hand, the belief that they are a chosen people has contributed greatly to the continued survival of Judaism despite all persecution and hostility.

There has been much theorizing as to the effect of Judaism on the rise of capitalism and the capitalist spirit. The most impressive attempt of this kind is Sombart's *Die Juden und das Wirtschaftsleben* (Leipzig 1911, tr. by M. Epstein, London 1913). Sombart finds the spirit of Judaism identical with the spirit of capitalism. Judaism for him is characterized by "the preponderance of religious interests, the idea of divine rewards and punishments, asceticism *within* the world, the close relationship between religion and business, the arithmetical conception of sin, and above all the rationalization of life." These characteristics, he claims, have developed in the Jews those traits which have made them one of the chief factors in the rise of modern capitalism. In the light of careful study of the sources this view is completely one-sided and exaggerated. Only this can be proved: the traditional mode of life of the Jews enabled them to participate in capitalistic activities and their



religion did not hinder them from exploiting these opportunities, notwithstanding the fact that the spirit of both the Old and the New Testament is diametrically opposed to the spirit of capitalism. It is not Judaism but the individual Jew who has contributed to the development of the modern economic system, aided as he has been by external and purely historic forces and circumstances. Max Weber also traces the participation of the Jews in trade and money lending to the influence of their religion. According to him the practise of rabbinic Judaism with all its ritual precluded the possibility of engaging in agriculture. His religious duties made it necessary for the Jew to live in a city close to other Jews and to Jewish institutions and thus he came to engage in trade. Moreover the emphasis placed on learning led many Jews to money lending as the occupation which could provide them with the greatest amount of leisure for study of the law. Weber failed to see, however, that similar conditions in Palestine and Babylonia did not prevent Jews from engaging in agriculture.

The modern period which brought about Jewish emancipation caused a serious crisis in Judaism, from which it has not yet emerged. The existence of the Jewish traditional mode of life was threatened from three separate quarters. The greatest menace issued from the changes in economic and social conditions. Mercantilism and early capitalism opened new fields to the Jewish enterprising spirit. The newly risen middle class, which began to play an important part in all countries, was inspired by the ideals of the Enlightenment and emancipating itself from traditional religion welcomed into its ranks the intelligent, enterprising and practical Jews. For two centuries Judaism had been dominated by a gloomy philosophy in which this world was regarded as a vale of tears; it was weighted down with the yearning for redemption in the world to come. Now the Jews began to take a deeper interest in their earthly existence. They wished to compensate themselves fully for all the deprivations they had suffered in the course of the centuries. They were ready even to renounce their belief in eternal salvation and to discontinue their observance of the dietary laws and the Sabbath in favor of worldly well being. In this way the traditional mode of life that had existed for ages was destroyed.

The second danger was of an intellectual nature. Moses Mendelssohn's philosophy of enlightenment completely rationalized and lev-

eled Judaism by identifying it with natural religion. It was "revealed law" instead of revealed religion which now became the center of Judaism. Therefore the followers of Mendelssohn regarded Judaism as nothing but a mass of wretched, mechanical restrictions which perpetuated the segregation of the Jews, a situation which they very much resented. They believed that piety and religion were not essential to Judaism; and when Schleiermacher, for whom they had great admiration, declared that the basis of religions was what he called *das Religiöse*, they were hard put to find this basis in their own faith because it was buried under the crushing weight of a rigorous formalism. Thus it came about that dogmatic Judaism, which for thousands of years had been preserved intact, became subject to violent criticism. The leaders of rabbinic Judaism were incapable of facing the new problems intelligently. Instead they insisted upon an even stricter observance of tradition, ignoring the fact that Chassidism in its initial stages was a movement concerned with the inner liberation of the Jews.

The political situation also appeared as a source of danger. Napoleon was confronted by the problem whether it was possible for him to compromise with Judaism in the same way as with the Christian churches; in other words, whether the Jews were to be tolerated as a religious group or whether they were to be suppressed as a national unit. The solution which he himself offered was that the Jews were to eliminate all national elements in their tradition and retain only their religious ideals. The Great Sanhedrin gladly accepted this solution, which acquired authoritative force in the subsequent struggle for emancipation. The unity of Judaism, which had persisted despite the Dispersion, was disrupted by a political power and the Jews now came to be differentiated according to the countries in which they lived. For the first time the absence of a common religious authority began to be felt; and the Hebrew language, which up to that time had served as a cultural and religious bond between Jews, made way for the languages of their adopted countries.

It was under the influence of these conditions that Reform Judaism arose in Germany. The early reformers were concerned with making Judaism more "presentable" to western civilization. Impelled by the desire for political emancipation and the fear lest their patriotic sentiments for the land in which they were residing be questioned, they tried to make Judaism as

similar as possible to the religion of their neighbors. The first attempts to cope with the situation were inspired by Protestantism and were confined exclusively to the aesthetic transformation of the synagogue service. More decorum was introduced, the organ was brought in, German prayers and a German sermon were added. Later the prayers concerning the national and political aspirations of the Jews were excluded from the Reform prayer book.

The theoretical basis for Reform Judaism was supplied chiefly by the writings of Holdheim and Geiger. A great impetus to modernization was furnished also by the romantic movement, which discovered the concept of "historical Judaism," and by the new "science of Judaism" founded by Leopold Zunz. Zunz began to study Judaism systematically and in the spirit of critical science. He succeeded in vitalizing its spirit, in giving greater significance to its institutions, in establishing the validity of its doctrines and in lending greater importance to its educational system. Jewish theology, nourished by the spirit of idealism, burst into new flower in this fertile soil. Laying special emphasis upon the prophetic conception of the unity of the human race and upon the Messianic ideal it therefore demanded, besides the purity of faith, religious sentiment and the permeation not only of the ceremonial but of all Jewish life with warmth and inner content. Geiger emphasized also the historic character and the relativity of religious phenomena. He insisted upon a historical approach to religion and upon a return to the prophetic purity of idea and form. He conceived of the Dispersion of the Jews as a means of fulfilling their Messianic mission and of their emancipation as a progressive step in that direction. The Reform movement spread to other countries of western Europe and to the United States, where it was propagated by Isaac Mayer Wise. The extreme element of Reform Judaism has scrapped the entire Jewish ritual—not merely its religious mystical elements. In a few instances the practise of exchanging pulpits between Christian and Jewish ministers has been introduced and perhaps the only difference between them is that concerning the attitude toward Jesus. On the other hand, other elements of Reform Judaism have under the stimulus of the Jewish national movement acquired a much more national orientation than that of the early reformers.

During the early days of the reform movement Jewish orthodoxy in Germany found its leader in Samson Raphael Hirsch. Hirsch contrasted

revealed Judaism with the spirit of the times and looked upon the Diaspora as a school of purification established by God and upon the Jew as the bearer of the mission to regain his relationship with God through the fulfilment of the prescribed duties. Conservative Judaism has developed under the leadership of men like Hildesheimer in Berlin and Solomon Schechter in New York; its aim is to modernize the Jewish religion and at the same time to preserve its traditional character in all the essentials. The great mass of eastern European Jews still adhere to strict orthodoxy although here too the revolt against tradition made itself felt in the *haskalah* (enlightenment) movement, especially during the post-war period with its complete disruption of Jewish political and economic life. The most militant elements of orthodoxy have united in the Agudath Israel, which aims to perpetuate the rigorous regulation of Jewish life by rabbinic Judaism. It combines the orthodox elements of eastern Europe, especially the important Chassidic rabbis, the political orthodoxy of Hungary and Germany and the western European orthodoxy of the school of Samson Raphael Hirsch.

Under the influence of neoromanticism at the end of the nineteenth century a religious revival took place. The Reform movement grew more vigorous, and thinkers like Herman Cohen and Martin Buber gave a deeper meaning to the conception of God, communal ideals and Messianism. Simultaneously a great upheaval took place among the Jews in the east. A large number emigrated to America and brought along with them their religious ideals, which in turn influenced Jewish life in the old countries, now drawn into the general non-Jewish movements. The Jewish masses with their national attitudes, intense experiences and sentiments and their dreams and hopes nourished by Chassidism became a decisive factor in Judaism, and their views and customs gained a foothold in the communities of the west. The national character of the Jewish religion and ethics was emphasized by such thinkers as Peretz Smolenskin and Ahad Ha-am. World Jewry, which had been divided by differences of religious opinion and national cultural affiliations, was once more furnished by nationalism with a common platform. Zionists propagandized their views in all camps. The revival of the Hebrew language became a part of its program; new Hebrew and Yiddish literatures sprang to life. New literary, historical and religious values were created which established a bridge between the lives of eastern and western

Jewry. At first the Jews of the west repudiated these values, but their own increasing decadence and the growing influence of east European Jews helped to revive Judaism in the west.

With the increasing participation of the Jews in the political, social, economic and cultural life of the countries of their adoption Judaism no longer completely dominated their entire life but constituted only one of their interests. Furthermore industrialization and antisemitism have driven the Jews to the large cities, where they are exposed to the pressure of intellectual and cultural assimilation. Where they live in small groups they are constantly decimated through mixed marriages and conversions. The following of the orthodox ritual has become increasingly difficult with modern economic conditions. The observance of the Sabbath prevents a Jew from receiving employment in most government offices and with other Christian employers. Economic disadvantages are also incurred by the Jewish shopkeeper who is forced to observe both Saturday and Sunday. The observance of the dietary laws results in an increase in living costs, and the desire to transmit traditional Judaism to the young generation results in both economic and spiritual complications. It is perhaps due to these factors that except in eastern Europe Judaism has retained its strongest hold on the upper and middle classes and has relatively little influence on the mass of Jewish workers.

The historic significance of Judaism is very apparent. Through Christianity and Mohammedanism it has become one of the most important factors in western civilization. Its "ethics," says Max Weber, "still largely forms our present European and Near Eastern religious ethics" (*Gesammelte Aufsätze zur Religionssoziologie*, vol. iii, p. 6). The Christian church, according to Harnack, was largely able to carry on its work because the soil was prepared for it by Judaism. At the birth of Christianity there were religious communities to be found in the large cities. Knowledge of the Old Testament was widely disseminated, and it was quite easy for the Christian church to adapt for its purposes the existing Jewish catechisms and liturgies. The people had already been accustomed to the religious service and to the regulation of their private lives. Christianity inherited from Judaism an impressive apologetic for monotheism, historical teleology, including the day of judgment, as well as a system of ethics which involved the obligation of individual propaganda. Christian ethics is also based upon the Jewish. St. Paul of course

wages war upon the Law, but what he opposed was only the ceremonial law. He accepted the moral law of Judaism and this gave the church the opportunity to transform its original hostile attitude toward this world into an affirmation of the social and political life. In the body of Jewish tradition Christianity found the pattern for a well integrated national life which could serve as a guide to all the complicated problems offered by political, social and economic activities.

Judaism advanced the idea of a legal order that was established by God and of a governmental power designed to issue laws and to punish their transgression. It provided Christianity with the weekly festival and rest day, notwithstanding the many controversies called forth in the church by the character of the Sunday celebration. Easter and Pentecost also were derived from Judaism, even though both were given a Christian reinterpretation. From the synagogue Christianity borrowed not only the idea of a spiritualized religious service but also a great deal of material for its ceremonial rites and liturgy; above all, the institution of recitation and the expounding of the Scriptures. The Christian communities were fashioned after Jewish models and maintained the same welfare organizations. The word *almshaus* itself originated in the Greek translation of the Bible. The church tithe is but a continuation of that of Biblical times.

Most important of all was the Christian acceptance of the Jewish Bible. "Had it not accepted the Old Testament," says Weber, "there would have arisen on the soil of Hellenism pneumatic sects, mystery cult societies, and the worship of Kyrios Christos, but there never would have been a Christian Church and a Christian daily ethics, as there would have been no basis for their existence." It was the Old Testament which proclaimed the God of creation and of the covenant and became the foundation and the confirmation of the New Testament. This is evident from the fact that since the days of Marcion the church has repudiated all attempts to separate the New Testament from the Old.

The fact that the Jews preserved the Old Testament in its original text and studied it continually had a certain influence on all phases of Christianity. Christians were able to apply to their Jewish neighbors for solutions of difficulties in dogma, and from this it can readily be seen that the church was not wrong in accusing the Jews of playing into the hands of the her-

etics. The great period of Biblical influence came with the Reformation, which not only preached a repudiation of dogma in favor of Scripture and made of the Bible a popular book but also had it translated directly from the Hebrew with the assistance of Jewish commentators.

The Biblical idea of a "general priesthood," or of a people of priests, required vindication in the daily life of the individual, and so beside the Sermon on the Mount the Decalogue acquired equal importance in the eyes of the Christian, inasmuch as it contained the principle of divine and brotherly love. The Old Testament became the final court of appeal concerning questions of right, customs, family and professional life. Moreover its acceptance of this world had a determining influence on the new concepts of the state and society. The constitutional history of Israel was the inspiration for political philosophers of all schools until the eighteenth century. Calvinism also brought back into Protestantism the glorification of worldly activity, an ideal which hitherto had been absent because of the influence of Pauline doctrines. This sentiment found its highest expression in the Bibliolatry of Puritanism, which wished to identify itself with the spirit of the Bible but was forced by the sad experiences of religious persecutions and civil war to pay attention to only one aspect of Biblical piety. Thus the Puritan concept of God took on an austere severe character, something which had long been discarded by Judaism and Christianity. Once more the god of war who punishes and persecutes ruthlessly, who orders the annihilation of one's enemies without mercy, became an ideal. The Puritans regarded themselves as instruments of God's will and therefore thought it their duty to assert themselves in life. They took over to a great extent the laws of the Old Testament and also surrounded the Sabbath with a new legalism which was as stringent as that of the Talmud.

Mohammedanism like Christianity branches from Judaism. The Arabs became acquainted with Jewish doctrines not only directly but also indirectly in Christian form, and it is difficult to demarcate exactly the two spheres of influence. Mohammed proclaimed to pagan Arabdom the most rigid monotheism in all its old Biblical austerity. He based his ethics upon the Decalogue and from Judaism he borrowed the regulations with regard to what is clean and unclean and the prohibition of foods, excoriating

transgression as a heinous crime. The Jewish custom of praying he also assimilated into Islam. The mosque is patterned after the synagogue. The Mohammedan weekly day of rest is devoted to prayer, recitation and sermons, although work is not prohibited on that day. Mohammed, however, did not adopt the Bible for Islam. He regarded himself as the "seal of prophecy" and proclaimed the Koran as the confirmation and the divine substitute for the Jewish Scriptures. Nevertheless, his attachment to the past is indicative of a detailed knowledge of post-Biblical Jewish lore, for the Sunna, which is regarded as a source of authority beside the Koran, corresponds to the role of tradition in Judaism.

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See: LAW, section on JEWISH LAW; CHASSIDISM; MESSIANISM; DIASPORA; GIETTO; ANTISEMITISM; JEWISH EMANCIPATION; JEWISH AUTONOMY; ZIONISM; RELIGION; SACRED BOOKS; PRIESTHOOD; THEOCRACY; CHRISTIANITY; ISLAM.

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JUDD, ORANGE (1822-92), American agricultural journalist. Judd ranks with Henry Wallace and S. A. Knapp as a popularizer of agricultural science. A native of rural New York and a graduate of Wesleyan University, he became editor in 1853 of the *American Agriculturist*, published in New York. Subsequently he edited the New York *Times* farm section and the *Prairie Farmer* and the *Orange Judd Farmer*, both of

which were published in Chicago. He was extremely successful as both editor and publisher. At a time when American agriculture was undergoing great changes Judd preached the value of scientific farming and encouraged the introduction of agricultural machinery. He believed in the liberal use of advertising, was aggressive in exposing popular swindles, sponsored agricultural exhibits by his readers and in 1857-58 distributed sorghum seed from Europe among many thousand farmers. The insistent efforts of Judd and the financial cooperation he secured led the Connecticut legislature in 1875 to establish the first state agricultural experiment station in the United States. He became a trustee of Wesleyan University and made the institution a gift of Orange Judd Hall of Natural Science. Judd experimented with building modernized houses at low cost and published the plans. In the days of the Grange and populism he insisted that the solution of the farmers' problems lay in better farming and not in agrarian politics—an attitude characteristic of his concentration on the practical aspects of agriculture.

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*Consult:* In addition to journals cited: *Cyclopaedia of American Agriculture*, ed. by L. H. Bailey, vol. iv (4th ed. New York 1912) p. 588; *Appleton's Annual Cyclopaedia*, n.s., vol. xvii (New York 1893) p. 554.

JUDGMENTS. The aim of every civil proceeding before a judicial tribunal is to obtain from it a pronouncement upon the right asserted by the plaintiff. That pronouncement when vested with the necessary legal formality becomes the judgment of the tribunal. A judgment (the decree of equity and admiralty courts) is therefore an expression of the court's decisory power: it represents a conclusion reached by the court after the application of the law to the facts—a conclusion moreover stamped with the authority of the state, which as indicated either by the words of the judgment or by necessary implication from its phrasing stands ready to lend its aid in translating the conclusion into terms of social effectiveness.

It is a principle dictated by the public policy of ordered society that a matter once finally determined by judgment shall not again be the subject of legal controversy. This principle is expressed in the Roman law maxims *Ne bis de eadem re sit actio* and *Res judicata pro veritate accipitur* and finds similar acceptance in the Germanic law. But the Roman judgment is in general binding only upon the parties, while the

Germanic judgment as the product of a judicial assembly is binding upon all who have been present at its rendition. Moreover the judicial proceeding of republican Rome because of its two stages of *jus* and *judicium* has a certain conclusive effect even prior to judgment. This effect attaches to the *litis contestatio*, or authentication of the parties' will to litigate, occurring before the praetor *in jure* and accomplished in the *legis actio* period by ritualistic acts, in the formulary period by the parties' acceptance of the written formula defining the activity of the *judex*. For with the *litis contestatio* the plaintiff's right of action ceases: it has become merged in the right to a *judicium*; that is, to a judicial hearing and decision. This operation was known as *consumptio*: the right of action was deemed to be consumed or extinguished in the generation of the new right. But when judgment is rendered in the cause the new right itself ceases to exist, for it in turn becomes merged in the judgment. Thus either the fact of *litis contestatio* or the fact of judgment may be a bar to future litigation. In the formulary procedure this bar must be effectuated for the most part by exception: the *exceptio rei in judicium deductae* in the one case, the *exceptio rei judicatae* in the other. It is maintained, however, that ultimately the two *exceptiones* became combined in a uniform *exceptio rei judicatae vel in judicium deductae*. In the imperial procedure, with its effacement of the distinction between *jus* and *judicium*, there is also effaced the intermediate *consumptio* of the former system, and the original right of action continues until merged in the judgment—a rule governing in modern procedure. The principle of conclusiveness of the judgment naturally prevails also in modern law. The French law speaks of the *chose jugée*, the Italian of the *cosa giudicata* and the German of *materielle Rechtskraft*, while Anglo-American law by a direct use of the Roman term speaks here of the doctrine of *res judicata*. In virtue of this doctrine the fact of the prior judgment "has a twofold operation. Not only does it estop the parties from afterwards controverting any question or issue thereby decided, but it also bars the party who has obtained relief thereby from subsequently receiving the same relief against the same party" (Bower, G. Spencer, *The Doctrine of Res judicata*, p. 175). The first of these functions comes under the traditional head of estoppel by record; the second is identified by the term merger, inasmuch as the original claim is absorbed by or merged in the judgment, in Roman terminology "con-

sumed" by the judgment. In both respects therefore the judgment if valid concludes the same parties from relitigating the same question in a fresh proceeding and concludes also their privies; that is to say, those claiming under them. But conclusiveness in this sense does not in any modern legal system imply that the judgment may not be reexamined by competent judicial authority in a special proceeding for that purpose within the time prescribed by law. In other words, the doctrine of *res judicata* in no way collides with provision made by the state for appeals or other means of review. Thus a judgment terminating a particular proceeding is final in one sense upon its rendition, but in another sense it is not final until the remedies available against it have been exhausted or the time for their exercise has passed—a distinction which the terminology of Anglo-American law, unlike that of the continent, fails to reflect.

The character of the Roman judicial proceeding until the imperial period excludes the notion of complaint made to higher authority against the judgment. Since in the periods of *legis actio* and formula the proceeding consists essentially of private arbitration authorized and regulated by the state, in which the function of pronouncing judgment lies with the private citizen serving as *judex*, the constitutional partition of powers is such as to prevent any appeal from the *sententia* of the *judex*. A means, to be sure, is provided for opposing orders of the magistrate (*intercessio*); but as against the valid *sententia* there is no recourse save that which arose in the formulary period from the presence of the praetorian remedy of *restitutio in integrum*, available, for instance, on account of duress exercised against *judex* or party, corruption of the judge or the fact that the judgment was based upon perjured testimony or forged documents (Wenger, p. 202). In the Germanic law the judgment once pronounced is even less open to question than in the earlier Roman law but for different reasons. In the Germanic popular judicial assembly each of the freemen present has a voice in the decision, but as an aid in the transaction of business there is a committee of one or more persons charged with the duty of finding judgment (*Schöffen, scabini*). If their proposal of judgment is assented to by the assembly, then the presiding officer pronounces this finding as the judgment of the court. But before the formal pronouncement it is open to either party or any other member of the assembly to impeach (*schellen, blasphemare*) the proposal by denounc-

ing it as bad law. In that event the impeacher must offer a substitute proposal. The controversy thus arising as to which of the proposals is correct is always a personal one between finder and impeacher (Planck, p. 19). The decision of this controversy among some Germanic peoples is by judicial duel; in the later period it appears to have been obtained by consultation of some other court, which was presumably a purer and more secure source of legal knowledge (Planck, p. 21). The decision is for the information of the court of the original controversy, which renders judgment in conformity therewith.

The Germanic judgment, unlike the Roman, does not pass on the merits of a cause: it is a proof judgment that under the prevailing system of formal, unilateral proof determines which party has the right of proof, what he is to prove and which of the recognized means of proof he is to employ. But inferentially it also declares the consequences of making or failing to make the proof in question and hence was said to be "double-tongued" (*zweizüngig*). Compliance with the judgment is insured by a contractual undertaking forthwith exacted from the parties, the so-called judgment fulfilment promise.

To the existence of *res judicata* in Anglo-American law it is essential that the court shall be in no respect lacking in power to render the judgment in question; for otherwise the judgment is void. "Broadly speaking, nullity of judgments results from one or other of the following causes: 1. Want of a legally organized court or tribunal; 2. Want of requisite jurisdiction over the subject matter or the parties or both; 3. Want of power to grant the relief contained in the judgment" (Freeman, *Law of Judgments*, vol. i, sect. 325). And, subject to what will later be said, a void judgment has no legal effect for any purpose. Legal inexistence of the null judgment was also the rule of the Roman law, which, however, extended its category of nullity far beyond the Anglo-American, since it held to be null even the judgment which was in plain violation of a rule of law (*contra jus constitutionis*). By the generally accepted view the case was otherwise in the Germanic law; here once a judgment had been formally pronounced its legal existence could never be challenged. This characteristic of the Germanic judgment has left its impress upon the continental procedure of today. For although the latter recognizes widely the conception of nullity, most of the defects which in Anglo-American law would render the judgment void pass in that system

beyond the reach of attack, unless within the designated time there is employed a proper proceeding to contest the judgment. In Anglo-American law the conceptions of nullity and invalidity are identical. Hence it recognizes, on the one hand, the erroneous judgment open to question only by an appropriate proceeding specifically directed against it and, on the other, the void judgment open to contest at any time and in any manner. Correspondingly, distinction is made between direct attack, which signifies a contesting of the judgment by the specific means furnished by law for that express purpose, and collateral attack, which denotes attack made in a collateral proceeding. By the rule generally followed in the United States collateral attack by a party or privy is usually limited to the situation where the invalidity appears on the face of the record. But a stranger to the original proceeding may not only sue against the judgment every ground open to the party collaterally but is also permitted to show generally that the judgment was obtained by fraud or collusion. In every case where the judgment bears upon its face the evidence of its own invalidity the conception of invalidity as legal inexistence is absolute. But where the invalidity is not so disclosed and yet may be established by extrinsic evidence, as in the case of a creditor alleging fraud or collusion, the judgment is not void in this absolute sense. Such a judgment is commonly referred to as voidable. Until its invalidation by judicial decree it is not destitute of legal existence, since, for one thing, it may give good title to an innocent purchaser.

Some few cases excepted, the judgment requires to be attended with the means of carrying it into effect; in other words, the state must provide means of execution. But this may assume a variety of forms dictated primarily by the varying character of the judgment, which may be one binding the defendant generally (judgment *in personam*), binding him only as to specific property (judgment *quasi in rem*) or binding specific property as against all the world (judgment *in rem*). Viewed from another angle the judgment may require the payment of money, the delivery of personal property, the transfer of the possession of real property or the doing or not doing or the suffering to be done or not done of specific acts of many different sorts. Of principal importance is the execution of money judgments, which assumes various forms.

The primitive form of execution is the untrammelled exercise of self-help steps taken by the

creditor to seize the debtor's person or property to hold as coercive security for the satisfaction of his claim. Indeed a relic of this very thing persists today in the Anglo-American law of distress. But in both the Roman and Germanic law, with the opening of documented history, marked by the Roman Twelve Tables and the Frankish *lex salica*, this personal activity of the creditor is already subjected to an important measure of judicial regulation—a measure which the subsequent development tends more and more to transform into the general requirement that steps by way of execution shall be preceded by judicial judgment. Yet in so far as the state comes to require judgment as a prelude to execution it may still leave the actual work of execution to the creditor. This was the case in the Roman *legis actio* period; it was largely the case in the Germanic system. In the Roman law it is the judgment itself that is the basis of execution, subject, however, until imperial times to special ratification (*legis actio per manus injectionem*) or authorization (*actio iudicati*) on the part of the state. In the Germanic law again the judgment is a remoter condition of execution. What is executed here is not the judgment at all but the judgment fulfilment contract, the promise to prove or pay, which the event of the proof directed by the judgment has turned into an unconditional promise to pay. The early execution may affect both person and property. Measures against the person loom large in the law of the Twelve Tables; the Roman creditor of this period is entitled to put his debtor to death or sell him *trans Tiberim*. By the *lex poetelia* this right is cut down to that of holding him in debt servitude. A generally applicable form of execution against property does not appear in the Roman law until the formulary period. Then it comes as the praetorian *missio in bona*, whereby the aggregate property of the debtor is made available not for a particular creditor but for his creditors as a class. Postjudgment execution against specific property (*pignus in causa iudicati captum*) is a later institution originating in the time of Antoninus Pius. In the Germanic law the person of the debtor may be an object of execution, but the creditor has no such general right in this regard as is encountered in the early Roman law. His right for the most part is associated with the penalty of peacelessness or outlawry, to which is exposed the debtor guilty of contumacy, as in persistent refusal to give the judgment fulfilment promise. Normally it is the goods of the debtor against which execution is

directed; but this situation is modified in the later Germanic development.

For English law, since its emergence as an individual system, the relation of execution to judgment has been in general the same as it is today, although the case is different as to the measures available on execution. The feudal principle stood in the way of execution against the person, for this entailed upon the lord the loss of his vassal's services. It was opposed also to the subjection of land to the payment of debts, for this would disturb the feudal nexus. Hence the common law restricted execution against the person to cases where the judgment debt arose out of a forcible injury to the plaintiff, involving a breach of the king's peace, and allowed no ordinary money execution to go against land. But largely as a result of various statutes beginning in 1267 execution by way of imprisonment of the debtor came to be open very generally to the creditor and long continued to be an oppressive feature of the administration of civil justice. Some restraint upon the creditor, however, was exercised by the rule which forbade his subsequent resort to the property of a debtor whom he had thus caused to be imprisoned. In the matter of land the old restriction was broken into by the Statute of Westminster II [13 Edw. I, c. 18 (1285)], which enabled the creditor by writ of *elegit* in case of insufficiency of personal property to take possession of a moiety of the debtor's land for the purpose of satisfying the debt out of its profits. Personal property, however, could always be proceeded against and sold under the writ of *fieri facias*. Such was the case as to judgments of the common law courts. The Chancery, which professed to act only *in personam*, relied in the main upon punishment for contempt of court. But it also exercised the power of causing a recalcitrant party's goods and lands to be seized by writ of sequestration as a means of coercion and for the purpose of applying the profits to the satisfaction of the creditor. It should be noticed also that the creditor with a common law judgment might have a claim of equitable cognizance, for the equitable interests of a debtor with slight exception were beyond the reach of common law execution. The aid of the court of equity under such circumstances has come to be known as equitable execution.

The later development both in England and America has introduced marked changes. Of imprisonment for debt, apart from that incident to the contempt process of courts of equity,



merely attenuated fragments are left, reserved in general for cases of fraud and tortious acts. In the United States by a rule whose history dates back to a British act of Parliament of 1732, applying to the American colonies (5 Geo. II, c. 7) and recognizing a practise already obtaining in at least some of them, land is everywhere answerable for the owner's debts, generally by sale but in some jurisdictions by extent; that is to say, allotment to the creditor at an appraised value. In England the case is not quite the same, yet the creditor after proceeding by *elegit*, which now affects the whole instead of a moiety of the debtor's land, may by application to the court cause the land to be sold in satisfaction of the debt. Courts in the exercise of equitable jurisdiction have commonly been given the added power of enforcing their money judgments by the same manner of execution as is available for common law judgments. On the other hand, the contempt process is no longer generally applicable to money decrees.

From an early day legal systems have been obliged to contend with the fraudulent acts of a debtor committed in the endeavor to place his property beyond the reach of his creditor. Here the Roman law provided the *actio pauliana* for the purpose of setting aside any fraudulent alienation on the part of the debtor. When the particular acts against which this action was directed are considered (Rohy, H. J., *Roman Private Law in the Times of Cicero and the Antonines*, 2 vols., Cambridge, Eng. 1902, vol. II, p. 274), it may be concluded that in point of dishonest ingenuity the fraudulent debtor of that era was not far behind his successor of today. The devices resorted to by the latter are of the most varied character. Most elementary is the conveyance of property to a relative or friend in anticipation of the judgment; common also is the collusive judgment intended to protect the debtor's estate from the judgment of a bona fide creditor. The corner stone of the Anglo-American law in the present regard is the English Statute of Fraudulent Conveyances (13 Eliz., c. 5) dating from 1571, which declared void all alienations made with intent to hinder, delay or defraud creditors. This statute has been hardly more than rewritten by the Law of Property Act [15 Geo. V, c. 20 (1925)]. The matter of fraudulent conveyances also finds regulation in various modern American statutes, notably the Uniform Fraudulent Conveyance Act, which has been enacted in some fifteen states of the union. While the defrauded creditor is not with-

out remedy through common law processes especially as aided by statute, the equitable jurisdiction of the courts is of superior effectiveness for his relief. Accordingly the work of undoing such fraudulent transactions largely falls to that jurisdiction. Originally the case here presented was for the most part one of equitable execution, for invocation of the equitable aid presupposed the recovery of judgment by the creditor and the return of ordinary execution unsatisfied or at least his recovery of judgment. This is still the rule, subject to some exceptions, in perhaps the majority of the American jurisdictions. Elsewhere, however, and particularly under the Uniform Fraudulent Conveyance Act the rule has given way; and as a result the aid in question may be invoked in advance of the judicial ascertainment of the creditor's claim. In case of the debtor's bankruptcy the right to attack the fraudulent alienation passes to the trustee in bankruptcy.

A characteristic feature of American legislation is the emphasis which it places upon the designation of a greater or less quantum of property as exempt from execution. At common law out of the property available to the creditor nothing but a minimum amount of wearing apparel could be retained by the debtor. And in the English law of today his exemption extends only to bedding, wearing apparel and tools of trade not exceeding £5 in value. A very different attitude appears in the United States. The personal property exemption is universally of a more generous character; sometimes it is of striking dimensions. Even more significant is the American policy of liberal homestead exemption laws which has been influential in many parts of the world.

In their progression from the original ruthless treatment accorded the defaulting debtor legal systems have come fully to satisfy the dictates of humanity. But in the United States recognition of the larger social interest involved has carried it far beyond this point to a distance which of necessity varies as the particularistic play of economic and social forces gives the creditor or the debtor influence the higher measure of political ascendancy. By and large, however, the situation in the United States induces the doubt whether the creditor is receiving the protection to which he is entitled. There is general agreement that the way to judgment is too thickly beset with procedural obstacles. But after judgment is had, the way to realization is also an obstructed one. The ultraliberal exemp-

tions frequently encountered; the facility with which a knavish debtor may effect a concealment of his assets, to be overcome if at all only by toilsome effort on the part of the creditor; and, finally, the impassable barrier which may be erected by a bankruptcy law not oversolicitous on the creditor's behalf, all operate to hinder the creditor from reaching his goal.

A study of the civil courts in New York City made by the Institute of Law of Johns Hopkins University in 1931 discloses some startling facts in this regard. Its examination extended to 4279 of the 9365 judgments entered by the Supreme Court during 1930 and to all the judgments of the City Court entered during that year. From this examination it appears with respect to the pecuniary aggregates of these two classes of judgments that satisfaction was recorded only as to 6.72 percent in the one class and 7.17 percent in the other. While on account of the greater opportunities for subtraction of assets obtaining in a metropolitan community such as New York the percentage of realization is probably much lower than that prevailing in the country as a whole, these figures have a highly significant bearing on the general situation. They tend strongly to confirm the idea that American law in its present form is not maintaining the just balance of advantage as between debtor and creditor.

Finally, it is to be noted also that the modern mobility of capital increases the risks of the international evasion of judgments. With reference to the international recognition of judgments it is the modern English rule that a foreign judgment is in the main deemed conclusive, except as against the objection of lack of jurisdiction or of fraud. In the United States the doctrine of the federal Supreme Court is substantially the same, with the significant qualification that this degree of conclusiveness will attach only to the judgments of foreign countries which accord American judgments reciprocal treatment. This qualification, however, does not find unanimous acceptance by the state courts. Despite the conclusiveness thus recognized there is no merger in the case of the foreign judgment; in other words, the plaintiff is left free to sue on the original cause of action if he chooses. Moreover under Anglo-American law the foreign judgment itself is not a basis of execution; it serves only as a basis for an action, and it is by virtue of a favorable judgment in this domestic action that execution is had. The rule is commonly otherwise under continental law: the

judicial proceeding required being one to obtain permission (*exequatur*) to enforce the foreign judgment. But in foreign countries varying rules obtain on the question of conclusiveness; some grant no recognition at all except as this is determined by treaty, a fact which under existing conditions prevents the recognition of American judgments. Most others require reciprocity—another serious obstacle. Italy was formerly notable for its liberality in recognizing foreign judgments. But the attitude of other European countries has led to a stricter policy on its part. The greatest progress in securing the enforcement of foreign judgments by treaty has been made on the continent of South America.

Interstate recognition of judgments stands on a different basis. In the United States it is governed by the full faith and credit clause of the federal constitution. In the case of the sister state judgment, unlike that of the foreign judgment, there is deemed to be a merger of the original cause of action. But no more than the foreign judgment is it per se executory; its enforcement requires the bringing of a new action. As between England, Scotland and northern Ireland the reciprocal enforcement of money judgment is accomplished as a result of simple registration. The same thing is true as between the states of the Commonwealth of Australia under a constitutional provision which closely follows the American full faith and credit clause. A similar method of registration but with provision for notice to the judgment debtor before actual execution governs as between Great Britain and the principal British dependencies. The future therefore may see the present American system of interstate enforcement by action give way to some simpler method, which without cutting off the opportunity for defense within the limited scope allowed by law will open to the creditor a speedier road to realization.

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See: JUSTICE, ADMINISTRATION OF; COURTS; PROCEDURE, LEGAL; JURISDICTION; APPEALS; DAMAGES; DEBT; BANKRUPTCY; HOMESTEAD EXEMPTION LAWS; FULL FAITH AND CREDIT CLAUSE; SUMMARY JUDGMENT; DECLARATORY JUDGMENT; CONTRITT OF COURT. Consult: FOR ROMAN, GERMANIC AND MODERN CONTINENTAL LAW: Sohm, R., *Institutionen, Geschichte und System des römischen Privatrechts* (17th ed. by J. Mitteis and Leopold Wenger, Munich 1923), tr. by J. C. Ledlie (3rd ed. from 12th German ed., Oxford 1907) sects. 46-57; Wenger, L., *Institutionen des römischen Zivilprozessrechts* (Munich 1925); Girard, P. F., *Manuel élémentaire de droit romain* (8th ed. by F. Senn, Paris 1929) bk. iv; Calamandrei, P., *La casazione civile*, 2 vols. (Milan 1920) vol. i, sects. 5,

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JUDICIAL INTERROGATION, or the questioning of witnesses by the judge for the purpose of investigating the evidence in a particular case, is characteristic of continental as opposed to Anglo-American procedure. In the civil procedure of both systems investigation by the judge is relatively unimportant, since evidence is presented largely by the parties to the suit in accordance with the concept that the civil case involves the rights of the litigants rather than those of the state. This theory has developed historically in the territories influenced by Roman and Germanic law and is accepted with certain qualifications in continental and common law countries. On the continent documentary evidence predominates; when it is supplemented by oral testimony, whether taken before or during the trial, it is the judge who questions the witnesses. In England and even more in the United States this task devolves upon the attorneys, although the judge occasionally interposes questions. But in both types of civil procedure the judge plays a minor role in establishing the evidence.

In criminal procedure in the Anglo-American courts the situation remains the same. A trial is a contest between the accuser and accused in which the evidence is presented, as it was in the classical Roman law, through direct and cross examination of witnesses by the parties or their counsel. In England, although the examination is for the most part conducted by the attorneys, the judge still retains something of the character of the examiner and often questions the witness, but in the United States he has become virtually an umpire, merely restraining the attorneys from violating the rules of evidence. On the continent, however, the judge in criminal cases is an inquisitor, whose duty is not to rely on the prosecution and defense counsel but to investigate the facts of the case for himself. This concept was derived from canonical practise which, although it had originally followed the accusatory theory of the Roman and Germanic law, had by the fourteenth century definitely recognized an inquisitorial process. In this process the judge investigated the case against the suspect, interrogated witnesses and carried on the prosecution. The features of inquisitorial procedure were adopted by

the secular courts. Numerous changes were effected, particularly through the codes, and although the judge is now a supposedly impartial director of criminal proceedings he still maintains his exalted position in trial procedure, particularly in the interrogation of witnesses.

The continental system is best epitomized in the French courts. For major criminal offenses there are jury trials in the *Cour d'assises*, where the president first interrogates the accused, then permits the witnesses to tell their story and questions them on particular points. The indictment has been preceded by an investigation carried on by a *juge d'instruction*, who has examined the accused and the witnesses; the record of this examination is before the president at the trial as a partial basis for his interrogatories. The prosecutor and defense counsel may question the witnesses through the court but in practise they pose very few questions and the admission of these is entirely at the discretion of the court. The judges, however, rarely deny this privilege. In the course of the trial counsel may attempt also to rebut the statements of witnesses. After the taking of testimony the attorneys sum up, the defense having the last word. A similar procedure is followed in general in the correctional courts, where, however, there is more reliance on the record of the investigation before trial.

In the Anglo-American courts the attorneys examine their own witnesses, the testimony consisting almost entirely of answers to specific questions. After the direct examination of a witness there follows the cross examination by the opposing counsel, who attempts to break down the testimony or to change its emphasis. The judge's task is mainly to prevent improper questions and to present the case to the jury.

The supporters of the Anglo-American system contend that it is only by direct examination and by the cross examination, which attempts completely to discredit the witness, that the truth of his testimony can be gauged. On the other hand, the continental system is extolled as one in which the evidence does not depend upon a battle of wits but upon the interrogatories of a trained non-partisan judge and in which the verdict is based upon a more honest presentation of the facts. Both points of view, however, mistake the logical system for the actual process and fail to compare the ultimate results. In practise the idealized Anglo-American direct and cross examination is not a method by which counsel attempts to establish the complete truth

but rather a legal duel in which each attorney tries to distort the testimony to his own advantage. Favorable evidence is easily established by confining the witness to particular questions and is just as easily discredited by a cross examination which emphasizes only certain aspects of the situation and limits the witnesses to mere affirmations or denials. Further direct and cross examination may finally elicit the entire tale but the version is unbalanced and frequently appears, even in the case of honest witnesses, confused and questionable.

In the continental jury trial the president of the court encourages the witness to tell his complete story and then brings out certain points by his questions. While the interrogation of witnesses is usually gentle, in the case of the accused the president often evinces official prejudice and his sarcastic, insistent questioning approximates that of a cross examining attorney. Even in examining witnesses his unconscious prejudices prevent an entirely objective presentation of the testimony. This danger is recognized and in France since 1881 the president has not been permitted to sum up the evidence. The questions suggested by the attorneys may offset the danger of judicial bias but they usually play only a minor part in the trial. The interrogation of witnesses cannot, however, be regarded as an isolated phenomenon. It is only an element in trial procedure, and other factors enter into the verdict in jury trials. If the clever lawyer rather than the just cause frequently wins in England and the United States, he triumphs as often on the continent. The actual evidence, whether established by judge or attorneys, must always be weighed against the final speeches of counsel. The eloquent one-sided interpretation of the testimony and the play upon the emotions of jurors are effective wherever the performance takes place.

In non-jury criminal trials, as in the French correctional courts, the system of judicial interrogation has its obvious advantages. The president of the court is a trained investigator, examiner and judge, theoretically free from prejudice and partisanship. His examination is directed to those points on which he desires further information and no time is wasted in legal battle or in attempts to obscure the issues.

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See: PROCEDURE, LEGAL; EVIDENCE; PROSECUTION; JUSTICE, ADMINISTRATION OF; COURTS; JUDICIARY; JUDICIAL PROCESS; JURY; INQUISTION.

*Consult:* Engelmann, A., *Der Civilprozess: Geschichte und System*, 3 vols. (Breslau 1889-1901), vol. ii tr. and ed. by R. W. Millar in *A History of Continental Civil Procedure*, Continental Legal History series, vol. vii (Boston 1927) p. 3-27, 183-86, 212-14, 398-99, 471-74, 619-20, 678-83, 718-19, 760-61, 815-16, 857-58; Esmein, A., *Histoire de la procédure criminelle en France* (Paris 1882), tr. by J. Simpson, Continental Legal History series, vol. v (Boston 1913) p. 3-12, 21-29, 43-46, 79-91, 150-57, 500-11, 535-41, 547-50, 599-604; Garraud, R., *Précis de droit criminel* (14th rev. ed. Paris 1926) p. 905-09, 939-43; Ferrari, R., "The Procedure in the Cour d'Assises of Paris" in *Columbia Law Review*, vol. xviii (1918) 43-62; Schneider, Paul, *Die Entwicklung des richterlichen Fragerichts* (Arnsberg 1899); Beradt, M., *Der deutsche Richter* (Frankfurt 1930) ch. vi; Holdsworth, William S., *A History of English Law*, 9 vols. (3rd ed. London 1922-26) vol. iii, p. 620-23, vol. v, p. 170-78, vol. ix, p. 223-36; Stephen, J. F., *A History of the Criminal Law of England*, 3 vols. (London 1883) vol. i, p. 428-37, 504-66; Wigmore, John H., *A Treatise on the Anglo-American System of Evidence in Trials at Common Law*, 5 vols. (2nd ed. Boston 1923) vol. ii, p. 48-81, vol. iii, p. 26-42.

JUDICIAL PROCESS is the name given to the intellectual procedure by which judges decide cases. It comprehends all the ways of mind, deliberate and subconscious, and all the elements in personality, profession and environment which impel toward judgment. Our knowledge of it is limited and colored by the available materials, which are principally "opinions" in which appellate courts explain their decisions. In contrast with philosophy, in which an abstract argument is driven uncompromisingly forward, and with narration, in which a series of events is objectively recited, the concern of the judicial process is with the general as it relates to the particular. Its position is along the front where legal principles find their application; as case follows case in endless succession, the cause and the law are alike upon trial. In the instance the suits are controlled by the rules; in the aggregate the rules are determined by the suits. In a course of judicial events the abstractions-in-the-books and the tangles-out-of-life are remaking each other.

The character of the judicial process is determined by the institution of litigation. It is a way of inquiry set within arrangements for orderly legal combat. The state indicts a jobless worker for stealing bread, a man sues his neighbor because of unkind words, a buyer attempts to renege from a bad bargain or some other bit of human behavior or misbehavior raises a justiciable question, and an intricate legal conflict is touched off. In the mechanics of trial the witnesses armed with oaths, the attorneys tilting

with verbal and inquisitorial thrusts, the judge applying the rules to the game and the jury returning "the verdict in accordance with the evidence" all attest a combat by law. An elaborate code decrees that a case must present "a cause of action," go before a court which has jurisdiction and move forward by decorous stages; it allows an appeal to a higher tribunal because of "error" in the conduct of the litigation; and it reflects the solemnity with which a serious matter is to be dispatched. As the administration of justice has developed ritual has given way to deliberation, the rigidities of procedure have been softened and the office of judge has shifted from umpire toward inquisitor. But the cluster of judicial usages, in a highly selective manner, still hems in by ceremonial observance "the consideration of the suit upon its merits." In the struggle every convention is a potential obstacle against which the cause may break down; the resourceful attorney may even employ the devices of due process to wear out his opponent's case. At every step, from complaint and answer to definitive judgment, questions may arise which must be presented to a higher court. In the extended process the successive judgments upon procedure determine the issues of substantive law which demand decision. A comparison of the intricate record of a case-in-the-making with the trim lines of the judgment into which it is crystallized reveals the task of turning litigious struggle to the uses of inquiry.

The point toward which the judicial process converges is the disposition of the case. It is the necessity for decision which winnows out the relevant evidence and significant issues and drives the elaborate process of analysis and deliberation to its result. Its definite objective makes the ways of mind of the bench highly selective and very purposive. The act of judgment, stripped of irrelevance and complications, is simple; it is an approval or disapproval of acts of conduct by reference to legal standards. In an elementary case where the facts are beyond dispute, where the act falls into a definite category and where the legal consequences are certain the process of decision follows the easy groove of the syllogism. But as causes crowded with the stuff of life come into the courts, the primary terms of "the law" and "the facts" are found to comprehend intricate and disputed permutations of rules and circumstance. A conflict in testimony, the disputed motives behind behavior, the dubious classification of conduct or the uncertainty

in meaning of the law may broaden the range of judicial attention. A number of issues which differ in kind may have to be cleared up before a perspective is found; the lesser questions may have to be settled as best they can by the weight of evidence, the greater authority or preference for a value or a principle. The key to a complicated suit may be found to lie in some minor issue which for a time eludes search. A judge, finding himself without formal guidance, may be compelled to follow an intuitive reaction or to make an arbitrary choice. The court may have to resort to tricks of the trade to get ahead with its work; "judicial notice" enables relevant information to be used which it would be tedious or impossible to bring in as testimony; "presumption" may force the party against whom it is made to present in rebuttal evidence otherwise inaccessible. It is often convenient and sometimes quite necessary to employ "fictions" to help the argument over a hard place, to round out the picture of the dispute or to serve as a short cut to a proper result. The assumption that the act of the agent is the act of the principal allows damages to be collected by injured persons who might otherwise possess nothing better than valid but worthless judgments; the make believe that the corporation is a person—conveniently forgotten when the fiction does not work—enables a code governing individual conduct gradually to be adapted to the exigencies of an impersonal business unit. The varied tasks and inquiries into which an act of judgment is resolved demand quite different intellectual procedures. Even if the syllogism furnishes the skeleton of the argument and the major and minor premises are poles to which all the processes of mind move, the patterns taken by judicial inquiry present a rich and colorful variety.

In the judicial process the general and the particular inquiries are aspects of an organic whole. The quest is not for "the law" and "the facts" but for the law relevant to the ascertained facts. The legal standard may be found in the lines of the constitution, the provisions of a statute or the precedents of the court. But the written law consists of the lean lines of abstract documents which lack the faculty of self-interpretation. They are phrased as general commands and prohibitions, cover incompletely the subjects to which they relate, fail specifically to provide for all the permutations in conduct which come along and do not anticipate the innovations in circumstance and behavior which social change

brings. Their application to suits at law, filled with the richness, color and pulsing life of humanity, must depend upon the concrete meaning which judges discover in their catholic propositions. In the construction of statutes "the plain and literal meaning of the words," the purpose which animates the acts or "the manifest intent" of their drafters with reference to the novelty before the court may be followed. The interpretation must depend upon the importance of the cause, the interests which are at stake and where the sense of the judge makes justice lie. A jurist refers to "the necessity of having to assimilate into the law the occasional obtrusions of the legislature." In a continuing judicial process the constitution and the statutes may offer guidance and impose limits; but it is only as the decrees of the legislature are converted into detailed statements relevant to the affairs of everyday life that they become part of the living law.

Accordingly the quest for legal standards runs into the domain of case law. The applicable principle must be discovered in former decisions or distilled from the run of cases in the reports. If the precedents are in point and unconfused, the mental journey is easy; if they relate merely to similar things or hail from a different age or reveal a conflict of authority, the act of judgment cannot escape discretion. In such instances the discovery of the law involves all the critical awareness which the judge can bring to the task. The substantive issues must be disentangled from impinging questions of procedure, holdings stripped from the enveloping dicta, and the relevancy of past utterance to the bundle of particulars which is the instant case carefully determined. When the comparison reveals more of likeness than of identity, the binding force of the precedent is a matter of imputation. But even when the going is difficult and "therefore's" are most dubiously set down, the process is not blind. The worth of bygone decisions lies as often in the experience which they hold in the mass as in the rules of law they specifically embody. The values at stake may unconsciously impel judges to a choice between rival precedents. The most penetrating of jurists will not ignore an unbroken line of cases which relate to the issue before him; the most literal minded servant of "the law" cannot be completely oblivious to the difference it makes that the decision goes one way or the other. A noted jurist has said that "logic is not to be ignored when experience is silent"; and the line, "the life of law is not logic but experience," has become

classic. At its tightest logic is the dominant element in the judicial process; at its loosest the necessary resort to analogy may become naïve and unreal. In case law the principle must of necessity be sought out among the precedents, but the way of search has no simple chart.

In their quest of "the law applicable to the case" jurists have developed their own technology. Every tool in "the legal smithy" has its use and its hazard; the quality of the product depends upon the skill of the judicial workman. The web of the law is woven with words, yet verbal symbols never carry meaning with precision. When a case is decided, it is not enough to set down the specific holding; the behavior in question must be appraised with reference to a universal standard. When a later cause comes along, the overgeneral words may be found to comprehend particulars they were never meant to include. Inasmuch as words do not cover tidily little squares but each possesses its own conglomerate domain, it is easy to slip from one meaning to another; a proposition set down to broaden the law may, by so slight a change as the unconscious interpolation of the word "only," be used to narrow it. The resort to analogy has its own peculiar pitfalls: a general term must frequently be chosen as a logical nexus between precedent and instant case; the category may be only one of a number which comprehend the two particulars and its inconsiderate selection may contain an undistributed middle. Thus the concept "brokerage" has been carelessly used to apply to employment agencies a rule of law contrived for the merchandising of theater tickets. The word "wousin" has been invented as a name for a thing which appears to be an autonomous entity but is a permutation of particulars which may be put together in innumerable ways. Verbal currency passes most uncertainly from country to country and between the generations. As a result precedents may be made to compel where they were never intended to apply; but "ignorance is a great law reformer," and judges often assume that their predecessors were men of sense and reason such as themselves and endow with current meaning the rules by which they are bound. In an organized combat the art of logomachy is not to be escaped, and judges must be wary of attorneys who take advantage of the undefined frontiers between conceptual provinces to give to abstract words a little push in the right direction. In probing into the utterances of others and in writing down his own decisions the judge who knows his craft proceeds warily; he

regards words as the necessary instruments of judgment and communication rather than as fixed categories which automatically claim their instances.

Nor are "the rules of law," with which jurists ply their trade, automata which strip from judgment its choice. They are often mere formulae-for-decision, providing terms which are receptacles for facts and within which the conflict of values may be resolved. The appraisal of carelessness in conduct by the standard of "the reasonable man" permits a consideration of the circumstances and compels judges to use their common sense. The principle which bases liability upon personal fault allows protection to be extended by a broadening of the latter concept. In the flexible propositions by which human behavior is legally appraised the nouns and the verbs may pronounce a doom from which the adjectives and adverbs grant a chance of escape. An intent may have to be added to an act to constitute a tort or a crime; unless the deed was "wilfully and wantonly" or "negligently" done the perpetrator avoids the penalty. The prefix "quasi" and the adjectives "implied" and "constructive" are habitually employed to extend the law of property or contract or warranty or what not into the borderland. A rule which distinguishes between the essence of an act and its incidence may invite the judge to an expression of his own preference: the acts of workmen on strike are often pronounced innocent or criminal as they are adjudged to be prompted by the worthy desire of "benefit to themselves" or the unworthy motive of "harm to others." In cases involving acts of negligence, terms of contract and equities in property, tradition demands that the specific events out of which litigation has emerged shall be passed in review. A realization that the issue between "the taking of property" and "the exercise of the police power" depends upon the measures at work has made of the Fifth and the Fourteenth amendments formulae of constitutionality; it has led to the appearance of "the factual brief" and to a consideration of social legislation upon its merits. As case follows case and the points along a line are gradually pricked out, a richness of meaning is given to the principles. But with human conduct in a changing culture as their domain rules of law can never be made to displace practical judgment.

In the judicial workshop even so necessary a device as *stare decisis* has only a limited use. As cases grow in number and variety they become a storehouse of knowledge and understanding,

representing the cumulative experience of the bench in resolving the tangles in human affairs. For the ordinary cases with which the court monotonously busies itself the precedents in point are sufficient for judgment. But as the novelty in emerging social life gradually creeps into litigation, their use has its dangers. A term may abide after its meaning has departed and the unfamiliar may appear behind the mask of the familiar. "Every judgment has its generative power" and tends to beget unlike things in its professed image; its "directive force for future cases" may carry it further than the reasons which brought it into existence would allow. It is on occasion essential, if the law is to be kept living, to use rather than merely follow precedents; but every revision of the domain of a principle and every addition in meaning to a concept involves an act of discretion. Even cases which appear alike may have essential differences, and the technique of distinction is born of judicial experience as a check upon the uncritical use of precedents. The insistence by a court upon *stare decisis* when the former decision turns out to have been erroneous is a vestige from days of universals and absolutes. It is likely to bring confusion and delay even when applied to a statute, where the judicial mistake may be rectified by the legislature; it is likely to perpetuate an error and even block social experimentation when employed in constitutional law, where the judiciary has the last word. In the latter domain a ruling is now and then frankly overruled. More often the innovation is hidden behind a formal distinction and ingenious rhetoric permits the court alike to defer to a former judgment and to serve the current occasion.

As bench succeeds bench and suits are endlessly turned into judgments, the law grows. The flexibility in judicial technique permits the appearance of elements of novelty; the formal appearance of rigidity masks the fact of change from the eyes of the uninitiated. In the everyday case, where a definite rule is applied to known facts, the law is made rather than in the making. But even here if the principle be followed back through the precedents, its source will be discovered in a conscious choice. It has, like all the rules which the reports contain, been compounded out of prevailing ideas, common sense, conventional standards of right and wrong and the kindred stuff of folk thought. In fact the creative, as against the mechanical, task of the jurist is to domesticate to legal use the sanctions and tabus imposed upon conduct by social usage.

In an early case involving industrial accident a British judge argued that the servant knew the perils of the trade and the careless habits of other employees better than did the master and denied recovery. An American jurist shortly afterwards chiselled the common sense of English squirarchy into the clean cut "fellow servant" and "assumption of risk" doctrines. These were in time abstracted from the regime of handicraft, set down as universal propositions and applied to conditions of machine industry which could never have been in the contemplation of their authors. The very process of abstraction conceals the origin of a rule in prevailing sense and custom and gives it a dominion far wider than it could win by an appeal to contemporary reason. It passes from concrete holding to abstract precedent, to rule of law; it may require the startling challenge of manifest injustice to secure its reconsideration.

As with the origin so it is with the development of a doctrine. As a series of cases reflects changing conditions, the law responds certainly, even if slowly and stubbornly, to newer juristic necessity. The change may be logical or adventitious, systematic or disorderly. On occasion a court may announce a new principle, or the legal sport may be concealed by dwelling upon the novelty of the facts in a "case of first instance." More often a gradual departure is made from an outworn doctrine: on the surface the rule seems to acquire detailed meaning through a process of deduction; beneath it makes its truce with emerging circumstance and sense of right. The devices and procedures deliberately or intuitively employed by judges are sufficient for the legal emergency. The law has never allowed justice to be completely subordinated to legalism; it has always professed to save the unusual cause. It can, when need commands, set down an "exception"; but each exception is an invitation to another and a multiplication of instances will transmute an imperative into an elastic formula. A shift in juristic values may even elevate the exception into the position of the rule. The principle of "no liability without fault" first appeared as a device to save unusual causes from the older doctrine which held a man to "absolute" responsibility for his acts; the reverse trend toward "strict liability" represents the accommodation of the law of torts to an impersonal society. In the era of handicraft when its maker sold an article to its user the formula of "privity of contract" was an adequate expression of the rights of the parties. When middlemen were



interposed between producer and consumer it became irrelevant; the intermediary had a technically valid "cause of action" but no complaint; the user had a complaint but no cause of action. The problem of recovering the older protection is being solved by the resort by various courts to such different concepts as negligence, fraud and implied warranty. Principles may be converted into open propositions or even nullified by the invention of counterrules. Even before statutes upon the subject appeared, the employer's defenses of "fellow servant," "assumption of risk" and "contributory negligence" were being matched by rules which made even subofficials "vice principals," required the master to provide "a safe working place" and imposed upon him the "non-deligable duty" of instruction.

In a sequence of cases the difference between holding and holding may be small, yet the judgments at the beginning and the end may lie far apart; thus the law grows through illogical increments too small to be detected in the instance yet clearly evident in perspective. The weight of precedent, the fortuitous appearance of cases, the bondage of judicial technique to litigation, the unordered and almost leaderless army of judges, arrest and confuse the work of restatement. A cross section displays only a clash of values and a confusion in holdings; a genetic account is required to reveal the older moorings, the trends manifest but not realized and the direction of development. In its longer sweep the appearance of the judicial process belies reality; behind an affectation that the law is static, complete and abiding the judge performs his social office of squaring the necessity which time and change bring with the established law of the land.

Yet the jurist discounts or even disclaims his creative work. Although the great corpus of the law is the handiwork of the judiciary, the emerging decisions are set down as mere applications of preexisting rules. The rhetorical usage reflects a substantial truth, for the continuing bench rather than the individual judge is the dominant agent in the process. The original touch in the single judgment—the shading of a word, a choice between two rules, the giving of a little neater fit to a precedent, an implication of meaning not evident until afterwards—may demand careful search. Even when a significant decision "makes judicial history" it is "not the judge who speaks, but the law which speaks through him." This stage play is almost a necessity: jurists, whose occupation holds far more

than its proper share of thankless tasks and dirty work, are more comfortable in having authorities with which to support their decisions, and the prestige of courts is strengthened by a recourse to "the law" with which "to beautify what may be disagreeable to the sufferers." The world of absolutes and fixed categories and the mechanistic conception of the universe still linger in common sense; their counterpart in Aristotelian logic continues to dominate the forms of judicial expression. It has required the notion of growth, a skeptical attitude toward universals and the discipline of the case method to bring an experimental attitude into law. The idea of judgment as "hypothesis" is gaining at the expense of "eternal verity"; but even today the recognition of trial and error is partial. Compromises between authority and necessity result from the successive formulations of the law. As conditions and opinion become stable, the law tends toward organic unity; at the impact of an advancing culture it becomes disorderly. In a society which is ever emerging relevancy must be bought at the expense of certainty; a tolerable compromise between desirable values is all that can be expected. An experimental character can be given to a legal code only by jurists; their work lies along the front where the wisdom of the past is applied to current life and is remade by it. It is useless to inquire whether judges should or should not make law; the fact and the necessity are alike inescapable. The goodness or badness of judicial lawmaking lies in the skill with which members of the bench ply their trade.

As the judicial process runs ceaselessly on it leaves a distinctive record. A usage prevalent among appeal courts requires the way of decision to be resumed in a written statement. It is impossible to say just when "the opinion" came into vogue; its analogue is to be found in Thomas Aquinas, in the Justinian code, in the earliest scraps of legal writing; in the common law its germ is to be found in Bracton and the *Year Books*. In days when judges were wise but not necessarily literate reasons orally recited were passed on by the treacherous memory of scribes; a jurist fearing for his repute complained that "the reporters will make us out to posterity for a passel of fools." As case law developed, the resort to writing became a guaranty of the authenticity of holdings. The dignity of the jurist's office entitles him to his speech; in England when judges sit en bloc the brethren usually express themselves *seriatim*; in America the modified usage of "the opinion of the court" generally pro-

vails. It is idle to seek the ultimate "why" of so essential an instrument; in the administration of justice it serves the multiple purpose of helping the bench to be critical of its own intellectual processes, keeping lower courts in order, announcing legal standards for acceptable human conduct, extending the courtesy of an answer to arguments which do not prevail and affording an opportunity to justify a judgment. The opinion is indispensable to case law, has made an institution of the judicial process and gives continuity to the development of legal doctrines.

The usage of dissent is an expression of the independence of the judiciary. It has long seemed unwise to leave important causes to the judgment of a single individual; to insure due deliberation and wise decision they are referred to a bench of judges. To each, as of right, independent judgment has been accorded and in case of division the majority prevails. The dissenting opinion was not deliberately contrived; it is a by-product of this arrangement. After a case is heard the members of the court may fail to agree in reasons or upon the result. A period of deliberation may reduce these differences but in spite of all effort there may not be a meeting of minds. The spokesmen for the court and for the minority then prepare and exchange tentative drafts of their opinions, and frequently each document is rewritten to take account of the argument of the other. Many jurists regard the public expression of dissent as a duty, and few members of the bench question the value of the usage. A knowledge that each judge is free to inquire, to act and to speak for himself helps to assure lawyer, litigant and the public that all relevant facts and issues will be considered. As a result the bench does its work under constant self-criticism. The spokesman for the court is forced to choose his positions with care, to draw his conceptual lines sharply and to keep his holdings from becoming overabstract. The law which comes to prevail is a far more serviceable agency of social control because of the cumulative effect of challenge. The solitary judge is most likely to sense the need for legal restatement; the path of constitutional law has often been blazed in dissent. There is little evidence that the independent expression of views by individual members weakens the authority of the court. The majority opinion and the dissent are set down side by side in the record, where they can be read, studied and compared. If truth has in itself the capacity to prevail, the law reports accord it an opportunity.

The law reports, crowded with opinions, are

the treasure house of the jurist's art. The technique of judgment is of its own kind. Unlike the poet, the historian or the essayist the judge cannot listen to the promptings of his own heart, choose the subject upon which he would write, say in his own manner all that is on his mind and follow his interest to a fresh theme. In saying his say the place of the jurist is in the institution of the judiciary; he cannot escape its usages, must employ its language and tools and is bound by its limitations. He is a member of a court and his studied utterances are an incident in the disposition of litigation. He cannot speak until the appropriate cause comes along; he can say only so much as the issues allow; he must wait for a suitable opportunity to continue. Even when he is interpreting the constitution he addresses himself not directly to public policy but to the questions of law into which it has been transmuted. In justice as in every craft the artist leaves his distinctive mark upon his work. Even when rules compel and one cause is much like another, the manner of the judge appears in the interstices of opinion. In cases of consequence he leaves the indelible stamp of his personality upon his paragraphs. His manner of utterance differs as he is announcing a judgment or recording a dissent. When he is the voice of the court his is usually a compromised statement, often marked by "the veiled phrase, the blurred edge, the uncertain line." It represents not what any member would like to say but what all who concur are willing to accept. In the dissent, on the contrary, the jurist expresses his unfettered opinion. The cause has been lost, further deliberation would only delay judgment; "his voice is pitched to a key that will carry through the years." He may elect to include a particular within a concept, to extend a developing doctrine another step, to round out the law by borrowing customs of the people, to remake rules to serve a current justice or to combine elements into a distinctive method; but in the practise of his trade he cannot escape being himself. He must recognize both legal rule and social value; and where they inevitably clash he must effect the best reconciliation that may be between them. The judge must become the statesman without ceasing to be the lawyer. The quality of his work lies in the skill, intelligence and sincerity with which he manages to serve two masters.

It is impossible to contrive a formula for so delicate and evasive an art. The procedure differs from case to case; the manner of work varies from judge to judge. It is not the cause but what jurists

discover in the cause—a mere dispute between individuals, a standard of conduct for an activity, the domain of a legal principle, the definition of a public policy—which holds the key to decision. The majestic arguments of judges may be directed to inconsequential suits; the battles of abstractions are always dramatized in a concrete struggle between human beings. The factors which impel the mind toward judgment present no standard combination. The jurist is a craftsman in the law; he is learned in its lore, responsive to its values, habituated to its discipline; constitution, statute and precedent must be compulsions toward decision. But even within legal formulations the objectives to be served may clash with the rules in which they find immediate expression. And since judges are men as well as lawyers, no line can separate professional from general equipment. The law itself is but an aspect of the world that lies within the jurist's head; the judicial process but the biting edge of a way of mind which stands but a little exposed. Out of the depths of personality "forces" which jurists "do not recognize and cannot name"—"traditional beliefs, acquired convictions, an outlook on life, a conception of social end"—keep "tugging at them." It is impossible for the judge to escape his own universe of fact, preference and conviction; the intangibles in their own subtle way will usurp a role in the argument. The more novel the issue or the larger the interests at stake, the greater will be the influence of common sense, of the climate of opinion, of the "stream of tendency" which "gives coherence and direction to thought and action." Jurists differ in sensitiveness to pleas, facts, legal law and social policy; they respond variously to the conflicting values which a suit presents—the rightness of the cause of a party, a principle which should prevail in spite of the injustice in the instant case, the need to extend law and order into a turbulent domain, the limitations of the judiciary as an agency of control. The interest and the adventure lie in the parts played in the drama. It is not the impulse-to-judgment but the after-thought-of-rationalization which takes its way through the reports. Here as in other domains of life the emotions play behind the scenes and leave the show to reason.

There is in fact something universal about the judicial process. It seems to be unique, because courts keep records which are read and criticized. If business men, university faculties, baseball players or débutantes were forced to set down

the good reasons for the decisions which make up their streams of conduct, the result would be a crude miniature of the judicial process. In law the rationalization of judgment has become a convention; about it customs, traditions, ways of thought, modes of expression, have crystallized into a cluster of flexible usages. It represents in a highly artificial form the act of personal judgment; it differs from the ordinary decision of everyman about an everyday matter as a critical intellectual process differs from a half intuitive experience. If the ways of jurists seem unusually prone to inconsistency and error, it is because the way of abstraction is made hard by unanticipated causes. If the categories of statistics or the methods of philosophy or the principles of economics were continually tested by cases fresh from life, the outward integrity of these disciplines would be seriously disturbed. At present we know little more of the craft of judgment than can be gleaned from the words and between the lines of the reports. An increase in understanding must await materials concerned with and a psychology relevant to deliberation in process. But at this point the quest of the "how and why judges decide cases" runs into the larger search for the ways of mind.

WALTON H. HAMILTON

*See:* LAW; COURTS; JUSTICE; JUDICIARY; JUDGMENTS; JURISPRUDENCE; RULE OF LAW; CASE LAW; CUSTOMARY LAW; CODIFICATION; LEGISLATION; CONSTITUTIONAL LAW; JUDICIAL REVIEW; FICTIONS; LEGAL PROFESSION AND LEGAL EDUCATION.

*Consult:* Holmes, O. W., Jr., *The Common Law* (Boston 1881); Cardozo, B. N., *The Nature of the Judicial Process* (New Haven 1921), and *The Growth of the Law* (New Haven 1924); Allen, C. K., *Law in the Making* (2nd ed. Oxford 1930); Frank, Jerome, *Law and the Modern Mind* (New York 1930); Goodhard, A. L., *Essays in Jurisprudence and the Common Law* (Cambridge, Eng. 1931) chs. i-iii; *Mr. Justice Brandeis*, ed. by Felix Frankfurter (New Haven 1932); Wurzel, K. G., *Das juristische Denken*, tr. by E. Bruncken as "Methods of Juridical Thinking" in *Science of Legal Method*, Modern Legal Philosophy series, vol. ix (Boston 1917) p. 286-428; Vaihinger, Hans, *Die Philosophie des Als Ob* (5th-6th ed. Leipzig 1920), tr. by C. K. Ogden (New York 1925); Llewellyn, K. N., *The Bramble Bush* (New York 1930); Powell, T. R., "The Logic and Rhetoric of Constitutional Law" in *Journal of Philosophy, Psychology, and Scientific Methods*, vol. xv (1918) 645-58; Oliphant, Herman, "A Return to Stare Decisis" in *American Bar Association Journal*, vol. xiv (1928) 71-76, 107, 159-62; Cohen, Morris R., "The Place of Logic in the Law" in *Harvard Law Review*, vol. xxix (1915-16) 622-39; Radin, Max, "Statutory Interpretation" in *Harvard Law Review*, vol. xliii (1929-30) 863-85; Dickinson, John, "The Law behind Law" in *Columbia Law Review*, vol. xxix (1929) 113-46, 285-319; Hutcherson,

J. C., Jr., "The Judgment Intuitive: the Function of the 'Hunch' in Judicial Decisions" in *Cornell Law Quarterly*, vol. xiv (1928-29) 274-88; Arnold, Thurman, "Rôle of Substantive Law and Procedure in the Legal Process" in *Harvard Law Review*, vol. xiv (1931-32) 617-47; Green, Leon, "The Duty Problem in Negligence Cases" in *Columbia Law Review*, vol. xxviii (1928) 1014-45, and vol. xxix (1929) 255-84; Nelles, Walter, "A Strike and Its Legal Consequences" in *Yale Law Journal*, vol. xl (1930-31) 507-54; Hamilton, Walton II., "The Ancient Maxim Caveat Empor" in *Yale Law Journal*, vol. xl (1930-31) 1133-87; Henderson, G. C., *The Position of Foreign Corporations in American Constitutional Law*, Harvard Studies in Jurisprudence, vol. ii (Cambridge, Mass. 1918).

JUDICIAL REVIEW is the power of courts to pass upon the constitutionality of legislative acts which fall within their normal jurisdiction to enforce and the power to refuse to enforce such as they find to be unconstitutional and hence void. Together with its juristic product, a body of "constitutional law," judicial review is today the most distinctive feature of the American constitutional system; for while it has been imitated to some extent in other constitutions, its foreign variants have nowhere attained anything approaching the importance of the original. Three branches of judicial review should be distinguished: first, the power of all courts to pass upon the validity of acts of Congress under the United States constitution—"national" judicial review; second, the power and duty of all courts to prefer "the supreme law of the land" as defined in article VI of the constitution over all conflicting state constitutional provisions and statutes—"federal" judicial review; third, the power of state courts to pass upon the validity of acts of the state legislatures under the respective state constitutions—"state" judicial review. The most important consideration for public law is the ultimate role of the Supreme Court of the United States in the first two closely related fields. In this article the emphasis will be upon the judicial review of legislative acts. The growth of administrative bureaus and commissions has raised the problem of the judicial review of administrative acts and decisions, but in so far as this raises unique questions it will be found discussed under ADMINISTRATIVE LAW; COURTS, ADMINISTRATIVE; CERTIORARI; MANDAMUS; STATE LIABILITY.

By the official theory [*Federalist*, no. 78; Chief Justice Marshall in *Marbury v. Madison*, 5 U. S. 137 (1803); *Adkins v. Children's Hospital*, 261 U. S. 525, 544 (1923)] judicial review is not a specifically delegated power, although there are phrases of the constitution which clearly con-

template its existence; rather it is the inevitable outcome of the power of the courts in deciding cases to interpret the law, of which the constitution is part. More explicitly the doctrine of judicial review comprises the following propositions: that the constitution is law in the strict sense of a body of rules known to and enforceable by courts; that it is law of higher obligation than any legislative act which purports to have been made under its sanction; that consequently the court must in case of conflict between the constitution and a legislative act determine the rights of parties in accordance with the former; that by the principle of the separation of powers a judicial interpretation of the standing law and so of the constitution is final for the determination of the case in which it was rendered.

The criticism to be made of this theory is that while it accounts sufficiently for the power of the court to decide cases by rules drawn directly from the constitution, it does not account for the fact that such rules are generally regarded as binding the legislature in the shaping of future legislation. To explain this, the essential feature of judicial review, one must fall back upon a somewhat mystical notion of the relation of judges to law. Others may have opinions of what the law is, but judges are presumed to know the law. They are its mouthpiece and the law is not changed by their utterance of it. Thus judicial review conserves the constitution; and the judicial version of it is the authentic constitution. Nevertheless, there have been those who have dissented from this view—among others Madison, Jefferson, Jackson and Lincoln. Thus Lincoln while admitting that the decision of the Supreme Court in the *Dred Scott* Case was final for that case denied that it established a rule which should control Congress henceforth. And the history of the period of the Civil War and reconstruction affords ample proof that there can be times when Congress will consider itself warranted in ignoring the judicial gloss upon the constitution and in acting upon its own independent reading of the basic document. Even today judicial review is perhaps not an altogether closed system.

The effort has been made, but unsuccessfully, to trace judicial review to colonial institutions. The colonial charters did, it is true, generally stipulate that the local legislative power as that of an inferior corporation must keep within the common law; and in the case of *Winthrop v. Lechmere* the Judicial Committee of the Privy Council disallowed in 1728 an act of the Con-

necticut assembly which abolished the rule of primogeniture in that colony on the ground of its transgression of this well recognized principle (Andrews, C. M., "The Influence of Colonial Conditions as Illustrated in the Connecticut Intestacy Law" in *Association of American Law Schools, Select Essays in Anglo-American Legal History*, 3 vols., Boston 1907-09, vol. i, p. 431-63). This alleged "precedent" for judicial review was, however, totally unknown to the authors of the American constitutional system, who far from regarding the first state legislatures as continuing the colonial assemblies held them to be "sovereign" lawmaking bodies after the model of the British Parliament.

Unquestionably the *fons et origo* of all talk and all thought about judicial review in the United States is to be found in Lord Coke's famous dictum pronounced in 1610 in *Dr. Bonham's Case* (8 Rep. 107, 118) that "the common law will controul acts of Parliament, and sometimes adjudge them to be utterly void" as "against common right and reason." One hundred and fifty years later James Otis invoked this dictum in his argument in the famous *Writs of Assistance Case* [Quincy's Mass. Rep. 469-85 (1761)], and from that time forward similar sentiments were frequently voiced by colonial advocates.

The early state constitutions did not, however, at the outset contemplate judicial review, having been framed under the influence of the Blackstonian doctrine of legislative sovereignty. This principle cut in two directions. In the first place, it asserted for the legislative body the predominant position in the constitution—indeed it virtually put all the powers of government at the disposal of the legislature. In the second place, it swept the boards clear of all categories of "law" except positive law. "Higher law," "law of nature," "law of God"—these might still be termed law by courtesy but the only true law was that which had the express or tacit sanction of the sovereign legislative body. In this situation for an ordinary court to undertake to "defeat the intent" of an act of the legislature was, as Blackstone pointed out, little short of revolution, and the success of such an attempt would spell the end of the constitution (1 Comm. 91).

How then did judicial review come finally to achieve a logical foothold in the state constitutions? The answer is to be found in the altered character which came gradually to be attributed to these instruments of government. At the outset they were regarded as a species of social

compact, the product of revolution and of the inalienable right of men to determine their political institutions. But presently, as the process of constitution making became regularized, they took on a new aspect, that of a higher form of statute emanating not from the sovereign legislature but from the sovereign people. Legislative sovereignty gave way to popular sovereignty.

The first suggestion of judicial review as a constitutional procedure did not, however, wait upon its rationalization, although that succeeded with reasonable promptitude; it was provoked by the gross abuse of their powers by many of the early state assemblies. In relation to "judicial power," "legislative power" was at this date undefined; and in the general absence of courts of Chancery it became a frequent practise in many of the states for the legislature to intervene in the proceedings of the ordinary courts, annulling or modifying their judgments, reopening private controversies and even determining them by "special acts." When values based on paper currency collapsed after the revolution, the majority of the legislatures fell under the control of the large farmer debtor class and began to pass laws for their relief. At the same time they showed themselves utterly careless of the treaty obligations of the Confederation, which of course was entirely dependent upon them for the effectuation of its exiguous "powers." For all these reasons the leaders of society gradually became convinced that means must be provided for curbing the state legislatures in the interest both of vested rights and of the maintenance of the union; and from this conviction resulted in due course the gubernatorial veto, judicial review and the constitution of 1787 itself.

The first case approximating judicial review in this country seems to have been the New Jersey case of *Holmes v. Walton* decided in 1780. Here the New Jersey Supreme Court refused to enforce an act of the legislature of the state by which certain criminal prosecutions were made triable by a jury of six on the ground that it transgressed the provision in the state constitution for "trial by jury." Although the decision met with considerable popular protest, the assembly soon modified the act so as to require the trial judge to grant a jury of twelve upon the demand of either party (Erdman, C. R., Jr., *The New Jersey Constitution of 1776*, Princeton 1929, p. 91-92). Four years later Alexander Hamilton, in arguing before the Municipal Court of New York City the case of *Rutgers v. Waddington*, assailed a recent act of

the legislature of that state as contrary to principles of the law of nations, the treaty of peace with Great Britain and the Articles of Confederation; and although the Municipal Court did not venture to pronounce the act "void," it accomplished the practical results of so doing by the construction which it put upon the act. The real importance of Hamilton's argument, however, lies in the fact that two years later it prompted John Jay, then secretary for foreign affairs, to suggest to Congress that it recommend to the several state legislatures the repeal of all acts contrary to the treaty of peace in general terms which would leave to the local judiciaries the decision of all cases arising under the treaty according to the intent thereof, "anything in the said acts . . . to the contrary notwithstanding." Congress so recommended in April, 1787, only a month before the meeting of the Philadelphia convention, which was soon to elaborate "the supremacy clause" of article VI of the constitution. Meantime in 1786 the Rhode Island Supreme Court had in the case of *Trevett v. Weeden* employed the subterfuge of "construction" to invalidate a paper money law of that state; and in May, 1787, the North Carolina Supreme Court in *Bayard v. Singleton* (1 Martin 42) pronounced "void," without evasion, an act of that state on the ground of its violation both of the state constitution and of the Articles of Confederation. Furthermore in counsel's argument in the former case as well as in Iredell's defense of the decision in the latter case as it appeared in the newspapers the main postulates of the doctrine of judicial review were developed along the very lines of Hamilton's later argument in the *Federalist* (no. 78) and of Marshall's opinion in *Marbury v. Madison*.

Despite these developments when the Federal Convention met judicial review was not as yet an established institution in a single state in the union. Indeed the mere suggestion of it had in most instances elicited condemnation which was fully as strong as its support, condemnation based for the most part on Blackstonian premises. Nor did the Virginia plan, which furnished the basis of the convention's early proceedings, evidence the least awareness of judicial review. By its provisions Congress was to prevent the states from violating the constitution, while Congress in turn was to be kept within bounds by a council of revision. Yet as debate on these proposals developed, judicial review as a logical and desirable alternative (along with the president's conditional veto power over acts of Con-

gress) was thrust forward more and more insistently, with what outcome is to be seen in the "supremacy" clause and the opening words of the second section of article III defining "the judicial power of the United States." By the former the state judiciaries are made the first line of defense of the constitution, of "the laws of the United States made in pursuance thereof" and of treaties of the United States against all conflicting state laws and constitutional provisions; while by the latter basis is laid for the appeal of all cases "arising under this Constitution" to the national judiciary and so ultimately to the Supreme Court. The latter phrase is moreover a textually adequate description of cases in which the question of the validity of congressional legislation is raised, although whether it was inserted with this understanding of it appears at least debatable.

What can be said with some confidence, on the basis of statements made in the convention, in the state ratifying conventions and in the *Federalist*, is that the leading members of the convention endorsed, at least at that period, the idea that the Supreme Court would have the power to pronounce "void" under the constitution an act of Congress no less than an act of a state legislature; and in the later numbers of the *Federalist* Hamilton discloses a rapidly expanding appreciation of the potentialities of this prerogative (*cf.* nos. 33, 78 and 81). The Judiciary Act of 1789, in the framing of which several of these same men had a hand, affords further evidence of like purpose, notably in the provision which it made in section 25 for final appeal to the Supreme Court of all decisions of state courts disallowing claims founded upon the constitution, acts of Congress or treaties of the United States. Finally, in 1795 we find the Supreme Court passing upon the constitutionality of the "carriage tax" of the previous year in a test case devised with the approval of Congress.

Judicial review became "constitutional law," indeed the corner stone of constitutional law in the American sense, in the decision by the Supreme Court in 1803 of the famous case of *Marbury v. Madison*. *Marbury* was prosecuting a claim for an official commission under section 13 of the Judiciary Act of 1789, which in general terms authorized the Supreme Court to issue writs of mandamus to officers of the United States. The court in the person of Chief Justice Marshall interpreted this provision as attempting to vest it with "original jurisdiction" in a

type of case not enumerated in article III and so as void. This reading of section 13 in the light of later cases was erroneous and the view taken of the constitutional provision was at least questionable, although it had been earlier asserted (3 U. S. 321, 327) and has since been adhered to. The case in fact smells strongly of powder, for the battle between the chief justice and President Jefferson was already on. It is all the more striking therefore that the part of the court's opinion dealing with judicial review escaped Jeffersonian criticism, while other features of it certainly did not. Although the Supreme Court did not pronounce another act of Congress void until the Dred Scott Case fifty-four years later, between 1803 and 1857 it heard argument and passed upon the validity of a number of acts of Congress which it sustained [17 U. S. 316 (1819); 19 U. S. 264 (1821); 22 U. S. 1 (1824); 22 U. S. 738 (1824)]. Meantime the establishment of "state" judicial review was proceeding steadily; Rhode Island, which did not discard its colonial charter until 1842, was the last state to receive it. At no time, however, have the various state judiciaries been equally aggressive in pressing their pretensions. Prior to the Civil War more legislative acts succumbed to judicial review in New York alone than in all the remaining states of the union combined. "Federal" judicial review was finally put on a secure basis by Marshall's decision in 1821 in *Cohens v. Virginia* (19 U. S. 264), sustaining against an attack based on states' rights premises the constitutionality of section 25 of the Judiciary Act of 1789.

Dating from the earliest establishment of judicial review the courts have attempted the formulation of various restrictions upon the power. Some of these are corollary to the notion of judicial review as an outgrowth of ordinary judicial function, as, for instance, the rule that the power may be exercised only in connection with the decision of genuine, not "moot," cases. Others, on the contrary, represent a departure from the logic of the same concept and spring from a desire on the part of the courts to avoid collision with the political branches of the government, as, for example, the extremely vague rule that the courts will not decide "political questions"—whatever those may be. Another restriction is the rule, first stated by Chief Justice Marshall in 1834 (*Briscoe v. Commonwealth's Bank of Kentucky*, 33 U. S. 118, 122), that the Supreme Court would not "except in cases of absolute necessity" "deliver any judg-

ment in cases where constitutional questions are involved" in which a majority of the entire bench did not concur, although ordinary judicial functions are discharged by a majority of a quorum of the bench. Probably the maxim which is most frequently encountered as governing judicial review is the statement that all reasonable doubts on the constitutional issue must be resolved in favor of the legislature. Actually of course a considerable amount of doubt necessarily attaches to almost any question of law which is prosecuted by competent counsel as far as the United States Supreme Court; nor in fact are there many constitutional issues of moment in the determination of which the court is not required to exercise, in Justice Holmes' words, "the sovereign prerogative choice." Likewise little importance is to be ascribed today to the maxim that no legislative act may be judicially disallowed on the ground of its being opposed to "natural law," "natural rights" and the like—in short, on any other than strictly constitutional grounds. For while this maxim may have temporarily constricted judicial review, it certainly has not done so permanently. Today the most extremely latitudinarian results of extra-constitutional limitations on legislative power are freely available to all courts of the United States in the form of modern conceptions of "liberty" and "due process of law." Lastly, it may be mentioned that the Supreme Court in contrast with many of the state courts seems ordinarily to have discouraged taxpayers' suits as well as those in which the aggressive party has disclosed only the general interest of seeing the constitution observed.

In short, the scope of judicial review and consequently its importance as a governmental institution depend very little upon the rules which the courts have laid down from time to time in ostensible definition of it. Rather it is at any time a function of the entire structure of "constitutional law," which in turn reposes in the main, so far as the national constitution is concerned, upon the interpretations which the Supreme Court has come to affix to three or four brief phrases thereof. Regarded from this angle the history of the reviewing power of the Supreme Court has been as a whole one of pronounced aggrandizement, especially in the "federal" field, with the result that today the court enjoys a supervisory role which is quite without statable limits, particularly in relation to state legislative power.

First, however, attention should be drawn to

the exact opposite of the above mentioned development, since in four notable instances the court adopted views of the constitution which had as their considered purpose the minimization of its reviewing power: its decision in the early case of *Calder v. Bull* [3 U. S. 386 (1798)] confining the constitutional prohibition upon *ex post facto* laws to retroactive penal laws; its decision in *McCulloch v. Maryland* [17 U. S. 316 (1819)] broadly construing Congress' legislative discretion under the "necessary and proper" clause; its decision shortly after the Civil War in the *Slaughter House Cases* [83 U. S. Wall. 36 (1873)] rendering nugatory the "privileges and immunities" clause of the Fourteenth Amendment, because, as it recognized, the alternative construction would have rendered it henceforth "the perpetual censor" upon all state legislation; its decision in *Munn v. Illinois* [94 U. S. 113 (1877)], later reversed on this point, that the question of the "reasonableness" of charges set by a "business affected with a public interest" was one subject for final determination by legislative authority.

Of the holdings which have contributed to give the court's reviewing power its present dimensions in the "federal" field the following are outstanding: the interpretation under Marshall of the "obligation of contracts" clause as applying to public grants, including corporate charters [*Fletcher v. Peck*, 10 U. S. 87 (1810); *Dartmouth College v. Woodward*, 17 U. S. 518 (1819)]; the interpretation of the "commerce" clause, which was also virtually established before the Civil War as a prohibition upon state power [*Cooley v. The Board of Wardens*, 53 U. S. 299 (1851)]; the interpretation of the "due process of law" clause of the Fourteenth Amendment, first adopted in *Mugler v. Kansas* (123 U. S. 623) in 1887, as requiring that legislation affecting "liberty" and "property" be "reasonable," that is to say, reasonable in the judgment of the court; a series of holdings whereby the "liberty" thus protected has been gradually extended to all valuable personal rights [*Holden v. Hardy*, 169 U. S. 366 (1898); *Near v. Minn.*, 283 U. S. 697 (1931)]; the holding definitely adopted in *Smyth v. Ames* [169 U. S. 466 (1898)] that charges set by public authority must yield what the court finds to be a "fair" return on the "value" of the property involved. Underlying most if not all of those holdings is the principle suggested by Marshall in *Brown v. Maryland* [25 U. S. 419, 444 (1827)] that it is not the *form* of a challenged statute

but its *substantial* operation which is determinative of its constitutional validity. It is in reliance on this principle that the court discarded the historical definition of due process of law as a *form* of procedure for the above conception of it which renders it immediately protective of *substantive* rights; and for the same reason, in applying this conception, the court may recanvass the entire factual situation which the legislature had before it when enacting the challenged statute [*Burns Baking Co. v. Bryan*, 264 U. S. 504 (1922)]. Indeed its interpretation of the due process of law clause of the Fourteenth Amendment today confers upon the court a practically discretionary veto power upon every state legislature. Sometimes this veto is mildly exercised, as between 1910 and 1920; at other times it is applied with considerable rigor, as from 1920 to 1930. Whether it is applied laxly or strictly depends upon no stable rule but upon the social philosophy of the majority of the justices.

The principal basis of "national" judicial review has always been the terms in which the congressional powers are granted, although at times the court has also ventured despite the clear terms of article vi, paragraph 2, to erect state power into an independent restriction on national power [247 U. S. 251 (1918)]. In recent years moreover the court has resorted more and more to what may be termed "covert" judicial review by giving an act of Congress a narrower application than it was intended to have in order to "avoid a grave constitutional issue" [156 U. S. 1 (1895); 213 U. S. 366 (1909)].

The power of the Supreme Court in the "national" and "federal" fields of judicial review rests to an important extent upon the difficulty of amending the national constitution. Most of the state constitutions, on the other hand, are amendable with comparative ease. Indeed it may be said that since the development of the modern doctrine of due process of law and the enactment of legislation securing to the Supreme Court the final voice in the application of this test under the Fourteenth Amendment (Act of Dec. 23, 1914; U. S. C. tit. 28, sect. 344c), "state" judicial review except as a means of holding the state legislatures to certain procedures in the enactment of laws has largely lost its *raison d'être*. Hence it is not without significance that by a provision adopted in 1912 the Ohio constitution ordains that with the exception of a certain class of cases "No law shall be held unconstitutional and void by the supreme court without the concurrence of at least all but one



of the judges." This, the first notable check to the development of judicial review in this country, was sustained by the Supreme Court in 1930 against objections based on the "due process" clause of the Fourteenth Amendment and the "republican form of government" clause of article IV, section 4 (*Ohio v. Akron Metropolitan Pk Dist.*, 281 U. S. 74).

The introduction of judicial review into the national constitution was prompted mainly by the very practical necessity of providing an effective and unobtrusive check on the ebullient state democracies which had shown themselves to be enemies of national unity and of vested rights, and this has remained its principal employment. Even so, previous to the Civil War, when the localistic spirit was strongest, both "national" and "federal" judicial review operated in comparatively narrow channels; indeed it is only since about 1890 that it has come gradually to spread beyond statable bounds because of the fact that at that period a majority of the court was indoctrinated with the then prevalent economic and social philosophy of *laissez faire*. Thus whereas before the Civil War acts of Congress had been invalidated in only two cases, nearly forty such cases have occurred since 1890; and whereas state enactments were set aside in fewer than twenty cases before the Civil War, probably twenty times that number of cases have resulted in the disallowance of state legislative provisions during the last forty years.

Champions of judicial review have invariably stressed its importance as an instrument for preserving the constitution; but the truth of the matter is that very few clauses of the constitution have furnished texts for extensive judicial exegesis, while on the other hand the main basis of "federal" review today is furnished by a judicial translation of the "due process of law" clause that is historically indefensible. The "higher law" conserved by judicial review is in fact mainly the *modus operandi* of American business today; and the values which this "higher law" conserves are freedom of individual business enterprise, short of "unethical" practices [253 U. S. 421 (1920)], and the unrestricted flow of commerce throughout the country [243 U. S. 332 (1916)]. The obvious case for judicial review is its tendency to stabilize business conditions nationally by minimizing the disturbing factor of local legislative interference and the opportunity which it occasionally offers for the further clarification and rationalization of public policies. The obvious case against it is its tendency

to postpone needed reforms beyond the period when they could have been most easily and advantageously articulated with the legal and social structure and its tendency to frustrate the prompt and effective application of the law, both state and national, to large interests.

While the written constitution is nowadays an almost universal feature of popular government, judicial review is encountered much less frequently. For some years from a period antedating the World War a prominent group of French publicists vainly urged the adoption of judicial review in France as the logical corollary of a written constitution. The chief obstacle in the way of the idea aside from the lack of a favorable juristic tradition lies in the fact that the *pouvoir constituant* as organized in the French constitution is substantially identical with the ordinary legislative power. For the same reason "national" judicial review has not yet established itself in Germany under the Weimar constitution, although a strong group of publicists have urged its theoretical claims. "Federal" judicial review, however, is specifically provided for (art. 13) and a special Court of State (*Staatsgerichtshof*) exists for its exercise.

Dicey taught that judicial review was a necessary accompaniment of federalism; but in fact it was not a feature of the old German Reich nor does it appear in the Swiss constitution although it is being agitated there. It is, nevertheless, to be found operative to a greater or less extent in Canada, Australia, Mexico, Brazil, Argentina, Venezuela and Austria—all federal states. The country in which it most closely approaches its American model in scope is Australia, but there are two important differences. Since 1907 the High Court of Australia has had exclusive jurisdiction of all constitutional cases whether arising under the commonwealth or the local constitutions. On the other hand, the High Court does not countenance any such doctrine as the modern American doctrine of due process of law. The constitution of the Dominion of Canada is an act of Parliament, the British North America Act of 1867. Since by the action of the Imperial Conference of 1930 all acts of Parliament applicable to the dominions are subject to alteration or repeal by the dominion parliaments (MacKay, Robert A., in *International Conciliation*, no. 272, 1931, p. 520), "national" judicial review in Canada is left on a precarious basis. While "federal" review will doubtless continue, the Supreme Court at Ottawa will in due course probably supplant

the Judicial Committee of the Privy Council as the court of final resort.

Among the new constitutions of central Europe that of Poland definitely forbids judicial review (art. 81); the Czechoslovakian constitution confines it to the question whether the challenged law was properly promulgated (art. 102); and the Austrian constitution accepts it and provides a special tribunal called the High Constitutional Court for its exercise (arts. 137-48 of constitution as amended in 1929) but only apparently upon the application of the national and state governments respectively. For this reason and because of the comparative ease with which the constitution may be amended and because of the immense range of powers assigned the federal government it may be doubted whether this jurisdiction of the High Constitutional Court will prove of material importance. In brief, while judicial review has recently attracted more attention abroad, the actual institutional consequences of this show of interest have so far been negligible.

On the other hand, it is a commonly recognized principle of public law in continental countries that courts of final jurisdiction may inquire whether statutes involved in cases before them were enacted by the proper constitutional procedure. This type of judicial review, if such it should be considered, may be termed "formal," to distinguish it from "material," or true, judicial review. The one is concerned with the procedure of statutory enactment, the other with the substance and content of the statutes. Formal, or procedural, judicial review is much the less rigorous of the two. While a content forbidden by the courts may be supplied by the legislature only in consequence of a constitutional amendment or the reversal by the courts of their unfavorable attitude, a misstep in the process of legislative enactment is usually easily remediable. In the United States "formal judicial review" is encountered only rarely. Most state courts regard the enrolled statute as bearing on the face of it sufficient and irrefutable proof of its authenticity, and the United States Supreme Court has never taken any other view [Dodd, W. F., "Judicially Non-enforceable Provisions of Constitution" in *University of Pennsylvania Law Review*, vol. lxxx (1931-32) 54-93; Field v. Clark, 143 U. S. 649 (1891); Leser v. Garnett, 258 U. S. 130 (1921)].

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SEE: CONSTITUTIONS; CONSTITUTIONALISM; NATURAL LAW; CONSTITUTIONAL LAW; AMENDMENTS, CONSTI-

TUTIONAL; LEGISLATION; DUE PROCESS OF LAW; FEDERATION; STATES' RIGHTS; SEPARATION OF POWERS; CHECKS AND BALANCES; SUPREME COURT, UNITED STATES; JUDICIAL PROCESS.

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**JUDICIARY.** The judiciary of a state may be defined as that body of officials whose work consists in the resolution of complaint, whether between subject and subject or between state and subject, that the laws of the state have been broken in some particular. Since the time of Aristotle it has been a matter of fairly common agreement among thinkers that the judicial power should be regarded in its nature and even more in the persons who administer it as separate from other aspects of political authority. The reasons for this view are embodied in the theory of the separation of powers. A legislature is normally too general and numerous a body to address itself to particular cases; and to leave to the executive the task of applying legislation to particular cases would be to make of it a judge in its own cause. By making the judiciary a body of men separate from either the subject is given an assurance, which he is unlikely to have in any other way, that his problem is independently assessed.

That is not to say that the judicial function can be easily distinguished from either the executive or the legislative. Judges who arrange the order of court business may reasonably be said to be doing executive work. To draw up rules of court, as does the committee on rules of the English judiciary, is to exercise a power which even if built upon an authority delegated by Parliament it is difficult not to call legislative; and when that power includes the right to determine fees it obviously partakes also of the taxing power, the most essential power in legislation. The separation of powers in fact is simply a convenience of arrangement rather than an immutable dogma; in any rigid sense it is unworkable.

This is shown clearly when the function of

judicial decision is considered (see **JUDICIAL PROCESS**). If the theory of the separation of powers were strictly true the judge would do no more than apply to particular situations a body of rules with which he was provided from without and he would at no point be in a position to determine the content of those rules. But there has been in fact no legal system in which the judicial function could be circumscribed in this way. Old rules have to be stretched to cover new situations undreamed of by the makers of the rules; sometimes, as in the case of the fellow servant rule [*Priestley v. Fowler*, (1837) 3 M. and W. 1] and many of the rules of equity, doctrines have been invented out of whole cloth by the judges. Under a written constitution like that of the United States the Supreme Court in fact determines the limits of the legislative power of both Congress and the state legislatures. He who has in his hands the interpretation of the law is by the nature of things its master. For this reason it is desirable in any state that there should be beyond the judicial authority a power capable in important cases, such as the income tax cases of the United States, of overriding the judicial determination in a particular decision. Unless such a power exists, the judiciary is bound to become the effective master of the life and fortunes of the state.

The first great problem that arises in any judicial system is the method by which the judges shall be selected. In western civilization this technique has been of a most varied character. In Great Britain the judges are of two kinds, lay and professional; the former are appointed by the lord chancellor (in the Duchy of Lancaster by the chancellor of the duchy), the latter by the prime minister, the lord chancellor or the home secretary, according to the post involved. All appointments are for life, subject only to good behavior, the latter meaning that no judge of the High Court may be dismissed save by an address to the crown from both houses of Parliament. In Great Britain the person making the appointment has no obligation to consult or to obtain confirmation from any other body or person; it has, however, become the practise in the case of lay magistrates to accept as a rule nominations put forward by committees advisory to the lord lieutenant of the county. In the United States appointments to the federal bench are made by the president, but he must obtain the consent of a majority of the Senate and there have been notable cases (one as recent as 1930) in which the presidential recommendation has been re-

jected. In the states of the American union selection is either by executive appointment, subject to the consent of an advisory body (as a rule either the legislature or the governor's council), or by election. The latter process may consist, as in Rhode Island and Virginia, in election by both houses of the legislature on a joint vote; or, as in most cases, it may consist in election by the ordinary qualified voters of the state, either voting at large, as in New York, or by districts with a separate elected judge from each district. Regulations vary from provision for a non-partisan ballot to implicit permission for ordinary partisan candidatures. Appointed judges in the federal courts sit for life unless removed by impeachment; in the states the grounds for removal are various, the widest perhaps being that of Kentucky, which permits removal "for any reasonable cause." Elected judges sit for widely varying periods, of which the two years of Vermont, the six years of Ohio, the fourteen years of New York and the twenty-one years of Pennsylvania may be taken as examples. It should be added that in Great Britain the heads of the different courts are appointed by the prime minister, as the chief justice of the United States Supreme Court is appointed by the president (the confirmation of the Senate being required), but in the United States the chief justice of the highest state court is selected in a variety of ways: he may be appointed or selected by lot or individually elected or chosen by the court itself or be the judge who has the shortest term to serve or he may be the senior judge, to name only some of the possible variations.

For lay judges in England no qualification is required save the approval of the appointing authority; for professional judges a minimum period of seven years' service at the bar is required. A newly appointed judge may go directly to the highest court of the land; and it is rare for the head of the whole judicial system, the lord chancellor (who is a member of the cabinet), to have any previous judicial experience. The qualifications demanded in the United States are more various. None is formally required of federal judges by the United States constitution; in the state constitutions are found qualifications as to age (twenty-five being the lowest), character, education, residence and length of practice (in Louisiana for as long as ten years) at the bar of the particular state.

The appointive system without legislative confirmation exists in the British dominions and colonies; and it may therefore be broadly said

that the basis of judicial selection in the territory where the common law prevails is either appointment or election, with a bias in favor of the former. On the continent of Europe a totally different system prevails. There the judiciary may be briefly described as a special civil service recruited by a special examination and without organic relation, as in Great Britain and the United States, to the bar. A Frenchman or a German becomes a judge in the same way as an Englishman or an American becomes a lawyer, save that there are a limited number of vacancies every year. Appointment from without is a rare exception. Promotion, after the original appointment by examination, is dependent upon the will of the executive; and there are all the usual guaranties of judicial tenure. The Swiss system, on the other hand, more nearly resembles the American. The judges of the highest federal court are elected by the federal legislature, and in the cantons there is every variation from appointment by the executive to direct election by popular vote. In the new Spanish constitution (1931) executive appointment prevails; but the minister is assisted in his choice by a council, whose verdict is intended to have considerable weight in the decision.

What is to be said of these different methods? With the British system of lay magistrates it is difficult to express any satisfaction. They are chosen mainly as a reward for political service—the last motive which should enter into judicial appointment. Save by accident they have no professional competence, and in any case which involves something more than common sense they tend to be at the mercy of the clerk of the court who acts as their technical adviser. Since moreover they do not sit continuously—the average magistrate sits for a fortnight in the year—there is a wide range of variation in punishment for similar offenses, depending largely upon the views and temperament of particular magistrates. On the basis of British experience it must be concluded that the place for the lay mind is emphatically in the jury and not on the bench.

The system of executive appointment has clearly much to commend it where it is carried out in a really responsible way. Its danger is that, in the absence of a need to secure confirmation for the executive choice, motives irrelevant to fitness for judicial position may enter into the appointment. In Great Britain, for example, it is certain that a place on the bench has only too often been a reward for political services, and there has been a tendency to reserve the highest

places on the bench for men who have occupied high political office. It is notable, for instance, that every lord chief justice of England in the last sixty years has, with one exception, been an ex-attorney general; and that exception was a judge who agreed to hold office until it was convenient to the government of the day to release the then attorney general. No doubt there have been few really dubious appointments under the British system; but it is worth remarking that the greatest British judges of the nineteenth century were either not politicians at all or were men who did not suit the atmosphere of the House of Commons. In so far as British experience may serve as the basis of generalization, its lesson seems to be that the unfettered discretion of the executive is not the best way of appointing judges.

The system of legislative confirmation has much more to be said for it. Certainly in the United States it has prevented bad appointments by compelling the executive to take account of what public opinion may say when his choice is made known. It has, however, clear weaknesses. It may tend to inject purely partisan considerations into the process of confirmation. It gives opportunity, as in the famous case of Justice Brandeis in 1916, for strong vested interests to work against a nomination which they suspect may be hostile to them. There is, finally, a chance for the display of all the vices of a corporate body when the choice of the executive falls upon one of its own past or present members. It would not be an unfair summary of American experience to say that confirmation of executive appointments is desirable but that it is not clear that the legislature should either in whole or in part be the source of the power to confirm.

A priori the case against the popular election of judges would seem to be unanswerable, especially where the term of office is short. The qualities which go to make a good judge are rarely to be discriminated by a vast and amorphous body like an electorate; and the necessity for reelection is not helpful to that independence of mind without which no judiciary can do its work adequately. It should, however, be said that the system has not worked badly in Switzerland and that in the United States it has produced some judges of a very high order. But success in a lottery is not an argument for lotteries; and most observers would probably agree in regarding the elective system as bad in principle and generally unsatisfactory in experience.

The system of a judicial civil service has much to commend it. So far as original appointment is concerned, it provides a notable safeguard against favoritism in nomination; and the esprit de corps engendered has certainly given to France a body of judges distinguished by their learning and technical competence. Its weaknesses, it may be argued, are twofold. The very fact that it is a civil service tends to make it both conservative in outlook and excessively formalistic in method; it tends to emphasize the procedural rather than the substantive side of law. And the fact that promotion is an internal matter tends to deprive it of the services of men who come to the problems of the law with a knowledge of the world outside the courts and therefore something of the statesman's insight. A system like the French may produce judges to rival Story in eminence or Willes in learning; it will hardly produce judges with the breadth of outlook of Mansfield or Marshall. And it may be argued that in the process of adjusting law to life the power to produce and use men of the stamp of Mansfield and Marshall is essential to the full success of a judicial system.

The implicit lesson of all this experience seems to be the desirability of executive appointment, subject to control by an advisory body. The latter should not be political in complexion nor should it be dominated by a purely professional clement. Such a body should be relatively small in numbers, and in the event of disagreement with the executive the reasons for its decision should be made known. It is desirable that its members should sit for a considerable term of years and that they should not change with a change in the character of the executive. It is very improbable that purely partisan or wholly undesirable appointments would be submitted to such a body for confirmation; and it is at least possible that as it developed traditions it would prove a bulwark of safety in the assessments of fitness for judicial office.

Certain other problems remain. Experience suggests that the irremovability of judges, save for serious misconduct, is fundamental to the preservation of their independence; and the Anglo-American method of removal only by legislative action seems as useful a procedure as can be devised. It is always possible to use it, but the very gravity of the method reserves it for use only on the most important occasions. Too little attention, however, is given to the problem of establishing a proper retiring age. Judges do not often reach really important places

until they are fifty or over; and as a pension is seldom afforded until some fifteen or twenty years have elapsed, judges are frequently old men who have lost touch with the ideas of a new generation. Recently, for example, the average age of the judicial committee of the British Privy Council was over seventy-five. On the other hand, it is certain that some of the finest judicial work of modern times has been done by men of advanced years; and the case against too early a compulsory retirement is proved by instances like Lords Lindley and Macnaghten in England and Mr. Justice Holmes in the United States. It is clearly undesirable, however, that a judge should himself be the sole determinant of his fitness for continuing to function. The problem could be met by fixing a normal retiring age of seventy-five, with a power in the proposed advisory committee to the executive to extend this period annually where it seems desirable. In general this would mean that the average judge had done some twenty years' service at the time of his retirement while the exceptional judge would be able to make his activities on the bench span the experience of a whole generation.

A further problem is raised by the relation of judges in inferior to those in superior courts: the difficult question, in short, of promotion. In a judicial system like that of France the limitation of the sources of recruitment offers a reasonable prospect to the judges of a lower court that performance of merit will be given some weight in the assessment of promotion. Influence and even political opinions doubtless have their part; but the notion of appointment by merit has its effect upon the system. In England,

there has been no case in which a police magistrate has been promoted to the county court and only one case in which a county court judge has been appointed to the High Court, while in the last seventy-five years the highest judicial offices have been filled far more often directly by first appointments than even by promotion from the High Court. In the American federal judicial system promotion from the district court to the circuit court has been fairly frequent but promotion from either to the Supreme Court has been exceptional. Thus in England and to a lesser degree in the United States the system tends to discourage able young men from accepting positions on inferior courts because of the knowledge that their judicial career will too often end there; and it also tends, especially in England, to staff the inferior courts with middle-aged men who have not been successful enough at the

bar to hope for the distinction of high judicial appointment. Any serious consideration of the problem of judicial appointment will have to pay attention to these implications, for they tend to make the work of the popular courts unsatisfactory in quality and, further, to multiply appeals—a serious matter where, as in England and America, litigation is expensive.

Anglo-American practise has widely diverged from that of the European continent in its insistence that the place of ultimate decision for all legal problems shall be the ordinary courts of law. Although the growth of state functions has led to the development in both England and the United States of all kinds of special tribunals, some of which are staffed by officials who are not trained in the law, the legal problems, especially in the realm of *vires* to which the decisions of these tribunals give rise, have always been settled in the absence of special statutory provision by the House of Lords and by the Supreme Court. The doctrine underlying this practise has been that the citizen is not assured of the full rule of law unless his rights may be determined, at least in the last resort, by a tribunal independent of the executive power.

Upon the continent a different view has been taken. The theory of the separation of powers regards executive and judiciary as upon an equal footing; for the latter to control the acts of the former would therefore be a violation of principle. Therefore cases which concern the activities of ministers or civil servants when acting in their official capacity come before special tribunals known as administrative courts, in which the claims of the citizen are decided by judges usually specialized to this type of work. In this way cases involving the administrative process are judged by men who are acquainted with the special problems to which it gives rise; and they possess the necessary *expertise* to handle the quasi-judicial issues which are involved. Such tribunals, further, have the merits of flexibility, cheapness of procedure and rapidity of decision, which are seldom characteristic of the ordinary courts of law. It is tolerably certain that most of the Anglo-American criticism of administrative tribunals, at any rate as applying to France and Germany, is misconceived. *Droit administratif* is in both countries a well settled body of law; those who apply it have all the necessary training, both legal and technical, for the special problems they settle; and the special merits claimed for such tribunals do in fact characterize their operation. Nor can it be

said that, at any rate for the last sixty years, there has been lacking in these courts that independence which assures proper standards of impartiality of decision. In so far as it is desirable to separate public from private law—a problem of grave theoretical complexity—the system of *droit administratif* has in the last two generations satisfied all the canons of adequacy by which a judiciary is normally tested. In particular, it is worth emphasizing that the Conseil d'État in France has shown that a body of civil servants can display all the highest qualities of a great court of law.

The development of administrative tribunals in Anglo-American countries has given rise to special problems upon which judgment is more difficult. Certain conclusions, however, are clear: the growth of state functions gives rise to issues of fact of a highly technical nature for the settlement of which the purely legal training of the judge is not necessarily adequate; the volume of work done by administrative tribunals is so large that to allow appeals from them to the ordinary courts would congest the latter to an impossible point; most administrative cases involve the exercise of an executive discretion which can be properly appreciated only by officials concerned with the results of policy, and to have such discretionary problems determined by the ordinary courts is to leave to judges decisions upon questions which are not legal at all; administrative tribunals can work more flexibly, cheaply and quickly than the ordinary courts.

In these conclusions there is a truth which it is impossible to deny. Few impartial observers can doubt that the record of the English courts in quasi-judicial cases (e.g. statutes relating to housing legislation, workmen's compensation and the like) or of the Supreme Court of the United States in valuation cases has not been wholly happy. The ordinary judge cannot be expected to have *expertise* in these matters, and his training in the rules of the common law tends to make him approach issues of public administration from an unhelpful angle. But if administrative tribunals are to command public confidence it may be suggested that their membership must satisfy certain historic canons on which public confidence appears to depend. Their composition must be stable in character. The minister or department head must not be able to change their membership at his discretion or to overrule their findings on issues of fact where they exist to determine such issues. The men appointed to such tribunals must be known and chosen for

their competence in the theme of their particular jurisdiction. Such tribunals should moreover always contain a legal element. These canons are in fact satisfied by the French and German systems; it cannot be said that they have yet been satisfied in the tribunals which the necessities of the modern state have led Great Britain and the United States to erect.

Certainly the problems to which the extension of administrative jurisdictions gives rise are from the angle of the judicial function grave ones. If the determination of cases may be finally left to officials who do not necessarily have legal training or security of tenure and who do have an administrative interest in the result of the case, an appeal from their decision on suitable legal grounds would seem a priori to be a proper way of safeguarding public confidence in them. It is also urgent that their work should be done with adequate publicity and should be accompanied by explanations of the results. On this basis there seems no reason why in suitable cases the delegation of administrative decisions should not take place upon an increasing scale. Purely judicial questions could still be left to the ordinary courts; but there is no reason to suppose that with appropriate safeguards non-legal members of administrative tribunals could not do quasi-judicial work wherever their special competence is likely to prove of value. Any other attitude is a sacrifice of relevant experience to the requirements of a theory of the separation of powers which the progress of doctrine has made it increasingly difficult to defend.

This is, in short, to argue that there is a realm in which decisions that have a legal bearing require lay judges rather than the traditional experts of the law, always on the assumption that the requirements of law are properly safeguarded. But if in quasi-judicial decisions a mixture of special competence is likely to produce the most adequate result, the same principle may also be extended to the normal processes of the courts. It is difficult to see why the judge there should not be assisted by lay assessors competent in some special aspect of the decision he has to make. The desirability of this procedure is already admitted, for example, in the British Court of Admiralty, where naval assessors sit to assist the judge on technical points. Is it not at least equally desirable that the judge should be assisted on medical questions by expert medical assessors and on engineering or valuation problems by experts on engineering and valuation? The present position, in which the judge is left

to find his way between the disparate opinions of expert witnesses upon highly technical matters about which only too often he is hearing for the first time, can hardly be regarded as satisfactory. It assumes that a legal training combines with a judicial frame of mind to give birth to an omniscience which is hardly borne out by the decisions themselves. It is even possible to envisage the time when the process of inflicting sentence in a criminal case will depend less upon judicial intuition of what the case is worth as a crime than upon a series of recommendations from experts in criminal psychology and social welfare work who advise the judge as permanent officers of the court.

One final aspect of the place of the judiciary in the modern state deserves a word. There has never been any considered effort in modern times to relate the judicial function organically with the vital process of improving the law. From time to time the public is made aware of legal inadequacies by the *obiter dicta* of judges, and from time to time its opinion has been sought, either individually or collectively, upon particular problems. In England there is even provision in the Judicature Act of 1873 for a council of the judges with suggestions for legal improvement as one of its aims, but it is said that the council has not met half a dozen times since the statute was passed and has not on any of these occasions transacted important business. The Supreme Court has on occasion effected useful procedural changes although of a minor character, but it has never as a corporate body sought to inform the executive or the legislature upon desirable improvements in the law.

Work of this kind ought to be an inherent part of the judicial function. One of the many difficulties that law reform confronts is the technical character of its subject matter, of which the result is a serious limitation of the part that the layman can play in its improvement. The lawyer no doubt has always been a conservative force in society and the stability he largely protects has its own special social value. But this does not rule out the desirability of obtaining from the judiciary in a regular and coherent way their view of the state of the law and the means they would take, especially in urgent aspects, for its improvement. To allow their experience of its operation to go unutilized is surely a waste of an important source of social knowledge. Anyone who compares our present conception of legal institutions with the ideal, for example, set out by Bentham in his *Constitutional Code* will find it difficult to

resist the conclusion that the mere rendering of judicial decisions, no matter what the distinction with which it may be done, does not exhaust the services the judge can perform. There must be few judges, to take an obvious example, whose experience has not led them to a considered view of the value and limitations of the jury system, yet our knowledge of the burden of that experience is limited to an occasional remark in a biography rarely fortified by serious argument. Nothing, it may be argued, is more likely to augment the respect for judges or is more certain therefore to increase the regard in which law itself is held than the deliberate attempt to provide institutional channels for the expression and utilization of judicial experience, which are now wanting.

HAROLD J. LASKI

See: COURTS; JUDICIAL PROCESS; RULE OF LAW; SEPARATION OF POWERS; CONSTITUTIONALISM; JUDICIAL REVIEW; PUBLIC OFFICE; ELECTIONS; LEGAL PROFESSION AND LEGAL EDUCATION; SUPREME COURT, UNITED STATES; JUSTICE OF THE PEACE; ADMINISTRATIVE LAW; COURTS, ADMINISTRATIVE; EXPERT TESTIMONY; EXPERT.

Consult: Sidgwick, Henry, *The Elements of Politics* (4th ed. London 1919) ch. xxiv; Laski, H. J., *A Grammar of Politics* (2nd ed. New Haven 1929) ch. x, and *Studies in Law and Politics* (New Haven 1932); Robson, W. A., *Justice and Administrative Law* (London 1928) esp. ch. v; Cardozo, B. N., *The Nature of the Judicial Process* (New Haven 1921); Pound, Roscoe, *The Spirit of the Common Law* (Boston 1921); Judson, Frederick N., *The Judiciary and the People* (New Haven 1913); Beradt, Martin, *Der deutsche Richter* (Frankfurt 1930); Fraenkel, Ernst, *Zur Soziologie der Klassenjustiz* (Berlin 1927); Baldwin, S. E., *The American Judiciary* (New York 1905); Bruce, A. A., *The American Judge* (New York 1924); Frankfurter, Felix, and Landis, J. M., *The Business of the Supreme Court* (New York 1927); Hauriou, Maurice, *Précis de droit constitutionnel* (2nd ed. Paris 1929); Garner, J. W., "The French Judiciary" in *Yale Law Journal*, vol. xxvi (1916-17) 349-87. For accounts of the judicial systems in specific countries, consult the bibliographies following the article on GOVERNMENT.

JUGLAR, CLÉMENT (1819-1905), French economist. Juglar was a physician but abandoned his practise in 1848 and devoted himself entirely to the study of economic problems. He became a member of the Société d'Économie Politique in 1852, was one of the founders of the Société de Statistique de Paris in 1860 and was elected a member of the Académie des Sciences Morales et Politiques in 1892.

Juglar's interest centered chiefly in the problem of business fluctuations. His *Des crises commerciales et de leur retour périodique en France*,



*en Angleterre, et aux États-Unis* (Paris 1862, 2nd ed. 1889; tr. by De C. W. Thom, 3rd ed. New York 1916), which won the award of the Académie des Sciences Morales et Politiques, marks a turning point in the study of business crises. It is a painstaking study of changes in commodity prices, interest rates and bank balances in which Juglar for the first time demonstrated the rhythmic, cyclical character of economic activities. His other prize winning study, *Du change et de la liberté d'émission* (Paris 1868), is a useful study of the exchanges at the end of the eighteenth century and the beginning of the nineteenth. In 1865 Juglar was commissioned to translate the text of the English bank investigations which were largely concerned with commercial crises, and he gave valuable testimony when a similar investigation was organized in France. He published a large number of articles in the *Annuaire statistique*, the *Journal des économistes*, the *Journal de la société de statistique de Paris* and in *Économiste française* and wrote the articles on banks and on crises in Say's *Dictionnaire des finances*.

JEAN LESCURE

*Consult:* Beauregard, Paul, "Notice sur la vie et les travaux de M. Clément Juglar" in Académie des Sciences Morales et Politiques, *Compte rendu*, n.s., vol. lxxi (1909) 153-79.

**JULIANUS, FLAVIUS CLAUDIUS** (Julian the Apostate) (331 or 332-63), Roman emperor. Julian, who was the son of a half brother of Constantine the Great, was born at Constantinople. In the massacre which after Constantine's death (337 A.D.) freed his sons from the rivalry of the emperor's other relatives only Julian and his elder half brother Gallus were spared. Both suffered from the suspicions of the emperor Constantius and were forced to spend six years on a remote imperial estate in Cappadocia. About 347 Julian was allowed to return to Constantinople. During his subsequent travels in Asia Minor he became a disciple of the neo-Platonist philosophers. For a short time he studied also at the University of Athens. In 355 Constantius sent him as Caesar to Gaul. Julian won a decisive victory over the Alemanni at Strasbourg and reorganized the administration of the province. In 360, when Constantius ordered troops from Gaul to march to the east to repel the Persian attacks, the army in Gaul revolted and proclaimed Julian emperor. The death of Constantius prevented civil war, and Julian succeeded to the throne in 361.

Upon his proclamation as Augustus, Julian professed openly for the first time the faith to which his studies and meditations had converted him—Hellenism. Just as Constantine had consistently endeavored to base the security of the Roman Empire upon a close alliance between the state and a united Christian church, Julian the Apostate sought to secure the prosperity of the empire through a revival of the worship of the ancient gods. Christianity was a menace not only to the pagan faith but to Greek culture as a whole, for in Julian's mind the faith and the culture were identified. Believing that only a reformed paganism could successfully resist its rival, he tried to create a pagan church. His tragedy lay in the fact that he gave to paganism a reinterpretation for which in the popular conception of the ancient faith there had been no adequate preparation; his fiery enthusiasm met for the most part only with indifference or ridicule. In 363 Julian was killed during the retreat which followed his invasion of Persia. Although at the outset of his reign he had professed a policy of religious toleration, imperial favor had soon become limited to the pagans. On his departure for Persia his animosity against the Christians was so violent that in the opinion of many had he returned he would have inaugurated a fresh persecution. His backward look in religion was matched by a political archaism seeking to restore the authority and prestige of the Senate. In the sphere of administration his passion for reform was practical and unmystical, especially his efforts to increase the membership and the financial capacity of the municipal senates, to reduce the expenditure of the imperial court and to render justice swift and impartial.

NORMAN H. BAYNES

*Works:* Julian's complete works, *Juliani imperatoris quae supersunt praeter reliquias apud Cyrillum omnia*, were published by F. C. Hertling, 2 vols. (Leipzig 1875-76), tr. by W. C. Wright, Loeb Classical Library, 3 vols. (London 1913-23); his laws and letters, *Epistulae leges poematibus fragmenta varia*, were edited by J. Bidez and F. Cumont (Paris 1922).

*Consult:* Bidez, J., *La vie de l'empereur Julien* (Paris 1930); Geffcken, J., *Kaiser Julianus, Das Erbe der Alten*, vol. vii (Leipzig 1914); Simpson, W. Douglas, *Julian the Apostate* (Aberdeen 1930); Ensslin, W., "Kaiser Julianus Gesetzgebungswerk und Reichsverwaltung" in *Klio*, vol. xviii (1922-23) 104-99; Baynes, N. H., "The Early Life of Julian the Apostate" in *Journal of Hellenic Studies*, vol. xlv (1925) 251-54.

**JULIANUS, SALVIUS**, Roman jurist. He was born at Hadrumetum in Tunis toward the end of the first century A.D. He succeeded his teacher

Javolenus as one of the heads of the Sabinian school but was destined by the authority of his writings to close its traditional rivalry with the Proculian school. Julian's fame depends on his share in Hadrian's legal reforms and on his *Digesta*. The earlier emperors had left the development of law to praetors and jurists, but with the growth of the imperial system the independence of these authorities had become anomalous and indeed unreal. Hadrian terminated the further development of praetorian law by confiding to Julian toward the close of his reign the task of stereotyping the Edict: Julian's Edict and no other was to be issued by future magistrates. It was a work of ripe judgment rather than of originality, embodying few departures from the traditional form. Hadrian also associated the juristic development of law more closely with the imperial authority by including the leading jurists, with Julian as chief, in his reorganized council, of which he so extended the civil jurisdiction that rescripts nominally imperial but actually settled by the legal members became a main instrument of other than statutory legal progress. Julian's *Digesta*, covering the whole law in ninety books (printed in Lenel, Otto, *Palingenesia iuris civilis*, 2 vols., Leipzig 1889, vol. i, cols. 317-484), belongs probably to the reign of Antoninus Pius when he was at the height of his great official career. This work, unequalled in influence except perhaps by Laheo's, became the basis of the commentaries of Ulpian and Paul and is the forerunner of Justinian's own Digest. What remains of it (through Justinian) is casuistic and practical; probably its dogmatic expositions have been suppressed in favor of those of Paul and Ulpian. Julian died presumably early in the reign of Marcus Aurelius and Verus, having preserved until an advanced age, as he says himself (*Dig.* 40, 5, 20), with one foot in the grave the thirst for learning. The emperor Didius Julianus was his grandson or great grandson.

## F. DE ZULUETA

Consult: Buhl, Heinrich, *Salvius Iulianus* (Heidelberg 1886); Fitting, Hermann, *Alter und Folge der Schriften römischer Juristen von Hadrian bis Alexander* (2nd ed. Halle 1908) ch. i; Krüger, Paul, *Geschichte der Quellen und Literatur des römischen Rechts*, Systematisches Handbuch der deutschen Rechtswissenschaft, pt. i, vol. ii (2nd ed. Munich 1912) p. 93, 182-87; Girard, P. F., "L'édit prétoire" in his *Mélanges de droit romain*, vols. i-ii (Paris 1912-23) vol. i, pt. iii; Pfaff, I., in *Paulys Real-Encyclopädie der klassischen Altertumswissenschaft*, ed. by Georg Wissowa, Wilhelm Kroll, and Kurt Witte, 2d ser., vol. i (Stuttgart 1920) cols. 2023-26; Appleton, Charles, "La date des Digesta de

Julien," and "Le vrai et le faux Sénatus-Consulte Juventien" in *Revue historique de droit français et étranger*, 3rd ser., vol. xxxiv (1910) 731-93, and 4th ser., vol. ix (1930) 1-19, 621-68; Kulb, Wilhelm, *Röm Juristen, nach ihrer Sprache dargestellt* (Leipzig 1890) p. 57-61; Rechnitz, Wilhelm, *Studien zu Salvius Iulianus* (Weimar 1925), and the review by Eduard Fraenkel in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Romanistische Abteilung, vol. xlvii (1927) 397-414.

JURIEU, PIERRE (1637-1713). French Huguenot publicist and ecclesiastic. Jurieu served as pastor at Mer and later as professor of theology and Hebrew in the Calvinist academy at Sedan. In 1681 he was exiled from France and went to Rotterdam. An ardent controversialist and a skilful writer, he was soon involved in many religious disputes not only with his Catholic opponents but also with his Walloon sympathizers and coreligionists. His most celebrated theological adversary was Pierre Bayle, the French critic and philosopher. Jurieu's religious writings, however, have not attracted much attention. His reputation rests upon his political works. Influenced by the revocation of the Edict of Nantes he opposed in his *Préservatif contre le changement de religion* (The Hague 1682) and *Lettres pastorales adressées aux fidèles qui gémissent sous la captivité de Babylone* (Rotterdam 1686; English translation, London 1689) the divine right theory so cleverly defended by Bishop Bossuet. Jurieu also became a leading exponent of popular political and religious liberty and was one of the outstanding exponents of the idea of the sovereignty of the people in the seventeenth century. A pamphlet attributed to him, *Les soupirs de la France esclave qui aspire après la liberté* (Amsterdam 1689; English translation, 3 vols., London 1689-90), contained such a true picture of the political changes which occurred after its publication that it was reprinted a century later under the title *Les vœux d'un patriote* (Amsterdam 1788).

## FRANKLIN C. PALM

Consult: Puaux, Frank, *Les défenseurs de la souveraineté du peuple sous le règne de Louis XIV* (Paris 1917); Sée, Henri, *Les idées politiques en France au XVII<sup>e</sup> siècle* (Paris 1923) p. 191-208.

JURISDICTION. The concept jurisdiction (from the Latin *jurisdictio*, which means speaking by the law) appears in the Roman law and also in the modern civil and common law systems. It is at once too elemental and too ambiguous to be defined. It is perhaps an ideal prototype of a law term which seems to have

definite meaning but which reduces itself on analysis to a mere focal point for a variety of arguments applicable to a variety of dissimilar problems. The arguments are usually couched in negative form: that there is no jurisdiction or that a particular act will be or was in excess of the court's jurisdiction. The nature of jurisdiction can best be appreciated by considering when such arguments are appropriate and what they can accomplish.

A fundamental principle is that without jurisdiction there is no capacity to act as a court. The individuals who hold judicial office may behave as though they were holding court. They may announce their views in formal writing with signatures and seals as though they were pronouncing judgment, but the document is not a judgment. It is a "nullity." If execution issues to enforce it, those levying execution are not protected nor can title pass to purchasers on execution sale. No other court will aid in enforcement of the judgment or recognize it as settling a disputed issue. These consequences, however, follow only if the lack of jurisdiction is pointed out. Otherwise the void judgment may pass as valid. The usual method of making timely application to the court which rendered a judgment or to the proper appellate court to set aside the judgment for lack of jurisdictional basis is called direct attack. Collateral attack, on the other hand, is an allegation that a judgment is void for lack of jurisdictional basis made in a proceeding other than the one in which judgment was rendered.

As collateral attack may involve in serious hardship those who have relied on seemingly valid and final judicial action, every effort is made to limit its availability. This is done by permitting no argument except lack of jurisdiction and by allowing only the narrowest scope to that argument. Thus the ideal test of the logical validity of an argument in jurisdictional terms becomes: is there ground for collateral attack? It is a test which few jurisdictional arguments could meet.

In fact no attempt is made to save lack of jurisdiction untarnished for use on collateral attack. It takes its place with other arguments at every stage in a lawsuit as a reason for inducing a court to refrain from acting or to set aside past action. Counsel asking dismissal are always tempted to say for emphasis that their reasons go to the very jurisdiction of the court. Judges writing opinions fall to talking in jurisdictional terms partly because it is easier to adopt counsel's argument than to fashion explanation of

their own, partly because this seems the easiest way to impress the disappointed litigant with the fact that it is the law not the judge that refuses to hear him. The resultant descriptions of what goes to a court's jurisdiction differ with the situations in which they are used. Different considerations apply to prompt and delayed assertion of jurisdictional objections, to direct and collateral attack, to collateral attack on default and contested judgments, to those protesting on jurisdictional grounds alone and to those seeking to preserve a second line of defense on the merits in case their jurisdictional defense fails. Each situation requires its own balancing of the objections to the court with the desire not to delay or defeat litigants on technical grounds.

Different balances are struck in civil and criminal actions. In civil procedure many subtle refinements make for stability. Sometimes a jurisdictional objection may be "waived" by not raising it or by attempting also to preserve a defense on the merits. Again, the logic may lead to the paradox that even a court without jurisdiction has a limited jurisdiction to pass on an objection to its jurisdiction; its decision may be erroneous, yet it is subject to correction only by prompt appeal. If it decides that it has jurisdiction and enters judgment, the judgment will not be subject to collateral attack, for the issue as to its jurisdiction is *res judicata*. Again, the reason why a particular court is inappropriate may be called something else than a rule of jurisdiction—merely a matter of venue. In such a case disregard of it would not affect the validity of the judgment on collateral attack.

Such stabilizing devices are much less prominent in the criminal law. On the contrary, the writ of habeas corpus, originally devised to release prisoners "unlawfully" detained, as by order of a court acting without jurisdiction, has become simply one more method of appeal. The pressure to protect the defendant is here much stronger than in civil actions. To secure summary release or release after it is too late to appeal it is necessary for a court issuing the writ merely to say that the error deprived the former court of jurisdiction or at least that the judgment rendered was in excess of its jurisdiction. Thus the concept of jurisdiction having become attached to a remedy expands as new uses are found for the remedy, and eventually there is a shift from argument that the court is inappropriate to review of any gross error of substantive law or procedure, such as violation of a constitution.

Behind and overshadowing the attempt to fix the limits of a particular court's jurisdiction may be some fundamental struggle for power, such as those which have occurred between church and state, feudalism and centralized monarchy, centralized monarchy and a rising middle class, executive and legislature, federalism and states' rights, debtors and creditors, agrarian and industrial interests, economic conservatism and radicalism. Sometimes the stake is only in the prestige and revenue to be derived from holding court or appointing judges. Sometimes the ultimate objective is the disposition of particular types of litigation and the struggle is to get them before the courts deemed most likely to reach the desired results.

As far as the appropriateness of a particular court is concerned, it is affected by the nature of the plaintiff's claim, the amount in dispute, the status, residence and presence of the parties, their submission to the court and the observance of procedural prerequisites, such as service of process. Where the distribution of judicial business is a major political issue, whatever compromise is reached is naturally not subject to modification at the whim of litigants. A technical expression of this is that lack of jurisdiction of the subject matter cannot be waived by a defendant, although he may waive lack of jurisdiction over his person. But the historical political issues may lose importance with the lapse of time. The result may be a feeling that it would be too arbitrary and technical to dismiss a suit where it appears at a late stage that plaintiff has begun in the wrong court. Again the escape is by warping terminology. So far as a court can define the objection as not going to its jurisdiction over the subject matter it is free to dispose of the problem as justice to the litigants may require.

These are but scattered illustrations. A complete account of the situations where argument has been in jurisdictional terms would run the gamut of legal and constitutional history without being particularly illuminating. The analysis would tend to obscure rather than elucidate the social aspects of the actual problems. It is better to deal with specific problems and to examine the part which other concepts as well as jurisdiction play in their determination. One most important problem is the geographical distribution of judicial business—the place of trial.

The simplest treatment of the problem is to make a preliminary inquiry as to the testimony which each party wants to present and to arrange the place of trial with regard to the convenience

of the parties and their witnesses, the date at which trial can be had and the relative burden on those whose taxes support the courts and who render jury service. The modern English practice provides for determining the place of trial within the country by discretionary order of court in the light of such considerations.

This result was approached also by the later common law in a more intricate and indirect way. Actions were classified as either local or transitory, the former consisting chiefly of actions concerning land. If the action was local, the plaintiff had to designate as the county for trial that one wherein his claim arose; otherwise he might designate any county in England. The place of trial thus designated was called the venue. The defendant could obtain a change of venue of a transitory action if the county selected by the plaintiff was inconvenient. The venue of any action might be changed if it was impossible to obtain a fair trial in the original county.

The common law rules can be appreciated only if they are considered in the light of the court system of which they were a function. The royal courts were all centralized at Westminster. There original writs were obtained, pleadings exchanged and points of law argued. Unless the proceedings at Westminster finally disposed of a case on a point of law they would culminate in an issue of fact for trial by jury at the assizes. The judges of the central courts and counsel rode the circuit of the various counties to conduct the jury trials. Under such circumstances the place of trial became merely one procedural incident in the trial of a case.

It is when the localized jurisdiction of courts is considered and place of trial is confused with the plaintiff's selection of a court that troubles begin. Here talk is likely to be in jurisdictional terms with metaphysical bugaboos lurking in every thicket. Thus the logic which describes action by a court without jurisdiction as a nullity makes it impossible to consider a case as pending until it has been brought in a court that has jurisdiction. Even a court with jurisdiction cannot simply order the case transferred to a court of another state or nation as more convenient for trial. The result is a common assumption of necessity to choose between trial in the court where the plaintiff has begun and a dismissal which forces him to start all over again elsewhere, thereby delaying him, perhaps depriving him of the advantage of having attached property of the defendant, perhaps barring his action altogether,

if meanwhile the statute of limitations has run.

In so far as this difficulty arises under the American state system of semi-autonomous county courts it can be and frequently is obviated by statutes providing that where the plaintiff has begun in the wrong county court the defendant's only remedy is to move seasonably to change the venue to the proper county court. Substantially the same result might easily be achieved on an interstate or international scale. The court where the plaintiff has begun his action might, on the defendant's objection to the forum as inconvenient, stay or dismiss the action upon condition that the defendant make stipulations which would have the same effect as though there were a change of venue to some other state. The defendant could be required to waive service of process in the other state, to agree not to plead the statute of limitations and to furnish substitute security in case the plaintiff had attached property in connection with his original action. Jurisdiction would then concern itself only with the problem of the appropriateness of the courts of a particular state to pass on the preliminary question of the proper place for ultimate trial of the case. Since the preliminary question would be handled on motion and affidavit, no difficulties of transporting witnesses would arise.

But the treatment of the problem has not been that of a simple matter of procedure; it has exhibited mechanical jurisprudence at its worst. The common law distinction between local and transitory actions has been laid down as though it involved principles of inherent justice, and its historical origin as an incident of a particular system of courts has been ignored. The rule that the plaintiff may lay the venue of a transitory action where he chooses has been transferred from county to interstate scale without the county qualification that the defendant may obtain a change of venue where the plaintiff has designated an inconvenient place. The rule that actions for injury to land are local has resulted in complete denial of relief to the plaintiff when the defendant has not been subject to the jurisdiction of the courts where the land is. The attempt is made to get along with historic categories that go back to primitive notions as to the necessity of having a defendant physically in court and consenting to a particular method of settling the controversy. The modern method is to give the plaintiff judgment by default after the defendant has been notified to appear. But early common law procedure involved resort to a series of co-

ercive measures culminating in outlawry: when the defendant was forced to appear, weights were put on his chest until he "consented" to jury trial.

The foundation of jurisdiction is still said to be physical power, but the physical basis for the "power" becomes more and more metaphorical. Attempt has been made to classify the bases for jurisdiction over a defendant as presence (however transient) at the time of service of process, consent (which might be coerced or "implied") and allegiance (citizenship, domicile or perhaps a residence which was less than domicile, if the defendant were temporarily outside the state). These concepts have been worked out as though the norm of litigation were an individual defendant, whereas today most jurisdictional problems involve enforcement of vicarious liability: claims against foreign corporations and other business associations and non-resident individuals who carry on business within the state through local agents. Perhaps the one notable exception is the non-resident motorist, and there the real party in interest is likely to be a corporate insurer. Various American statutes have required non-residents engaging in local activity to designate local agents, sometimes state officials, on whom process might be served. Questions have arisen as to whether these statutes did or could extend to claims arising outside the state and as to the effect of non-compliance. Could consent be implied from the conduct of business within the state; could the foreign corporation be regarded as present wherever it did business; was jurisdiction dependent on the power of the state to exclude the business altogether; or was it merely an incident of a general "police power" to regulate any business conducted within the state? Where it is not possible to satisfy the requirements of jurisdiction over the defendant, there may be jurisdiction over his property or over debts owed to him, and there may be a proceeding *quasi in rem* to apply the property or debts as far as they will go in satisfaction of the plaintiff's claim.

The law of interstate jurisdiction has developed as constitutional law. The full faith and credit clause of the federal constitution has been held to require recognition of a judgment of a sister state only if the court which rendered it had jurisdiction. The due process clause of the Fourteenth Amendment has been held to be violated by the entering of judgment without jurisdiction. The power of the Supreme Court to review state decisions under these two provi-

sions has created a federal law as to the limits of jurisdiction which a state can confer on its courts. The tendency of state legislation has been to provide new machinery and the tendency of the federal law has been to expand jurisdictional concepts to justify legislation, affording plaintiffs ever wider opportunity to bring suit at forums convenient for them.

'These enlargements of plaintiffs' choices of forums have made possible vexatious selections. Forums are chosen not because they are convenient for plaintiffs but because they are highly inconvenient for defendants. This has been particularly notorious in the field of personal injury litigation against interstate railroads and the method has been combined with highly organized "ambulance chasing." Lawyers in states known to be good plaintiffs' states have employed agents to secure personal injury litigation from distant states. Defendants have tried to meet this strategy by asking the court selected by a plaintiff to dismiss on grounds of convenience and, failing in this, by raising objections to the jurisdiction under the due process clause. Moreover by asserting that the exercise of jurisdiction would be an interference with interstate commerce contrary to the commerce clause of the federal constitution defendants attempt to carry these constitutional issues if necessary to the Supreme Court of the United States. They have also gone to courts of plaintiffs' domicile and sought equity injunctions against the maintenance by the plaintiff at law of his action in a remote and inconvenient forum. Where the plaintiff has no substantial property at his domicile and is willing to move to the state in which he is bringing suit he cannot be punished for contempt of the injunction, and its efficacy is dependent upon whether it will be recognized as a reason for dismissing the action by the law court in the other state.

Raising points of constitutional law and seeking injunctions against exporting suits are clumsy expedients calculated to prevent only the most obviously vexatious choice of forum by a plaintiff. Defendants were forced to resort to them by the general failure of state courts to entertain a motion to dismiss on the ground that some other forum would be more convenient. The plea of *forum non conveniens* is allowed in civil law countries and also in England; and American courts have reached a similar result on a slightly different theory in cases where the plaintiff is a foreigner, holding that under such circumstances it is a matter of discretion whether

or not they will permit him to sue. But in the case of plaintiffs who are citizens of sister states they have allowed suit on transitory actions wherever there was jurisdiction. This is in part a mechanical application of common law rules of venue and in part due to a theory of constitutional law which the Supreme Court of the United States has recently held to be without any foundation. The theory was that the privilege of suit was a privilege of citizenship guaranteed to the citizens of the several states and that no distinction could be made between a resident plaintiff suing at his home and a non-resident plaintiff suing far from home merely to make things difficult for the defendant. It remains to be seen whether exploding this notion of a constitutional requirement will result in leaving the state of trial largely to the discretion of the court where the plaintiff has begun his action, as in the case of related problems concerning the county or nation of trial. At least one state court has continued the old mechanical approach.

In criminal procedure one meets again the familiar concepts of venue and jurisdiction, but the problems of place of trial, its setting and its history are each quite different. As in civil actions, the early common law requirement that jurors know the facts made necessarily for trial in the locality of the crime. But this did not disappear with the development of the modern form of jury trial as readily as it did in civil actions. Both the peculiar interest of the immediate community in "seeing justice done" and the traditional reluctance to deprive the accused of any ancient advantage tended to keep criminal actions local. No convenient fiction enabled the prosecutor to allege that a crime was committed at A to wit at B. On the contrary, the accused could escape, no matter how clear the proof that he had committed a crime, if he could raise a reasonable doubt as to whether it was committed in the particular county where he was being tried. Quibbles could arise if a shot was fired, a libel sent or stolen goods taken across a boundary line or if principals acted in one place and accessories in another. An extreme illustration is the early holding that if a wound was inflicted in one county and the victim died in another there could not be trial anywhere.

Escape from the extremely local basis for criminal prosecution was found in the fiction of "continuous crime," which assumed that a new theft was committed when the stolen goods were carried into another county; and in a long series of specific statutes permitting trial in either

county of crimes committed partly in one and partly in another and permitting trial of certain crimes in any county, of others where the accused was apprehended and still others before certain courts. The culmination of the development is the English Criminal Justice Act of 1925, which adopts substantially the same practise as in civil actions. Subject to change on grounds of convenience, trial may take place in any county in which the accused is apprehended, is in custody or appears. Legislation in the United States has followed the earlier English statutes removing the most serious difficulties caused by the strict requirement of local venue in the case of particular crimes. It is also possible, where local feeling would prevent a fair trial, for the accused and occasionally the prosecution to obtain a change of venue to some other county, but the usual constitutional guaranties of trial by a jury of the locality have prevented the adoption of as flexible a procedure as is now available in England.

If sweeping enough the legislation expanding the concept as to when a crime has been committed in a county can also take care of the case in which there has been action partly in the county and partly in another state or country. Where acts of treason or counterfeiting are done abroad, special statutes provide for trial in the state prejudiced. There is a peculiar administrative difficulty when the accused is not to be found in the state where the crime was committed. Unlike a civil plaintiff the interested state does not follow the accused about to prosecute where he is found. He can be brought to justice in only three ways: by kidnapping or extradition in order to return him to the state of the crime or by interest in his prosecution on the part of the state in which he is at the time. Interstate extradition is provided for in the federal constitution, but it has been held unavailable where the criminal never enters the state of his crime and therefore cannot be called a fugitive from it. This makes possible a failure of justice, unless his action is also made a crime by the state in which the criminal act is done. Thus in a famous case where a murder was committed in Tennessee by shooting from North Carolina those accused could not be convicted in North Carolina nor could Tennessee have them extradited. As between nations, extradition is a matter of treaty or of occasional acts of courtesy. Extradition treaties are a relatively modern development. The civil law countries ordinarily do not allow extradition of their own nationals but

go quite far in prosecuting them for major crimes committed abroad. Italy even tries foreigners for major crimes committed outside the country if prejudicial to its nationals. England now punishes Englishmen for commission abroad of such crimes as murder, manslaughter and bigamy. But American law still clings tenaciously to the old common law theory that only the state where the crime is committed has jurisdiction.

How far a state should go in dealing with crimes committed abroad depends in part on the alternative possibility of turning the accused over to another state interested in prosecuting him, in part on prevailing conceptions of the object of the criminal law—to what extent the state is seeking vengeance, to what extent it is attempting to deal with its criminal population. Assuming that there is a recognized interest in preventing a particular accused from escaping trial, it must be balanced against the desire to have all possible safeguards against unjust convictions. Discussion of the problem as a matter of jurisdiction is only another illustration of the use of this concept as an impressive way of begging a difficult question of degree and making a hastily assumed result seem to follow from inexorable logic.

ROGER S. FOSTER

*See:* REMEDIES, LEGAL; PROCEDURE, LEGAL; COURTS; VENUE; JUDGMENTS; COMITY; FULL FAITH AND CREDIT CLAUSE; EXTRADITION; EXTRATERRITORIALITY; CAPTIVATIONS; CITIZENSHIP; DUAL CITIZENSHIP; DOMICILE; FOREIGN CORPORATIONS.

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#### JURISDICTIONAL DISPUTES. See DUAL UNIONISM.

**JURISPRUDENCE.** In the widest sense of the term jurisprudence is the science of law. This is the original and etymological meaning and the one to which the best usage conforms. But there are three other uses. In the narrower sense commonly employed by English writers jurisprudence might be called the comparative anatomy of developed systems of law. This narrower conception became current in English speaking countries through Austin's *Province of Jurisprudence Determined* (London 1832), an epoch making book written exclusively from the analytical standpoint. In French usage jurisprudence means the course of decision in the courts,

and this sense has been fixed in good American usage by the classical work of Judge Story on *Equity Jurisprudence* (3 vols., 14th ed. Boston 1918), which traced the course of decision in Anglo-American courts of equity. By a not unnatural transition the word has also come to be used, chiefly in the United States, as a polysyllabic synonym for law itself. It might be best to speak of jurisprudence as the science of the legal order or of the legal ordering of society, including the legal process and also the institutions and the body of authoritative legal materials by which it is carried on. For the word law is used both of the legal order and of the means by which it is brought about. Thus "respect for law" means respect for the legal order but "the Roman law" means the body of authoritative legal materials with which the Romans administered justice and maintained the legal order. Thus jurisprudence is concerned both with the task of the legal order, namely, social control through the legal ordering of human relations in politically organized society, and with the means, namely, legal institutions and law.

The methods and preconceptions of juristic study have shifted with the large changes in intellectual attitudes. In the seventeenth and eighteenth centuries men thought of the different bodies of organized knowledge of social phenomena as philosophy, in the nineteenth century as history and in the twentieth century as science. These changes often mean little more than that the rise of some new branch of learning or some new intellectual interest leads scholars in every field to rephrase the teaching of the past in terms of it. When the philosophical method was dominant jurisprudence was called a philosophy; when a historical method prevailed it was thought of as history; and under the reign of positivism and sociological method it has been considered a science.

In general analytical jurists have thought of jurisprudence as concerned with the mass of authoritative precepts by which justice is administered in a developed political society. Historical jurists have conceived of all social control as within their province. Philosophical jurists have tended to think of legal precepts as a specialized type of moral precept and so have been led into the whole domain of valuation and regulation of conduct. Sociological jurists have thought of a process and of the authoritative materials of administering justice as something to be treated and appraised with



reference to that process. Much of this divergence of view as to the scope of jurisprudence results from difference in the problems to which these jurists have been addressing themselves. Analytical jurists have in the main written under conditions of economic and political (and hence legal) stability, when there was little or no occasion to draw on materials outside of the authoritative tradition. Hence it seemed to them that all that the jurist might reasonably require was to be found within the confines of current legislation, doctrine and judicial decision. Historical jurists have sought to replace authority and reason by history as an unchallengeable basis for what goes on in the legal ordering of society. Hence they have drawn upon all the phenomena of social control in the evolution of the legal order. Philosophical jurists have flourished chiefly in times of legal growth and so have been concerned most with the sources upon which courts and jurists draw to enrich the authoritative legal materials. Sociological jurists looking at law functionally have been more interested in what law does and how it does it than in what it is and so have looked primarily at the legal order. A complete science of law requires for its different purposes all of these starting points and resulting methods. It calls for a grasp of the authoritative materials of administering justice as they are and as they have been, of the problems of social control for which they have grown up or have been devised and of the extent to which the materials and their application do or can meet the problems.

Historical jurists in discussing the nature of law commonly include under it the whole of social control. The analytical jurists limit it to a specialized form of social control through the administration of justice—the adjustment of human relations and constraining of behavior to the demands of social life by the authority of the state. In this sense we may say that law as a specialized form of social control, such as we know it in developed political societies, begins with lawyers. It begins when the traditional conduct of transactions, decision of causes and procedure of advising parties to controversies become secularized and pass into the hands of a specialized profession. At Rome a turning point was reached when the traditional formulae of actions were made public and when a little later the first plebeian pontifex maximus began to give consultations in public. But Roman law became significant as a legal system

only with the rise of the professional jurist—consults at the end of the republic. Modern law had its beginnings when Roman law became the rival of the law of the church and then set itself free from clerical control; and the modern science of law began when jurisprudence was emancipated from theology. In English legal history the supremacy of the king's courts—the source of the common law—may be dated from the Constitutions of Clarendon (1164), which put definite and narrow limits to the jurisdiction of the ecclesiastical courts. The history of American law in the original thirteen states began when the administration of justice came into the hands of professional lawyers after a regime of justice carried on chiefly through clerical and military magistrates.

In the strictest sense the scientific treatment of law may be said to have begun when lawyers or law writers first distinguished cases superficially analogous and sought a principle behind the distinctions. Thus the beginnings of juristic science at Rome took the form of distinguishing cases which came within a precept of the codified customary law from those which did not, where both might seem to. This method is reproduced in the "putting of differences" and "taking of diversities" so characteristic of the common law until the seventeenth century. The next step, after having compared cases and thus compared rules in a particular system, was to compare rules of different systems by analysis. Such a step was taken in Roman law in the later republic. But even before these beginnings the foundations of a science of law were laid in philosophy, and here as in almost every sphere of mental activity the beginning must be made with Greek philosophy.

In classical Greece law in the lawyer's sense was not fully or clearly differentiated from other agencies of social control. The Greek word *nomos*, which we translate "law," was a word of many meanings, among them ethical custom, religious rites, law in general in the lawyer's sense, a rule of law and social control as a whole. While the Greek city-state must be considered politically organized, it was very close to and in many ways in transition from a kin organized society. Indeed if Greek law is in form political, it is in substance very largely tribal. Greek philosophers, observing the contest between the kindreds and the kinless and the competition between the traditional tribal law and the enacted law of the city-state, sought

to find some assured basis of social control other than tradition and habit of obedience, on the one hand, or the will of the politically supreme body, on the other hand. They were thus led to consider the great diversity of ethical customs and laws, both as between Greeks and "barbarians" and as between the Greek cities. Not only were no two cities alike in these respects, but the same city often had different rules of law on the same subject at different times. Thus from one standpoint it seemed that the legal order was a mere matter of enactment or convention and was subject to the arbitrary control of anyone wielding political power for the time being. But since contests of oligarchy and democracy for political supremacy were the staple of life in the classical Greek city, there was a real menace to the general security in a conception of the legal order as a product of arbitrary individual will. Philosophers sought a more assured basis of social control and found it in the analogy of the constant and universal phenomena of physical nature. They conceived the legal order as an organizing of human activities so as to keep each man in his appointed place in the politically organized society of an ideal Greek city. They held that right and law had their basis in a harmony or fitness involved in the nature, that is the ideal, of things. Right and law were taken to be independent of human will and to have universal validity.

Roman lawyers carried these ideas from political philosophy over into law. Where the Greek philosophers wrote on natural right, that is, the just or the right by nature or ideal, the Roman jurists spoke of natural law, that is, a speculative body of universal ideal principles involved in the ideal of things. This universal body of ideal principles served as the basis of lawmaking, of juristic development of legal materials, and of criticism. The classical period of Roman law is marked by the attempt to make the actual law conform so far as possible to this ideal standard. Natural law substituted a philosophical juristic technique for the traditional art of the lawyers of the republic.

Law was one of the chief subjects of study in the mediaeval universities, and the twelfth century represents a new start in juristic thought. From that time juristic development runs along two lines—legal and philosophical. In the one there is a gradual development of scientific treatment of the texts of the Roman law; in the other there is speculation as to the basis of

the authority of law and ethical justification of its precepts and doctrines. Behind the purely legal development was the academic juristic theory of the continuity of the empire. In some sort this was an ideal. For spiritual purposes Christendom was the church; for temporal purposes it was the empire. The practical law teaching of the Middle Ages assumed that the ideal or postulated empire was the empire of Augustus and Constantine and Justinian. Only in this way could a legal mind satisfy itself that the text of the *Corpus juris* was authoritative legislation binding upon "the empire" and hence upon all Christendom. From the simple method of the glossators (twelfth and thirteenth centuries), who took up the text bit by bit and interpreted it, there grew up from the thirteenth to the latter part of the fifteenth century among the commentators a highly complicated method of exposition based upon formal logic and the scholastic philosophy. System was put into subjects and departments of the law where the glossators had confined themselves to particular texts. Among practical lawyers the method of the commentators continued to the seventeenth century but the science of law was carried forward in the meantime by a new school of jurists. At the end of the fifteenth century the revival of learning, the influence of philosophical thinking and in particular humanist study led to the school of humanists, who made a scientific study of the law as a whole as distinguished from the study of the texts and titles of the *Corpus juris*. The outstanding jurists in this school were Cujas (1522–90), the pioneer of legal history, and Donellus (Doneau) (1527–91), the pioneer of systematic analytical exposition of the law as a whole.

As a philosophical discipline jurisprudence grew up as an important branch of theology. Philosophers began to consider the philosophical-theological bases of right and of the binding force of law. While the primitive idea of the end of law as a mere keeping of the peace had come back for a time with Germanic law, the study of the Roman texts and the familiarity of the mediaeval theologians with Aristotle restored the Greek conception of law as an orderly maintenance of the social status quo. Law was conceived as a system of precepts imposed by authority or by custom to maintain a stationary society as it was.

In general it may be said that the thirteenth century put jurisprudence behind law to sustain authority. From the thirteenth to the seven-

teenth century jurisprudence was held to be an application of theology. The sixteenth and seventeenth centuries divorced the philosophy of law from theology and divorced law from authority. In the seventeenth and eighteenth centuries what would now be thought of as treatises on jurisprudence were treatises on the law of nature and nations. That is, a general philosophical introduction sufficed as the basis of jurisprudence, politics and international law. The institutions and functions of government, the relations of individuals with each other and with the state and the relations of states with each other were the subject matter of one body of knowledge. The nineteenth century divorced legal philosophy from political philosophy and definitely set off jurisprudence as a separate science. The twentieth century seeks to unite jurisprudence with the other social sciences through some form of social philosophy.

After the Reformation the two lines of development in jurisprudence, the practical and the philosophical, converge. The authoritative basis of practical exposition and the authoritative basis of philosophical speculation had alike failed. The academic doctrine of the continuity of the empire and the consequent binding force of the Roman law books were given up, and law was emancipated from the text of Justinian. Likewise the Protestant jurist theologians of the north of Europe had not hesitated to declare that there was a sufficient basis for natural law apart from the Scriptures or even, as Grotius put it, that natural law could be conceived even if there were no God. For a time the science of law and the authority of legal precepts were based solely upon reason: jurists believed that a complete and perfect system of legal precepts could be built up upon principles of natural law discoverable by reason and derived from the ideal of the abstract man. Thus the seventeenth and eighteenth centuries are in many respects comparable to the classical era of Roman law. The fields of jurisprudence and of ethics were taken to be the same. It was sought to make law coincident with morals. Legal precepts were made to conform to what each particular writer thought on ethical grounds they should be. An era of creative lawmaking resulted, the influence of which is still felt in law and in the science of law.

In the nineteenth century certain lines of cleavage, involved in divergent aspects of eighteenth century philosophical jurisprudence, and different phases of reaction from the law

of nature school brought about a separation of jurists into three well defined schools—the historical, the metaphysical and the analytical. The influence of an age of absolute governments, of which the French monarchy of the old regime represented the type, revived the conception of law as enactment; a doctrine of authoritative legislative declaration of reason which alone had ultimate authority no longer proved satisfying. Moreover the philosophy of Kant had undermined the method of eighteenth century jurisprudence. For a time the place held by theology in the Middle Ages and occupied by reason in the seventeenth and eighteenth centuries was usurped by history.

Although there were important forerunners, historical jurisprudence was founded by Friedrich Karl von Savigny (1779–1861). His method was philosophical and historical and his continental followers are frequently called the German historical school in distinction from the English historical school founded by Sir Henry Maine (1822–88). Maine was in a very real sense a follower of Savigny, but his method was comparative and historical and was much influenced by analytical jurisprudence, as the method of the German historical school was influenced by the contemporary metaphysical jurisprudence of the continent. Historical jurisprudence came to prevail generally in continental Europe and in the United States in the last third of the nineteenth century. Philosophically the historical jurists were Hegelians. They urged some form of idealistic interpretation of legal history, usually an ethical idealistic interpretation in which the history of law was thought of as a record of the realizing or unfolding of an idea of right or a political idealistic interpretation in which it was regarded as a realizing or unfolding of the idea of freedom. They carried forward the doctrine of those eighteenth century jurists who held legislation and precepts of positive law merely declaratory. The natural law jurists said they were declaratory of reason. The historical jurists said they were declaratory of the social experience in the administration of justice in which an idea of right or an idea of freedom was unfolding. In consequence they regarded law as something which could not be made consciously. They regarded custom as the typical growing point of law and found the basis of observance of law in the social pressures behind legal precepts, while analytical jurists found it in sanctions imposed by the state.

Philosophical jurisprudence was carried on in the nineteenth century by the metaphysical school, which was especially strong in Italy and in Scotland. This school sought to work out an ideal critique of legal institutions, legal doctrines and legal precepts, deduced from a fundamental idea of right or some single fundamental formula of justice. Where the law of nature school thought of an ideal body of legal precepts, the metaphysical jurists thought rather of an ideal element in the law and a critique of legal precepts on the basis of that element. Conceiving the ideal element as the significant part of the law, they held with the historical jurists that law is found not made. Also they rejected the analytical conception of sanction, thinking rather of the ethical and moral bases of legal precepts. In England and the United States it has been customary to speak lightly of this school and to assume that their speculations were wholly in the air. It is true that they did not directly and immediately affect the actual course of judicial decision and juristic writing. But through their influence upon the historical school they fixed the lines of the ethical interpretation of legal history and gave content to the idea of freedom which historical jurists postulate as unfolding in legal development. Maine's famous generalization that the history of law is the record of a progress from status to contract simply puts in concrete form the cardinal idea of the metaphysical school.

Another trend in eighteenth century theory, which had conceived of an authoritative declaration of natural law by the sovereign, was carried forward in the nineteenth century by the analytical school. Its founder, John Austin (1790-1859), was a disciple of Bentham and a zealous utilitarian. In form this school broke wholly with philosophy. It conceived law as an aggregate of rules and considered that when it had defined a law it had thereby defined law. It sought to take the authoritative precepts of developed systems of law as they were and to analyze legal institutions and legal conceptions as they actually obtained, and in that way to reach a universal science of law. So far as they considered the content of law at all, they looked at it from a utilitarian standpoint. But they considered the materials given and shaped by utility as put in legal form by a lawmaker analogous to Hobbes' absolute monarch. They regarded law therefore as something made consciously by lawmakers and held that rules of

law derived their authority from the force and constraint behind them. They held that no rule could be said to be a law unless it had behind it the judicial organs of the state. To them a statute as a legal precept deliberately established by the sovereign was the typical form of law. If we think of law as made up of three elements, a body of precepts, a received technique and a body of received ideals, we may say that analytical jurists looked exclusively at the first of these elements. They were concerned only with what one of them has called "the pure fact of law," excluding all consideration of ideals. They postulated a body of legal precepts made at one stroke on a logical plan to which those precepts conformed in every detail and set out to discover that plan by analysis.

Metaphysical jurisprudence to some extent worked out a critique of law from the outside. But analytical jurisprudence and historical jurisprudence simply set up a critique of the particular body of law in terms of itself. They served well for the period of economic, political and legal stability in the latter half of the nineteenth century. But toward the end of the century it came to be felt that the science of law was behind the actual administration of justice. It was serving to retard growth and resist the pressure of new interests seeking legal recognition and security. Analytical jurisprudence had culminated in what has been called "the jurisprudence of conceptions." A certain number of authoritative starting points for legal reasoning and a certain number of authoritative categories into which the facts of particular cases were to be forced by legal reasoning were regarded as sufficient for the decision of every conceivable case. New situations of fact could do no more than call for logical application of the authoritative principles or logical classification in the established categories. Any new situation was to be met by deduction from a fixed traditional conception. The alternative was legislative establishment of a new precept. But when legal precepts were thought of as mere commands of the sovereign there was no guaranty that the rules prescribed would comport with the demands of reason, as would be called for by the social-philosophical jurisprudence of today. Likewise historical jurists took the conceptions of the traditional law for necessary fundamental conceptions of all law. They insisted that all legislation or restatement must run along idealized

traditional lines. Even the accidents of legal history were likely to be insisted upon as necessary principles or necessary categories. Accordingly toward the end of the nineteenth century the three schools began to dissolve. Sometimes they made concessions to each other, as, for instance, in continental Europe, where the historical method and the metaphysical method came to be regarded as complementary. The metaphysical school definitely disappeared by the beginning of the twentieth century. The historical school and the analytical school still have adherents, but both have been largely superseded by new types of juristic thought.

In general the development of jurisprudence in the twentieth century has taken two directions, one philosophical, the other sociological. In the one line we find a revived philosophy of law giving rise to a social philosophical jurisprudence. In the other functional study of legal institutions in the light of all the social sciences and a conception of the legal order as a social institution have replaced exclusive consideration of the authoritative materials with which justice is administered. Social philosophical jurisprudence began in the last quarter of the nineteenth century with the social utilitarianism of Rudolf von Jhering (1818-92). His method might be said to be analytical and social philosophical. He insisted particularly upon the end, or purpose, of law, analyzing the law of the time and place in order to reach principles and general conceptions, but subjecting them to a critique with reference to the end which law subserves. His great achievement was in turning attention from the nature of law to its purpose, insisting on the interests which the legal system secures rather than upon the conceptual apparatus by which it secures them. His theory of rights, in the sense of analytical jurisprudence, as means whereby interests are secured, taking the claims or desires of human beings as ends which the legal order seeks to satisfy, and his rejection of the jurisprudence of conceptions because it ignored these ends are enduring achievements of legal science.

Somewhat later social philosophical jurisprudence was carried forward by the neo-Kantians, who have been the most influential group in that trend in the present century. Their founder and leader, Rudolf Stammler (1856- ), carried forward the philosophical side of nineteenth century jurisprudence. His method might not unfairly be characterized as philosophical and

sociological. Stammler's main purpose was to work out a universally valid method of judging, as to the justice attained by legal precepts in the time and place. As contrasted with the eighteenth century conception of universally valid ideal precepts and also with Kant's essay at a universal critique, Stammler sought rather a universally valid method of developing a relative critique whereby justice might be achieved in the time and place. He brought back into jurisprudence what the French call juridical idealism; that is, the search for ideals to which law ought to conform. His great work has been in giving definite outline to the ideal of the legal order and the ideal of the end of law by which jurists and judges are governed in finding and developing and applying legal precepts. His enduring achievements for jurisprudence lie in the formulation of the social ideal of the time and place, thus directing attention to the ideal element in law which the analytical jurists had rejected, and in a theory of the application of legal precepts where the last century thought simply of their nature. Nineteenth century philosophical jurisprudence asked whether a particular legal precept was just. Stammler asks whether and how far justice may be attained by means of the precept. Where the nineteenth century considered that if rules were abstractly just the results of the application of the rules in particular cases need not be looked into, he has taught the present century to seek just results by means of legal precepts conforming to and administered in the light of social ideals.

A third type of social philosophical jurisprudence is represented by Josef Kohler (1849-1919), the leader of the neo-Hegelians. His method was historical and social philosophical, carrying forward the historical jurisprudence of the last century. Like the historical school he recognized limitations on the efficacy of effort to improve the law, in that any culture must shape the legal materials which have come down to it and is limited by those materials; but he thought of historical continuity as a practical condition rather than as a necessity. He recognized that law while it must be stable must nevertheless also change. He thought of law as a product of the civilization of a people in the past and of attempts to adjust the results of that past civilization to the civilization of the present. The adjustment must be made with reference to the fact of a continually changing civilization, and the traditional legal materials must be shaped so as to further rather than

retard the developing culture. His most important contribution is his theory of the jural postulates of the civilization of the time and place. He considers it the task of the jurist to discover and formulate the principles of right assumed by or expressed by a given civilization. Not only may these jural postulates serve as a critique of legal precepts, but, even more, received ideals may be tried with reference to them; and definiteness and clear outline may thus be given to the ideal of the legal order which is so large an element, even if an unconscious one, in the development and application of legal precepts.

In France social philosophical jurisprudence has shown three types of thought: an adaptation and broadening of neo-Kantianism; a neoscholastic philosophy of law seeking a firmer grasp of that element of law which consists of traditional views as to the end of law and traditional ideals of the legal and social order; and a positivist sociological philosophy of law having many affinities with mechanical sociology. The neoscholastic and positivist sociological types are particularly important. The leader of the former, François Geny (1861- ), has made a notable contribution to the science of law in pointing out the importance of the element of technique, of which more will be said presently. The leader of the latter, Léon Duguit (1859-1928), deduced a positivist natural law from a principle of social interdependence through a similarity of interest and a division of labor which were taken to be observed and verified social facts. His theory is of some importance in connection with the problem of values to be spoken of in another connection.

Historical jurisprudence was modified in another way by Sir Paul Vinogradoff (1854-1925). Where the historical school saw in the history of law the unfolding of a single idea, he saw a succession of ideas, giving rise to a succession of types—the origins of law in totemistic society, tribal law, civic law or the law of the city-state, mediaeval law as a combination of canon and feudal law, individualist law and the beginnings of socialist law. The central point of his doctrine was his contention that historical types are the foundation of a theory of law.

More recently there has been a tendency in Germany to merge the formerly distinct types of social philosophical jurisprudence in what might be called a neo-idealism which seeks to understand, to organize and to criticize the ideal

element in law. Particularly this school seeks to transcend nineteenth century individualism and nineteenth century orthodox socialism by a conception which shall measure neither community values and civilization values in terms of personality values nor personality values and civilization values in terms of community values but shall conceive civilization as the end toward which both a maximum of free individual self-assertion and an efficient social organization are but means.

A sociological school is still to some extent formative. The development of sociology has been too recent and too rapid to serve as the basis of a school with a well defined creed and fixed program. Moreover definiteness in such matters was in the spirit of the last century more than of the present. But in a general way it may be said of the sociological jurists as compared with the nineteenth century schools that they are concerned not so much with the content of a body of law as with its working. They think of it not as necessarily made or necessarily found but as a social institution which may be improved by conscious effort, whether its content is made or found or both. They urge as the basis of its authority the social ends which law serves. They do not think of either custom or statute as necessarily the type of a law but regard the form of legal precepts as but means to ends which are of more importance. Chiefly they are positivists or neorealists but their pragmatist method, as has often been pointed out, is consistent with more than one metaphysical doctrine.

Sociological jurisprudence has gone through three stages and may be said now to be in a fourth. The first positivist philosophies of law were mechanical positivist and gave this color to the first sociological jurisprudence. Indeed the first sociological jurists did little more than put positivist philosophy behind the nineteenth century historical jurisprudence. Where the historical jurists had found a historico-metaphysical principle behind the development of law, they found physical laws. But the result was the same. Juristic and legislative creative activity were alike futile. Men might observe the inevitable operation of social laws but they could not affect it. The second stage represented a biological approach to law. It was partly the old mechanical sociology of law with a biological vocabulary. Partly also it used biological analogies to work out a sort of embryology of law, relying upon study of the social and legal

institutions of primitive peoples to point out the laws of legal development. In another form it used some biological principle as a basis for a philosophical system, as, for example, in the relationship of the biological struggle for existence to the theories of law as a product of class struggle. The psychological stage, which followed, was of more significance and is still represented in current juristic writing. It has brought about study of the world view of judges, doctrinal writers and lawmakers.

About the beginning of the present century sociological jurisprudence entered what may be called the stage of unification. While the nineteenth century schools sought to construct a science of law solely in terms of and on the basis of the law itself and in effect to set up a critique of the law of the time and place in terms of that law, it is now recognized that this complete separation of jurisprudence from the other social sciences is unnecessary and unhappy in its results. In the nineteenth century the problems of jurisprudence were not appreciated by the related social sciences, and the achievements of the latter, on the other hand, were likely to be ignored by the jurist. A gulf developed between legal thought and popular thought which was very marked at the beginning of the present century. The backwardness of legal institutions in fulfilling social ends and the reluctance of lawyers to permit or even perceive such ends are in large part chargeable to the science of law as it existed in the nineteenth century. In the present stage of unification the sociological jurists recognize that each of the directions which jurisprudence has taken offers something to the science as a whole but is not to be pursued exclusively. Even more they recognize the futility of a detached, self-centered, self-sufficient jurisprudence. Beginning with the proposition that the legal order is a phase of social control and to be understood must be taken in its setting among social phenomena, they urge study of the actual social effects of legal institutions and legal doctrines; sociological study in preparation for lawmaking; study of the means of making legal precepts effective in action; study of the actual methods of juristic thinking, judicial decision and legislative lawmaking; a sociological legal history in which the social background and social effects of legal precepts, legal doctrines and legal institutions in the past shall be investigated; and above all study of how these effects have been brought about.

In the immediate present juristic thinking as a whole appears to be running in two channels. On the one hand, there is criticism of ideals and attempt to organize, systematize and give definiteness to those received ideals that must be considered a part of the authoritative legal materials. On the other hand, there is an increasingly manifest tendency to revert to the frame of mind of the analytical jurists and exclude everything but the positive legal precept from the conception of law and the province of jurisprudence. A group of jurists in continental Europe seek a "pure juridical science" by excluding all ideals of interpretation and of application, conceiving that by throwing out everything which gives life to the law they can impart "clarity and rigor" to its phenomena. Other jurists move in the same direction by assuming the law to be a normative science differing from other bodies of knowledge in that it starts with postulates where others start with observation. Accordingly a theory of sovereignty and a legal logic assuming the constitution to be a fundamental and unchallengeable basis are thought to produce a pure science of law divorced from all subjective speculation; the postulates being settled, everything will flow from them with the inevitableness of a mathematical demonstration. The leader in this tendency is Hans Kelsen (1881- ). No doubt such a universal science is possible, but it is achieved by ridding the law of all the doubts and difficulties which make a science of law worth having.

Another phase of this movement for objectivity may be seen in a group of new realists in America. This school is still formative and cannot be said to have any detailed or official creed. But five items to be observed very generally in the writings of those who may fairly be grouped in this school are significant. In general these jurists have faith in the significance of statistics. They seek objectivity by some one method or line of approach which is considered to have exclusive reality. One of these lines of approach is rigid terminology; another, already spoken of, is the theory of a normative science depending upon postulates assumed as unchallengeable starting points; another is observation of the phenomena of administration of justice carried on objectively and scientifically and is expected to yield formulae as rigidly exact and free from any personal or subjective element, whether in formulation or application, as, for example, those employed by the engineer. Many assert

that the sole valid approach is by way of psychology and it is commonly assumed that some one psychological starting point is inevitably to be chosen. Still another characteristic is insistence on the unique single case rather than on the approximation to a uniform course of judicial behavior. Radical neorealism seems to deny that there are any rules, principles, conceptions or doctrines, because all judicial action, or at times much judicial action, cannot be referred to them, because there is no definite determination whereby we may be absolutely assured that judicial action will proceed on the basis of one rather than another of two competing principles and because concrete cases not infrequently fall into a no man's land which lies between most legal conceptions. Since much takes place in the course of adjudication which does not fit exactly into the doctrinal plan, it is assumed that the principles, the conception and the plan are without reality. Finally, many of the new realists think of law as a body of devices for the purposes of the transaction of business instead of as a body of means toward general social ends, thus putting the whole emphasis on the exigencies of the economic order where the nineteenth century put the whole emphasis on the general security of the economic order.

Much that is likely to prove valuable for jurisprudence is involved in these recent tendencies. But it should be borne in mind that jurisprudence must consider not merely how judges do decide but how they ought to decide to give effect to the purposes of the legal order, not only how the judicial process actually takes place but how it should go forward. Psychology may be of aid in clarifying the manner in which justice is administered but this cannot dispense with the question of how justice ought to be administered. This question of ought turning ultimately on the theory of values is the most difficult one in jurisprudence. Those who long for an exact science analogous to mathematics, physics or astronomy are inclined to seek exactness by excluding this problem from jurisprudence altogether. But such a jurisprudence has only an illusion of reality; the significant question is the one excluded.

In the nineteenth century metaphysical jurists often argued that jurisprudence must stand still until all had agreed on the metaphysical fundamentals without which there could be no juristic superstructure. The legal science of that time succeeded nevertheless in reaching an agree-

ment as to the end of law and in formulating a criterion of values from each of the many diverse metaphysical starting points of the time. Likewise ethical philosophers have been wont to urge that there could be no accepted measure of valuing interests for legal purposes until we were all agreed on the highest good. But jurists have not awaited the outcome of debates on this fundamental point. In the last century they succeeded in coming to certain general ideas from each of the different ethical standpoints and found that they served well enough for the legal science of the time. It would seem therefore that jurisprudence need not choose definitely and decisively from among the competing psychologies of today and commit itself irrevocably to one of them, nor need it wait for psychologists to agree, if that is ever likely to happen. It ought to be able, from whichever of the important current psychologies it starts, to reach a sufficient psychological basis for juristic purposes. As to the denial of reality to rules, principles, conceptions and doctrines, such a view is not unnatural as a protest against the assumption of the analytical school that law is nothing but a simple aggregate of rules. But it is equally unreal—that is, at variance with what is significant for a highly specialized form of social control through politically organized society—to conceive the administration of justice or the legal adjustment of relations or even the working out of devices for the more efficient functioning of business in a legally organized society, as a mere aggregate of single determinations.

In the nineteenth century jurisprudence was chiefly concerned with three questions: the nature of law, the relation of law and morals and the interpretation of legal history. Juristic discussion of the nature of law was largely futile because it did not connect the question of what law is and the attendant controversy as to the relative claims of the common law and legislation to the name with other problems of jurisprudence. The significance of the question of what law is can be brought out only when it is considered in connection with the equally old problem of law and morals, with the distinction between law and equity, with the discussion of the province of court and of jury, with the controversy as to fixed rule or wide discretion in procedure, with the movement for the individualization of punishment and with the continental controversy over the application



of legal rules. The question of the nature of law must be brought into relation with these questions as to a considerable extent forming with them the larger problem of rule and of discretion in the administration of justice, and that problem goes back to an ultimate one of a balance between the general security and the individual life. A developed body of legal precepts is made up of two elements, an enacted, or imperative, element and a traditional, or habitual, element. There is a constant movement back and forth between these two. The traditional becomes formulated in legislation and becomes imperative. The imperative becomes overgrown by a judicial gloss and is incorporated presently in the common law. But the traditional element comes to rest upon juristic science and the habitual modes of thought of a learned profession; thus the basis of its authority seems to be reason and conformity to ideals of right. On the other hand, the imperative element rests upon the authority of the state and is easily taken for a product of the sovereign will. In consequence of these two elements of developed bodies of law and of the different bases upon which their authority rests two distinct ideas of law are to be found throughout the history of jurisprudence, and definitions of law have oscillated between these two ideas according to the circumstances of legal systems and the agencies through which their precepts have for the time being been expressed.

Much of the discussion as to the nature of law has assumed that jurists were talking about the same thing, whereas analytical jurists had in mind the precept element of law (rules, i.e. precepts attaching a definite detailed legal consequence to a definite detailed state of facts; principles, i.e. authoritative starting points for legal reasoning; conceptions, i.e. carefully defined categories to which, when a given situation of fact is brought within one of them, certain rules, principles and standards attach; and precepts prescribing standards, i.e. certain limits of conduct and authoritative guides to the valuation of conduct to be applied in view of the circumstances of each case), historical jurists had in mind very largely the traditional art of the lawyer's craft (the authoritative traditional technique of finding the grounds of decision in the mass of precepts) and philosophical jurists had in mind the ideal element in law (a body of received ideals of the social order, and so of the legal order, of what law is and what law is for, of what legal precepts ought to

be and how they ought to be applied). Thus nineteenth century jurisprudence expended much of its energies in debating whether some one of the three elements in the authoritative materials of administering justice possessed exclusive significance. Today we may very well give up such discussions. All three elements should be considered and together they constitute the background of juristic writing and judicial decision and are decisive in the choice of starting points for legal reasoning and in the interpretation and application of legal precepts. Analytical jurisprudence overlooked the technique element and indignantly rejected the ideal element. But it is the technique element which is decisive in giving character to each of the two great legal systems of the modern world, the common law and the civil law. There is no uniformity of precepts in the common law world nor in the civil law world, yet English speaking lawyers everywhere understand each other as perfectly as each fails to understand the continental or the Latin American lawyer. Such things as the respective attitude of the common law and the civil law toward statutes and judicial decisions or toward specific relief illustrate the profound influence which technique plays no matter upon what pretext it is exerted.

As to the operation of the ideal element it is significant to compare the way in which Married Women's Acts in the fore part of the nineteenth century were held down as in derogation of the common law with the willingness of courts to go even beyond the letter of statutes in giving effect to laws abrogating or altering rules of the feudal property law. In both cases the statutes were in derogation of the common law. But the doctrine of strict construction of statutes in derogation of the common law was not applied to the laws which overhauled the law of real property and purged it of archaisms. Married Women's Acts, on the other hand, ran counter to an ideal of a society which pictured women as in the home and not about in the world entering into legal transactions. That the one set of statutes conformed to a received ideal and was given the fullest effect, while the other did not and was held down in operation, is not to be explained by the common law canons of interpretation.

In connection with the ideal element in law it is important to note the growth of ideals as to the end of the legal order. The first ideal is a very simple one of keeping the peace.

Greek philosophers later worked out a conception of the legal order as a social institution for maintaining the social status quo. This conception prevailed in antiquity. With the downfall of the Western Empire the ideal of keeping the peace came back for a time, but the later Middle Ages adopted the Greek and Roman ideal of an orderly maintaining of the social status quo. Following the Reformation a new ideal developed which culminated in the nineteenth century and perhaps was best formulated by Kant. It might be defined as an ideal of a maximum of free individual self-assertion as the highest good. Today that ideal is manifestly giving way and the fact that the ideal element in the law is in transition will account for many things upon which the new realists rely to show the futility of the authoritative apparatus of administering justice. Because received ideals are in flux and the line between authoritative ideals and the personal ideals of particular judges is more than usually hazy, law and its application are for the time being much at odds in some important fields of judicial and administrative action. What is most needed is a constructive theory of the neglected element of the law in which the mischief lies. Here is the task to which social philosophical jurisprudence has been addressing itself. A philosophical jurisprudence which will organize and criticize and illumine the element of received ideals, as analytical jurisprudence and historical jurisprudence have done for the precept element, will achieve substantial improvements in the administration of justice.

Jurist attempts to formulate a new ideal of the end of law are taking two directions. On the one hand, there is endeavor to substitute an idea of cooperation in the maintaining and furthering of civilization for the idea of free competitive self-assertion which obtained in the nineteenth century. On the other hand, there are attempts to conceive law in terms of what has been called social engineering, using engineering in the large sense which industrial engineering has made familiar in the United States. In this mode of thinking the legal order is assumed to be part of the process of social ordering, functioning partly by the administration of justice, partly by administrative agencies and partly by providing guides in the form of legal precepts, so that conflicts of interests are avoided or minimized and individuals are kept from collision by having pointed out to them the paths which each is to pursue. The

legal order is taken to be an aggregate of activities—judicial, administrative, legislative and juristic—so far as they are directed to the adjustment of relations, to the compromise of overlapping claims and the securing of interests by fixing lines within which each may be asserted with a minimum of friction and waste, and to the discovery of devices whereby more claims or demands may be satisfied with a sacrifice of fewer. Regarded in this way as one side of the process of social control, the legal order is thought of as a task or a series of tasks in social engineering. It is conceived to be an elimination of friction and a precluding of waste as far as is possible in the satisfaction of unlimited human desires out of a relatively limited store of the goods of existence. Law is taken to be the body of knowledge and experience with the aid of which this phase of social engineering is carried on. The end of law then would be to satisfy all human demands and to secure all interests as nearly as may be with the minimum of friction and of waste so that the means of satisfaction may be made to go as far as possible.

Contemporary discussion as to the relation of law and morals is coming to be merged in a broader consideration of the place of law in the whole process of social control. In a pre-legal stage, that is, a stage preceding lawyer's law, law and morality were undifferentiated. In the first stage of lawyer's law, which might be called the stage of strict law, law and morality were sharply differentiated. The law took no account of precepts or considerations outside the body of legislative materials. In a succeeding stage, which might be called the stage of equity and natural law, law and morals were identified. If for convenience we use morality to denote a body of accepted conduct and morals to mean a theoretical valuation of conduct, the strict law ignores both. On the other hand, the stage of equity and natural law would make both the authoritative legal precept and the accepted body of conduct conform to the standards of rationalist morals. In a succeeding stage, represented by the period of legislation and codification from Diocletian to Justinian and in the modern world by the nineteenth century, law and morals were coordinated or contrasted. Analytical jurists held that morals are a matter for the legislator and law a matter for the jurist. In the present stage of the socialization of law many of the features of the stage of equity and natural law are repeated and there is a revival

of the subordination of jurisprudence to ethics. Morals are regarded as an evaluation of interests and law as a delimitation of interests in accordance with such a valuation. Thus the real problem proves to be one of valuing conflicting or competing interests, which results from the historical realizing or unfolding of an idea in the Hegelian sense. From this standpoint legal history has been regarded as a record of the unfolding of an idea of human experience in adjusting relations and insuring conduct consonant with civilized society. Where the idea has been recorded from an ethical standpoint as an idea of right there has been an ethical interpretation. Where, as with most English and American jurists, it has been recorded from a political standpoint, there has been a political interpretation. Later positivist ideas gave rise to ethnological and biological interpretations. But the most important of these interpretations of legal history has been the attempt to understand the history of law in terms of a single economic idea.

The Marxian method of economic interpretation attracted little attention in jurisprudence until the last decade of the nineteenth century. It passed into American juristic thinking in the era of Rooseveltian progressivism in the first decade of the twentieth century and is still an influential element in American juristic thought. In its earlier form it was an idealistic economic interpretation urged by Hegelians, who regarded the history of law as the unfolding of the economic principle of the satisfaction of the material wants of mankind. In the United States a combination of a mechanical positivism with analytical jurisprudence gave rise to an economic interpretation in which it was urged that all law is made consciously by men who make legal precepts to suit the ends of the dominant social class. Others have urged a realist economic interpretation in which it is conceived that law is concerned with the ends of groups in power for the time being and is determined by economic exigencies. Jurists of this type argue that right and law mean nothing but power; that questions of law are simply questions of power; that those in power generalize their purposes and put them in universal terms and that thus doctrines and principles of law arise. Much that has been written in support of the economic interpretation proceeds on misunderstanding of the legal doctrine of liability for wrongs done by an agent or servant. Much more depends on a misunderstanding of

the development of the law of torts at common law. Much more also has been based on very doubtful arguments as to liability without fault in England and in the United States. No one doubts that economic conditions play a great part in determining the ideals of the time and place and that they influence powerfully the formulation of these ideals. These considerations must be reckoned with in formulating the jural postulates of a given civilization. Thus the influence of the economic situation upon the traditional element of law is clear enough. But this influence is indirect and often remote. Frequently the economic situation behind a doctrine is not the contemporary economic situation but that of the period when the doctrine was formulated. One has only to consider the American law as to business corporations and the persistence with which courts and legislatures, although they operate in the shadow of business enterprise, have decided and passed laws in the spirit of a traditional jealousy of juristic persons, to realize how slowly law yields, even to the desires of an economically dominant class.

Three persistent problems recurring in different forms in all stages of legal development may well be termed fundamental in jurisprudence: the problem of rule and discretion; the problem of the valuing of interests; and the limits of effective legal action.

Analytical jurists have assumed an antithesis between law and administration, holding that justice according to law is necessarily judicial justice according to formula ("a government of laws and not of men"). The doctrine of separation of powers, in which the judicial power is carefully segregated from the executive and the legislative, was taken over from political theorists and became a cardinal tenet in the juristic faith of the nineteenth century. The trend today is to recognize that reliance must be placed both upon men and upon rules in any effective fulfilment of the ends of law. The problem is not rigidly to exclude the one or the other but to effect a proper adjustment between judicial justice and administrative justice, and between a judicial justice held down to an application of authoritative legal precepts by an authoritative technique and a necessary measure of individualization to be achieved only by free judicial action. Experience seems to show that in large part rule must be assigned to one portion of the domain of the legal order

and discretion to another. Inheritance and succession, interests in property and the conveyance of it, transactions of commercial law and the creation, incidents and transfer of obligations have always been a fruitful field for effective legislation. On the other hand, legislation has achieved little where adjustments and compromises were to be made not with reference to interests of substance but in the weighing of human conduct and passing upon its moral aspects. Codes and uniform state laws have achieved their purpose in connection with the law of property, the law of inheritance and succession and commercial law. They have achieved little or nothing in the law of torts where indeed continental codes are confined to a few generalizations and the actual working out of the law has been taking place chiefly through judicial decision. No one has attempted seriously to codify the law of torts in the English speaking world nor is any attempt likely to be made to reduce to legislative form the doctrines of equity as to the conduct of fiduciaries. On the other hand, the administrative tribunals which have been set up to individualize the application of law, as well as those which have developed in other legal systems, have to do with cases involving the moral quality of individual conduct or of the conduct of enterprises as distinguished from matters of property and commercial law. Titles to property or the collectibility of the assets of a bank cannot be suffered to depend upon individual ideas of what is right and just. On the other hand, no formulation in advance can take care of the minute variations in individual conduct which make each item unique and require a large margin of application if the results are to be tolerable.

Where the nineteenth century thought of law as existing to give effect to natural rights (qualities of individuals by virtue of which they ought to have certain things or be at liberty to do certain things), jurists since Jhering have thought of recognizing, delimiting and securing interests. It is conceived that a legal system attains its ends by recognizing certain interests, by defining the limits within which these interests shall be recognized legally and given effect through legal precepts and by endeavoring to secure the interests so recognized within the defined limits. For such a theory an interest may be defined as a demand or desire which human beings, either individually or in groups, seek to satisfy and of which therefore the order-

ing of human relations must take account. Conflicts or overlappings of these interests call for an ordering of relations and of conduct if civilized society is to be maintained. The law does not create these interests: so much of a kernel of truth there was in the old idea of a state of nature and in the theory of natural rights. But the law recognizes certain interests, classifies them, defines the extent to which it will give effect to them and devises means for securing these interests when recognized and within the defined limits. At every point in this process recourse must be had to a theory of values. Interests must be recognized in generalized forms admitting of treatment by general formulae. They must be weighed and valued as generalized, taking care that the generalizations do not sacrifice to the interests which call for rule and formula too much of other interests and thus result in friction and waste.

Since Jhering deduction of absolute rules has been increasingly given up and a method of weighing claims or demands with reference to the ends of law has more and more prevailed. Social philosophical jurisprudence has been chiefly concerned with the working out of such a method. Social utilitarians would value interests with respect to social ends, translated as ends of the law, but this assumes that social ends are something given. Neo-Kantians value interests by the social ideal of the time and place. Neo-Hegelians value them by the extent to which their recognition and security make for maintaining or furthering civilization: claims are to be referred to the jural postulates of the civilization of the time and place and to be generalized in terms thereof; then we are to ask whether and how far they promote civilization. These are typical systems of the immediate past. Discussion of this fundamental question still goes on and is likely always to go on. In the meantime the law must have some practical criterion and in fact, under the surface and covered by many theoretical disguises, courts and jurists have weighed and valued conflicting claims by attempting to secure as much as possible of the whole scheme of interests with the least sacrifice. Perhaps the juristic theorist can do no more than make explicit and give precision to the method which has actually obtained. Details must be worked out empirically. Compromises and adjustments must be sought through a process of trial and error. Each legal system has and very likely each will

always have its own solution for many cases of conflicting and overlapping claims. Comparative law must always reckon with a certain impossibility of arriving at an absolute valuation. But the jurist may well aim at all times and in all the compromises and adjustments which are involved in the legal order at giving effect to as much of the whole body of human claims and desires as possible.

As a result of the functional attitude toward law the problem of the scope of legal action has come to be recognized as involving something more than logical or metaphysical limitations. In the nineteenth century it was supposed that certain things were to be dealt with by law because that mode of ordering them could be deduced from a fundamental, metaphysically given datum of free will. Other things were to be left untouched by law because restraint of freedom in those respects did not follow logically from the idea of free will. Contemporary jurisprudence is more likely to ask what are the practical limitations upon the scope of law. It is apparent that there are limitations upon effective legal action but they are taken to be inherent in the nature of our legal machinery and are not attributed to some metaphysically demonstrated or logically imposed barrier. Thus with improved machinery the limits of effective legal action may be extended. None the less, there is much that cannot be done well by means of law and what that is must be ascertained through a theory of values. Where legal interference sacrifices values other means of social control must be relied upon. Here the law can do no more than preserve a social order in which these other means may operate effectively.

It remains to say that there are certain practical problems to which jurists of today are giving much attention. First among these perhaps is improvement in the form of the law, whether by codification of parts of the law or by unofficial restatement, such as that being carried on in the United States under the auspices of the American Law Institute. Another matter of scarcely less importance is the devising of an effective legal apparatus for ascertaining the social facts involved in lawmaking and in the judicial finding, shaping and application of legal precepts. In Europe ministries of justice are important agencies for this purpose. In the United States there is no organized study of the functioning of our legal institutions, the application and enforcement of law, the cases in which and reasons for which it fails to do

justice or to do complete justice, the new situations which arise continually and the means of meeting them. There is no systematic inquiry as to what legislation achieves its purpose and what does not and the reasons underlying both success and failure. There is no expert and intelligent guidance to those who frame and those who administer the laws. Both in England and in the United States ministries of justice or some equivalent institution have been urged. Sooner or later something of the sort will have to be set up in English speaking jurisdictions, as the present system is wasteful and ineffective.

Preventive justice is another subject to which juristic activity must be directed. Something has been done through juvenile courts and administrative agencies of probation and parole. But for the most part what is done by way of preventive justice in the criminal law is achieved through extralegal agencies. On the civil side of the law there has been an increasing development of preventive machinery, but study of the possibilities of preventive justice has only begun. The legal science of tomorrow will have few opportunities more promising than the directing of creative energy toward new methods, new precepts and new machinery for preventive justice.

Finally, there is the problem of individualizing the application of law in a society demanding individualized treatment of many things with respect to which it was not needed in the simpler, rural, agricultural society of the past. Where points of contact between men are relatively few, rules of law may suffice for the exigencies of justice. When the points of contact are enormously multiplied, as in the great city of today, when individual claims conflict and overlap on all sides, it becomes necessary to have fine lines and delicate discriminations, which are not easily made by means of rules of law. The demand for individualization has brought about a multiplication of administrative boards and tribunals in the United States and a constantly increasing resort to administrative action in Great Britain. The legal science of the past ignored everything but mechanical logical application of rigidly defined precepts. Today jurists recognize an administrative element in the legal order. It is recognized that in many fields individualization of the application of legal precepts is quite as important as the precepts themselves.

ROSCOE POUND

*See: LAW; COMPARATIVE LAW; JUDICIAL PROCESS;*

JUDICIARY; LEGAL PROFESSION AND LEGAL EDUCATION; JUSTICE; NATURAL LAW; INTERESTS; SOVEREIGNTY; COURTS; JUSTICE, ADMINISTRATION OF.

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## JURY

ENGLAND AND THE UNITED STATES. Trial by jury is the characteristic mode of determining issues of fact at common law and hence in actions at law in those countries where English law prevails or is the basis of the legal system. A common law court could pronounce judgment only upon the pleadings (the statements of their case by the respective parties) or the verdict of a jury determining an issue raised by the pleadings. Hence the pleadings were directed toward framing an issue to be tried by a jury and the trial procedure and law of evidence were shaped by the exigencies of that process. Along with the doctrine of precedents and the doctrine of the supremacy of the law trial by jury is one of the characteristic legal institutions of the English speaking world.

A jury is described by Maitland as a body of neighbors summoned by a public officer to answer questions upon oath. Historically this is quite true. It is precisely these characteristics, summons by a public officer, answering some question or questions put to them by a public officer and answering upon oath, which are common to a grand jury, a petit jury, a coroner's jury, a jury in condemnation proceedings or a jury in inquest of office found. If these different types of jury hear evidence and make presentments or find indictments or hear evidence

and try issues or pronounce as to the cause of death or view and value land or determine the alien character of one who is found holding land, yet they have developed functions of hearing and trying as incidental to the primary one of answering questions put to them. In origin the jury was an administrative device. It came to be used chiefly in the courts but is still not wholly confined to the courts, as some of the above cases suffice to show.

When jury trial as a characteristic institution of English law had come to be regarded as a bulwark of liberty, standing between politically organized society and the individual citizen and securing the latter against oppression, it was sought to trace the jury to the Anglo-Saxon period. In the time of uncritical history it was attributed to Alfred, who had nothing to do with it. Later its origin was sought in the doomsmen of the old local courts or in the compurgators. Also a somewhat analogous institution in Scandinavian law was taken to be the original during the enthusiasm for Germanic law in the last century. More especially after the contests between courts and crown in the seventeenth century two famous phrases in Magna Carta were taken to guarantee jury trial to the ordinary Englishman. But as it stands in the great charter the phrase "law of the land" includes all the modes of trial then usual. It has no particular reference to jury trial. Moreover the phrase "lawful judgment of his peers" has no reference to the jury. "Judgment of his peers" refers to the trial of a vassal by his fellows in the court of their lord. It means something of which there is still an example in the trial of an English peer in the House of Lords or before his fellows in the Court of the Lord Stewart. Jury trial did not grow up from any of these modes of trial. It became a mode of trial after beginning as something else.

The clearly established and authentic history of the jury goes back to the ninth century. In 829 the emperor Louis the Pious, successor of Charlemagne, directed that thereafter royal rights should be ascertained not by witnesses produced by the parties interested but by the sworn statement of the best and most credible persons in the locality. At that time the rights of the crown rested in custom. The custom was to be declared by twelve neighbors upon their oath. It is possible, but the connection has not been established, that this administrative device was taken from a bit of Roman administrative machinery to be found in the fifth century

in the Theodosian code. At any rate it was taken over from the empire of the Carolingians to the Duchy of Normandy and thence to England. At first it was used by the government as a means of ascertaining and establishing its rights and was called an "inquisition," a term of which some memory still lingers in old forms of presentment and indictment and in "inquest of office found." A Norman duke or an English king sometimes granted to private persons or to churches the privilege of having their rights ascertained in this way. In Normandy in the twelfth century inquisition was made the ordinary mode of trial for all important civil litigation. In England soon afterward a series of enactments allowed it generally as an alternative mode of trial. From these enactments, which were called assizes, the inquisition of twelve men in certain proceedings got the same name.

After the Norman Conquest the inquisition went on as an administrative device to obtain information required by the government. Thus *Domesday Book* is a collection of answers by neighbors as to who owned land and other matters relating to land which the government needed to know for the purposes of taxation. In the twelfth century the inquisition was used to ascertain the custom as to the relations of church and crown and to discover crimes and criminals. Forfeitures and fines for crime were an important source of revenue. Hence it was important to compel the neighbors to answer the questions of the sheriff. By the last third of the twelfth century it was established as the regular mode of obtaining presentments of criminals and was thus on the way to becoming the grand jury.

In mediæval England trial by jury was not a logical but a mechanical mode of trial. In a logical trial, such as one before an Athenian dicastery or a Roman college of *judices*, the case of each litigant is made out by evidence and fully argued as to the points in dispute. The beginnings of law do not provide such trials. A chief purpose of law in such a stage is to keep the peace, and in times when groups of kindred were ready on small provocation to redress the injuries done their kinsman it was not politic to add a controversy as to the weight of evidence and argument to the controversy under adjudication. A single, simple test, as to whose application and outcome there could be no question, had to stand for the determining agency. At first and for a long time jury trial was of this type. The jury was a body of wit-

ness triers, responding to the exact single issue submitted to them by a verdict pronounced on their general knowledge as representatives of the neighborhood. Jury trial was extended at the expense of the other mechanical modes of trial partly because potentially it was a mode of logical trial.

In mediæval English law the chief modes of trial were ordeal (hot iron, boiling water, cold water and the morsel), wager of law, and battle. But in 1215 the pope forbade the clergy to take part in the ritual of ordeals, so that these became obsolete as a regular mode of trial. In the thirteenth century trial by jury had superseded all the mediæval forms of trial for criminal cases. The civil jury as it is today is derived from the old criminal jury. It comes to us through the action of trespass, which originally was criminal but became civil. By the end of the fifteenth century it was very near its modern form; it had become a body of impartial men who heard witnesses and returned verdicts on the evidence.

Three far reaching changes operated to bring jury trial into the order of reason and impart to it some degree of certainty: first, the practise of hearing witnesses and the development of a technique of trials; second, the working out of a rational system of review of verdicts; and, third, the development of the law of damages, which established an authoritative measure of damage for all important situations. The first was achieved in the Middle Ages. The second was completed about the time of the American Revolution. The third was still proceeding in the nineteenth century. Already in the Middle Ages, after beginning by summoning the named witnesses in order to assist the jury, it had become customary to examine other witnesses before the jury to help it to arrive at its verdict. Thus the characteristic common law method of trying cases as a whole, not in detached fragments as in civil law countries, grew out of jury trial. In mediæval practise the only mode of reviewing a verdict was by the clumsy process of attain, going back in its theory to the time when jurors were not triers on the evidence but told the court what the neighborhood knew. A new jury of twenty-four tried the first jury for perjury. If the first jury was found to have returned a wrong verdict, the jurors were imprisoned, they became infamous and their property was confiscated. Not unnaturally jurors were unwilling to subject a former jury to the severe penalties involved and by the reign



of Elizabeth attaind had ceased to be much resorted to. In the sixteenth century a new way of controlling the actions of jurors was sought in the Star Chamber, which began to punish them for verdicts against obvious evidence. But because of the political prosecutions of the sixteenth and seventeenth centuries this was a dangerous power in the hands of an administrative tribunal controlled by the crown and in Bushel's case, decided in 1670 (Vaughan, 135), it was settled that the obsolete attaind was the only legal pressure upon a jury. Indeed in that case Chief Justice Vaughan went so far as to say that a jury ought to be completely free from direction from the bench. The reasoning of the court is interesting: the jury might have acted on evidence unknown to the court. It is apparent that the conception of the jury as a body of witness triers still survived.

In the Middle Ages courts had allowed new trials for misconduct of jurors, and during the Commonwealth the upper bench took the notable forward step of granting a new trial for an award of excessive damages against the charge of the court. After the Restoration this decision was questioned, but the practise of granting new trials was not established until the eve of the American Revolution. As to the legal measure of damages, Sir Edward Coke had said that the jury were chancellors, in other words, that they had an uncontrolled discretion. It was not settled that there was a legal measure of damages in cases of tort until the nineteenth century, and a remnant of the power to award damages as the jury likes still exists in cases of punitive damages for wilful and wanton wrongs.

Political prosecutions for libel in the eighteenth century led to Fox's Libel Act of 1792 making the jurors judges of the law as well as of the facts in such cases. Except for this one crime, however, there has been a steady development in England toward complete judicial control of jury trials and full exercise of the common law power of the courts to advise on the evidence and direct verdicts in accordance with the law. The colorless type of charge to juries which Dickens satirized in the *Pickwick Papers* became a thing of the past in the last quarter of the nineteenth century. Jury trial had been developed into an effective instrument in England about the time that the civil jury was to become moribund.

At common law the jury was selected by the sheriff upon a writ requiring him to cause twelve good and lawfui men of the vicinage to come to

serve as jurors. If the jurors were not properly chosen or not qualified, there might be a challenge to the array; that is, the whole panel might be challenged. If particular members of the panel were subject to objection there might be challenges for favor; it is an interesting result of the conception of jurors as witness triers that the causes of challenge were taken from the rules of the canon law as to the competency of witnesses. These challenges were tried by triers appointed from the qualified jurors. There might also be a certain number of peremptory challenges for which no reason need be given. If twelve qualified jurors did not remain, the sheriff was directed to bring in a certain number of qualified men from the bystanders—*tales de circumstantibus*—called *talesmen* from the first word of the term describing them. The panel now being full, the jury was sworn "well and truly to try the issues and a true verdict render." At this point the trial technically begins. Junior counsel for the party having the burden of the issue then opens the pleadings, stating briefly the nature of the case and the issue to be tried; and senior counsel for that party opens his case, setting forth the case as his client claims it to be, what he expects to prove and how he expects to prove it. He then calls his witnesses and examines them orally before the court and jury, after which they are severally cross examined by counsel for the adverse party. When all the evidence for the party which has the burden of the issue has been presented, counsel for the opposing party addresses the jury, commenting on the case made against him, setting forth his version of the facts and stating, if he intends to produce witnesses, what he expects to prove and how. If witnesses are called they are examined and cross examined and counsel for the party having the burden replies. In a civil case if as a matter of law there could be only a certain verdict, the trial judge may direct the jury to return that verdict and it is entered on the record accordingly. But in a criminal case only a verdict of not guilty can be so directed. If there is a sufficient case to go to the jury, the trial judge then charges the jury; that is, addresses them orally, explaining the issue or issues on which they are to pass, stating the law applicable thereto, summing up the evidence on each side and, if he thinks proper, discussing and commenting upon it. The jury may find a verdict on consultation with each other without leaving the jury box or

they may retire to the jury room in charge of an officer of the court. Originally jurors were kept there without food or drink until they agreed on a verdict; a mediaeval judge even threatened to put them in a cart and take them about with him at circuit until they reached an agreement. But in modern practise if the court becomes satisfied that they cannot agree, the jury is discharged and the case is retried before another jury. When they agree (for at common law the verdict must be unanimous) their verdict is delivered orally in open court by the foreman and the jurors are then asked collectively if that is their verdict. If they say that it is, a party may ask that the jury be polled; namely, that each juror be called by name and asked if that is his verdict. If all are agreed, the verdict is entered on the record and the jury discharged; if not, they may be sent back for further deliberation. Instead of a general verdict in the very terms of the issue there may be a special verdict: the jury may find the facts in detail and pray the judgment of the court as to how the issue should be found in view thereof. This practise comes from the days of attain, where the jurors sought to avoid the risk of a wrong verdict on a doubtful point. It is used where the facts are not disputed and only the legal result is doubtful. The special verdict is drawn by counsel and formally agreed to by the jury. The trial judge may submit special questions to the jury along with his charge or when the verdict is announced but before it is recorded and take the answers of the jury thereto. The issues being thus determined, it remains for the court to give the judgment which the record requires.

Such is jury trial at common law. It has, however, been much modified in its details in the United States, and most of the features which are now felt to call for reform grow out of those modifications. When jury trial was brought to this country in the seventeenth century, it was still essentially mediaeval. The practise of granting new trials where a verdict was clearly against the evidence was still in its beginnings. Much of the judicial guidance or control which is required to make jury trial efficient was still to be developed in England. In many of the states of the United States new trials were granted only for the mediaeval reason of misconduct of the jury and in effect the jury is as uncontrolled as in the seventeenth century. In other states it has required statutes to give the courts power to review

verdicts rendered against the evidence, and the statutory provisions, made too often with reference to some particular miscarriages of justice, have not always been drawn wisely or well. Unfortunately the legal checks upon the jury were developed independently and under pioneer conditions. The results, when functioning in the urban, industrial America of today, contribute not a little to current dissatisfaction with the system.

But the chief cause of dissatisfaction is to be found in the excessive powers which have been committed to jurors in the several states. The jury had grown up as representative of the local community. The jurors were not witnesses testifying. They were representatives of the knowledge and traditions of the locality. This representative character of the jury appealed powerfully to colonial, to pioneer and to democratic America. Then too in the seventeenth century struggles between courts and crown juries had proved an effective check upon the crown. Juries had used their power of rendering general verdicts and the legal requirement of a verdict as the basis of a judgment to thwart royal attempts to enforce certain laws peculiarly obnoxious to Whigs and Puritans. The colonists who had the most weight in determining American institutions came to the New World with a strong dislike for efficient law enforcement and bias for jury lawlessness. This was confirmed for lawyers by the account of the jury as steadfastly upholding the immemorial rights of the ordinary Englishman against arbitrary governmental action which they found in Coke's *Second Institute* and in Blackstone. It seemed to Americans more important to preserve the jury as a bulwark of political liberty than to make it an efficient tribunal. This feeling was reinforced by jury resistance to colonial governments on the eve of the American Revolution and by jury resistance to unpopular legislation during the rise of Jeffersonian democracy. The political importance of the largely uncontrolled or ill controlled powers of the seventeenth century jury, as it was brought to America, led Americans to assume that resistance to laws was more important than enforcement of law and to exaggerate the scope of jury lawlessness. There was even a tendency in some states to extend jury trial to equity, where historically it had no place, and when law and equity powers were given to the same courts to be exercised in the same proceedings, to assume that in the fused procedure issues of every sort were to be

tried by juries. But on the whole the historical view prevailed in this particular connection and jury trial was confined to legal as distinguished from equitable features of the combined proceeding.

But the most characteristic feature of American development of jury trial is limitation of the common law powers of the trial judge. The New World had been settled in large part by colonists who sought to escape the religious and political prosecutions in which masterful judges had played a conspicuous part. Subsequent immigrants brought with them memories of the trials in which Jeffreys showed the terrible possibilities of a strong personality on the bench taking charge of a prosecution. The tradition of such judges, reinforced by the conduct of some royalist judges in the events which led to the revolution, and the conduct of some strong federalist judges at the end of the eighteenth century, created a deep seated jealousy of the trial judge which has persisted in American legal and judicial institutions. While English legal institutions were adopted in other respects, radical departures were made from the English model in respect of the powers of trial judges. It is significant that this jealousy does not extend to equity judges or to judges of appellate tribunals. The scope of injunctions has been greatly extended. Appellate judges are allowed powers with respect to legislation which no other judges exercise anywhere. But Americans have been and on the whole remain unwilling to allow trial judges in actions at law the authority without which justice cannot be administered effectively in the society of today. It is true that in the federal courts the judges have retained their common law powers. Yet here too in many parts of the country the circuit courts of appeals have been cutting down those powers on the analogy of the state practise.

American states very early began their departure from common law rules by requiring the charge of the court to the jury to be in writing, and generally throughout the land by custom, judicial decision or legislation trial judges were deprived of the power to comment on the evidence or discuss its weight or advise as to its application. Many jurisdictions confine the charge to the giving of abstract written "instructions" on points of law involved. Some make the jurors judges of the law as well as of the facts, in criminal cases at least. Many take the power of fixing the sentence away from

the judge at least in offenses of great seriousness and commit the measure, duration and form of penal treatment to the trial jury. Some of the causes of this shearing of judges of their common law powers have been referred to. To these it should be added that for a long time and in many jurisdictions colonial justice was administered by magistrates who had no special competency to advise or assist juries. But most of all it must be borne in mind that pioneer communities were caves of Adullam to which everyone who was in debt or in distress or discontented repaired to begin anew, and the Adullamites had no desire that their creditors pursue them into the wilderness. Extravagant powers of juries uncontrolled by judges appealed to the pioneer, not only because an unfettered jury trial afforded a spectacle in times when the theater, the moving picture, the radio and the automobile were not at hand but especially because jury lawlessness and pitfalls of procedure were often the only defense. Later the ideas and practises to which these conditions gave rise were taken advantage of in the contests between habitual plaintiff's lawyers and habitual defendant's lawyers which went on in all American courts after the rise of great public service and industrial corporations with permanent and well organized legal departments. One group relied on the power of juries to render general verdicts free from control by the courts; the other on a highly technical procedure full of pitfalls which provided opportunities for setting aside verdicts and obtaining new trials. The elaborate codes of civil procedure which prevailed in the second half of the nineteenth century and the hypertrophy of appellate procedure, serving as a check upon review of jury trial for "error," are to be explained in large part by this contest. Moreover the weakness and tendency to abdicate such powers as they had, frequently manifested by trial judges elected for short terms, served still further to render jury trial in this country inefficient and unsatisfactory.

In contrast with its great popularity in the eighteenth and nineteenth centuries the jury system is now almost everywhere under attack. All American constitutions guaranteed it as essential to liberty and free government. Today it is being modified or restricted on every hand or is becoming disused. In England, while the jury in criminal cases operates well and is not criticized, the jury in civil cases is almost obsolete. There is now a well established prac-

tise of resorting to it only in cases involving legitimate appeal to the emotions, such as assault and battery, malicious prosecution, false imprisonment, defamation and breach of promise of marriage. In the United States waiver of jury trial or reference of cases to referees or auditors has become increasingly common. In a growing number of jurisdictions a civil jury is not to be had unless expressly demanded. In some of these when one demands a jury he must advance at least a part of the expense. Moreover the growth of administrative tribunals at the expense of the common law jurisdiction of the courts and the development of elaborate machinery for commercial arbitration are due largely to distrust of civil juries and are means of avoiding them. To this growing disuse must be added a long list of modifications which indicate a moribund institution. Majority verdicts are now allowed in many jurisdictions. In some the jury is required to answer in writing a large number of special questions. In some the scope of special verdicts is increased and the practise of finding them is facilitated. It would serve no useful purpose to go into details or to specify jurisdictions. There is so much legislation and changes are so frequent and differ so much in detail that any exact statement would be out of date almost before it was off the press. Suffice it to say that continual tinkering with the civil jury has achieved little improvement and is not likely to do so unless and until the common law powers of the trial judge are fully restored. There is danger that before this fundamental reform can be brought about confidence in the civil jury will have been so wholly lost that no reform can re-establish it. As to the jury in criminal cases, that also is under attack generally but more as the result of the changes made in pioneer America than from inherent defects in the common law institution. A criminal trial before a jury made judge of law as well as of facts, with the judge restricted to the position of an umpire in the almost unrestrained contest of counsel, with the duty of fixing the penalty left to the jurors and so made to complicate the question of guilt, with the charge of the court reduced to a written dissertation on abstract points of law, is not a jury trial in the sense of the common law and is not the jury trial which made that institution one of the glories of English law. As it is, the steady growth of waiver of jury trial in criminal cases and the extension of summary criminal jurisdiction

present a story very similar to that of the civil jury.

There are compelling reasons for believing that the jury in criminal cases will endure. As a device for political education of citizens who do jury duty its importance has perhaps been exaggerated. Such education is expensive and is less necessary under the conditions of diffusion of information today than it may have been in the past. But the jury of the vicinage is a truly representative institution, and a representative local judgment upon conduct has a value which atones for many shortcomings. The bad features of the jury system in criminal justice in America are mostly traceable to want of control and want of power of control by the trial judge and the abuses which have grown up in consequence. Thus in an American state criminal trial of any importance it is usual to take up many days in elaborate and detailed examination of prospective jurors in order to secure an absolutely unbiased panel. Where a jury has extravagant powers and the trial judge can do no more than give academic explanations of abstract points of law this may be necessary, but it is significant that no such protracted examinations are heard of, because they are not needed, where the judge has and exercises the common law powers.

It must be remembered that the jury in criminal cases served as one of a long series of mitigating devices in criminal procedure. That list is now excessively long in America: the discretion of peace officers as to whether or not they shall report or arrest offenders; the authority of the magistrate to discharge upon preliminary examination; the power of the grand jury to ignore indictments; the discretion of the public prosecutor as to whether or not he shall prosecute; the authority of the jury to acquit by general verdict in the face of the evidence; the discretion of the judge to grant a new trial; the discretion of the judge as to sentence, suspension of sentence and mitigation of sentence; the individualizing power of administrative officials by way of parole; the executive power of pardon. This long list comes down from the era of capital punishment for all serious offenses and the later era of political prosecutions. Obviously it is much too long. But there are other points at which to strike, especially in the American additions to the list as it stood at common law. On the other hand, the jury system in criminal cases stands in need of much improvement. The rapid growth of er-

forcement of laws against vice by injunction rather than prosecution is due largely to the ineffectiveness of jury trial for such cases. Indeed with the rise of the problem of enforcing law in the urban, industrial society of today a much more efficient criminal trial system is imperative.

As to the civil jury it has been much overworked in the United States. It was a good tribunal in the old time rural, agricultural society, where the jurors knew the men and the things involved in local litigation. But the city dweller of today seldom knows his neighbors and the range of his interests and knowledge is specialized. Most of all, however, the civil jury is too expensive. It wastes the time of jurors, parties and witnesses beyond what is justified by any advantage it may have. In cities where courts sit to try cases continuously the year round the drain of jury service is serious and in the end those who would make the best jurors evade service because neither they nor the business of the community can afford to have them taken from their everyday work. If for no other reason, the expense of the civil jury as an ordinary tribunal for ordinary controversies is likely to make it obsolete in the economic order of tomorrow.

ROSCOE POUND

**OTHER COUNTRIES.** No institution of English law has achieved so universal a reception as the jury system. In the nineteenth century the jury, introduced into civil law countries, became virtually a world institution. If it is true that the English jury owed its origin to early forms of continental procedure—for Bruner's conclusions as to the royal and inquisitorial origins of the jury have been somewhat questioned since the appearance of the work of Meyer—the debt was thus amply repaid. It must not be supposed, however, that the transplanted institution was any more an exact copy of the English prototype than was the American jury. In fact it was not the English but the French jury, representing a considerable modification of the English institution, that served as a model for civil law countries.

The jury was ushered into continental countries as a result of the French revolutionary movement. It had been among the English institutions greatly admired by the French *philosophes*. With its oral and public procedure it seemed to them ideally suited to undermine the old secret inquisitorial procedure. Moreover

the substitution of the principle of the free evaluation of proof for the system of legal proofs seemed to make the jury imperative. Only a jury of citizens could be left free to judge on the basis of their own intimate conviction. Thus the *cahiers* of 1789 demanded the introduction of trial by jury in criminal cases, and the Constituent Assembly established it by the law of 16–29 of September, 1791. The jury system thus introduced survived through consulate, empire and republic. When its retention was debated in the State's Council in the course of the drafting of the Code of Criminal Examination of 1808, it was curiously Napoleon who was its staunchest defender, for the first consul realized that it would be a useful weapon in his hands against the old aristocracy. Established in some of the regions that were under the Napoleonic hegemony, the jury made its way very rapidly in the Latin countries, which in all matters followed almost precisely the Code of Criminal Examination.

Almost everywhere the triumph of the jury system was assured by the revolutionary movements of 1848. Its reception in all but a very few of the German states at this time proved decisive. The jury had been retained in the Rhine provinces after their emancipation from French domination, and a number of *causes célèbres* in those provinces made the jury a subject of great debate throughout Germany. German legal scholars became interested in the institution and there began in the 1820's the long series of German works devoted to its origins. For the period before the Frankfurt National Assembly it may be said that on the whole the majority of German jurists were opposed to the introduction of the jury. Feuerbach shrewdly realized that it would not be a liberal agency until the forms of government of the European states were fundamentally modified. The enormously influential Mittermaier was at first opposed to it. But popular clamor for it was not to be resisted.

In the second half of the nineteenth century the jury continued its conquests and even made its way into the regions of benevolent despotism. In Spain it was suppressed in 1875 after a short trial but was restored in 1888. It was even introduced into imperial Russia in 1864. The German Code of Criminal Procedure of 1877 accepted the jury for the whole empire, and the end of the century saw it established in the Hapsburg dominions as well. It prevailed of course in most of the Swiss cantons, and while it encountered a good deal of resistance in the

Scandinavian countries Norway yielded in 1887. In fact the only important European country to refuse to admit it for any purpose was the Netherlands. Its acceptance in the Latin American countries was fairly general.

In France the jury system has undergone scores of changes since 1791, and it has often been somewhat modified in detail in the other civil law countries which have based their systems upon the French. But few of these have departed very radically from its basic principles. Where fundamental changes have been introduced they have been determined by the necessity of accommodating the jury to so many diverse forms of government.

In civil law countries the jury is not employed in civil cases, with the possible exception of its use to assess the value of property in condemnation proceedings, as in France. Moreover it is everywhere recognized that even in criminal cases the use of the jury is to be confined to the trial of major offenses. Thus the jury has been regarded in these countries as an exceptional institution from the very beginning. The dominant tendency has been to confine it to the trial of "crimes," using the term in the technical sense of the tripartite continental division of offenses into crimes, delicts and contraventions. The principle of unanimity in the decision of the jury has been rejected from the very first. The verdict is usually arrived at either by a simple majority or by a two-thirds vote. The present French law provides for the former; the German code of criminal procedure of 1877 required the latter.

The actual organization and conduct of a jury trial do not differ very radically from those which prevail under the Anglo-American system. Almost everywhere the jury has been composed of twelve jurors. They are usually chosen by lot from a small panel and provision is made for peremptory challenges as well as challenges for cause, but as in England there is no elaborate examination of talesmen. The most important difference between the continental and Anglo-American systems in the conduct of the jury trial is the absence in the former of cross examination of witnesses. The questions are put by the president of the court, and the only opportunity of counsel to attack the case of the prosecution is in the address to the jury. Since there are no strict exclusionary rules of evidence the witnesses usually have the advantage of haranguing the jury upon any point in any way related to the case. When the testimony is com-

pleted, a summary, or résumé, of it is made by the court. This feature was abolished in France in 1881 because of its abuse by ambitious presiding judges, but the prevailing doctrine is that the judge may summarize the evidence for and against the defense, provided that he does not comment upon it in any way. In the actual presentation of the case to the jury the civil law practise differs from that of the common law in a curious way. There is no general finding of guilty or not guilty. The jury is given a series of written questions to answer based upon various premises as to the facts, and the questions must be framed in such a way that they may be answered "yes" or "no." The practise in the framing of questions, which at times has run to a considerable degree of ingenuity, is reminiscent of the Roman formulary procedure.

The jury has everywhere been regarded as the "palladium of liberty," but devices have often been found in civil law countries for reducing its effectiveness in this role. The classes that might be opposed to the interest and desires of the government have sometimes been legally excluded from eligibility for service and a governmental functionary has been given a further right of scrutinizing the final lists. The best example is the composition of the jury under the Napoleonic regime: the basis of eligibility was made extremely narrow, and the prefect was given virtually dictatorial powers over the lists. The basis for the composition of the jury in France has changed in accordance with the character of the regime in power; the present liberal system rests upon the law of 1872. Another effective governmental expedient has been to limit the competence of the jury. Thus in autocratic countries political crimes and offenses of the press have been specifically excluded from its competence. In other words, the jury has been confined to the function of judging ordinary crime. Where the jury system was established in Russia, its use was excluded not only in political crimes but in such offenses as rape, bigamy and resisting arrest. The democratic countries on the other hand have specifically included within its competence delicts of the press and political offenses. In some countries jury trial has been provided only in the case of delicts of the press, as in Sweden. In Chile a law of 1872 provided for the trial of press offenses by a jury of seven.

In the present century a few gains have been made in the further introduction of the jury system: a constitutional guaranty of jury trial

was included in the post-war constitutions of Poland and Austria; and in 1924 the jury was introduced into imperial Japan except for political offenses. On the whole, however, the institution has been on the decline. It has been abolished in some Swiss cantons. In France there has been a growing practise of avoiding jury trial where possible by having the prosecution upon such elements of an offense as will constitute it only a *délit*. This "correctionalization of crimes," as it has been called, is very reminiscent of the practise of American district attorneys in accepting pleas. Everywhere there has been a growing discontent with the jury system, and there are not many continental jurists who have much to say in its favor except in connection with press and political offenses. French jurists have pointed to the readiness with which juries in their country have acquitted in cases of sexual offenses and the great severity they have shown in cases of property crimes. Ferri and Garofalo give accounts of the functioning of Italian juries that are almost incredible. In some of the provinces, it seems, jurors have almost had fixed scales of charges. Verdicts of acquittal have been common when the accusation has been that of embezzling public money. In regions dominated by the Mafia and the Camorra juries have been continually intimidated.

The most serious threat to the continued existence of the jury system in its present form is a growing movement to turn the jury into a board of lay judges, called *Schöffen* in Germany and *échevinage* in France. The tradition of lay judges is an ancient one in Europe, going back to the *scabini* of the Merovingians. Indeed some of the early attempts of German scholars to trace the history of the jury attributed its origin to these lay judges. Although the difference between a lay judge and a juror has come to be recognized, a tendency has persisted to regard lay participation in the administration of criminal justice as the essence of the jury system. In a jury trial the whole judicial function is divided between the judges and the jury, while in a trial before lay judges there is no such division of function. The current movement aims to combine the permanent judges and the jury into one bench, acting as a unit in deliberating and reaching a decision as to both guilt and punishment. A court of *Schöffen* composed of one permanent judge and two laymen had existed in Germany under the code of criminal procedure of 1877 for the trial of various minor

offenses. Courts composed of various numbers of professional and lay judges had functioned also in other Germanic countries and perhaps elsewhere. Such mixed courts had existed in the French and Italian colonies even for the trial of serious offenses. In 1924 Germany abolished its jury system in the case of all major crimes and substituted for it a court to be composed of three permanent judges and six laymen to sit and deliberate together. Its competence was severely limited to treason, crimes of homicide and a few other offenses. The change was made under a plea of economy, and the new institution is still called a jury (not *Schöffengericht* but *Schwurgericht*) but it is such only in name. The advantage of combining the lay and professional judges is obvious. The former have the guidance of the expert knowledge and experience of the latter, and the processes of judgment as to law and fact, formerly separated, are advantageously united. But it is no less equally obvious that the lay judges will tend to be overawed by their professional colleagues. Moreover since the advice of the professional judges is no longer given to the laymen from the bench in open court, the guarantees of publicity no longer exist. It is significant that a system not unlike the German was introduced into Fascist Italy in 1931 and that a similar system is used in Soviet Russia for the trial of offenses in all criminal courts. The Soviet court is composed of a permanent judge and only two lay judges, and the verdict is reached by a majority.

When it is considered that the criminal jury has been on the decline in common law countries as well—England, the birthplace of the modern jury, has witnessed a tremendous growth of "summary prosecution," and in the United States waiver of jury trial is becoming increasingly common—one is forced to look beyond local causes for a fundamental explanation. It is doubtful whether procedural differences between common and civil law countries can be considered to exercise the decisive influence on the fate of the jury system. The rule of unanimous decision and the system of elaborate examination of talesmen have often been blamed for its decline, but civil law countries have complained of the jury although they have known neither. The mere power to comment on the evidence has never sufficed to control a jury that wished to go contrary to the judge's opinion. Continental jurists have recognized frankly that the separation of law and fact in jury procedure is chimerical. Everywhere the jury tends to be omnip-

otent, in fact if not in law. Even the legal exclusion of the popular and heterodox classes from the jury in some of the civil law countries can be overemphasized. Jury packing has not been unknown in England and in the United States, where such an exclusion is not provided for. In all countries, whatever the provision of law, the middle class tends to dominate in the jury system. An explanation for the dissatisfaction with the jury system should rather be sought in the fact that technically the jury represents a rather cumbersome procedure and politically a means for effectuating the will of the middle class. A great deal can be said for the jury, but it may as well be recognized frankly that efficiency in the trial of causes is not among its virtues.

WILLIAM SEAGLE

See: GRAND JURY; JUSTICE, ADMINISTRATION OF; PROSECUTION; PROCEDURE, LEGAL; CIVIL LIBERTIES; COURTS; JUDICIARY; EVIDENCE; EXPERT TESTIMONY; JUDICIAL INTERROGATION; APPEALS; VENUE; CONTEMPT OF COURT; ASSIZES; ATTAINDER; COMPURGATION; EQUITY; INJUNCTION.

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JUS GENTIUM as a Latin phrase might mean the law which governs the citizens of all nations or the law which governs the citizens of a limited group of nations or else the law which governs the nations themselves in their relations with each other. It is doubtful whether the second of these meanings was ever adopted, but the first and last were frequently attached to the phrase in ancient and in modern times and both have been fruitfully developed.

What were the gentes? Apparently not the Roman clans, which were ancient and important institutions, although there was a law that related to them and this law must at an early time have been of great moment. But this law was known as *jus gentilicium*, and the fact that it was never called *jus gentium* indicates that the latter phrase did not come into existence until the gentes as clans had lost importance and the gentes as national units had gained it. This must have happened some time before the completion of the conquest of Italy in the third century B.C.

The various instances of the occurrence of the phrase have in recent times been exhaustively collected. When they are carefully examined.

there ought to be little doubt that the earliest informal definition, that given by Cicero (*De officiis* III: 5, 23; III: 17, 69; and *Tusculanarum disputationum* I: 13, 30), contains the fundamental notion of the term. Cicero says that the *jus gentium* is the law which natural reason has established among all nations, and there is little reason for qualifying or doubting the accuracy of his statement. Certainly there is no real support in the sources for the supposition that the *jus gentium* was a non-Roman law, the law of non-Roman gentes, in the sense in which the word gentiles is used in the Bible. The *jus civile* is not contrasted with the *jus gentium* but as far as it was rational is conceived as a part of it.

It is necessary, however, to qualify the implications of the English version of Cicero's definition. The gens in his sense was a group of persons who professed a common descent and dealt with one another as people who had common interests and a certain amount of common responsibility. It was not necessarily an organized political unit. Every gens had certain peculiarities of its own. The *jus gentium*, since it was the law which all of them used, must be the common element in the *jura* of the several gentes. It was not, at any rate not at first, an ideal law which all men ought to follow but the body of common rules which gentes, however diverse, did actually follow. At a later period it was a favorite exercise of rhetoric to point out the extreme discrepancies that existed between the laws of various nations. But when the phrase *jus gentium* first came into common use in Rome, perhaps in the third century B.C., it is likely enough that the gentes envisaged contained few violently idiosyncratic examples.

The Roman must have thought of the *jus gentium* as containing no inconsiderable body of usages and of usages which were quite concrete and specific. The real question, however, is not so much what the *jus gentium* was but what its significance was. What was its relation to the ordinary law? Evidently a Roman magistrate enforcing law in the ordinary cases between Roman citizens would not be likely to appeal to it, since as far as it constrained him it was part of the *jus civile*, which he was bound to administer. But when he had to enforce law between Roman and non-Roman or when the Roman law as formulated in statute or in concrete customs was for one reason or another inapplicable even in cases involving only Roman citizens, the magistrate was required to act justly and conscientiously; in such cases it was a powerful confirmation of

conscience and justice to find a rule established in the common practise of all or nearly all nations, i.e. in the *jus gentium*.

It is evident, however, that when a doctrine of natural law is established, empirical institutions developed in the *jus gentium* might be found to be in contradiction to it. One such system of principles of justice, the stoic doctrine of natural law, did in fact classify several of the institutions of the *jus gentium*, for instance, slavery, as unjust or morally indifferent. And this particular form of natural law exercised a powerful influence on many stoic trained jurists. It is this doctrine, as quoted by Ulpian in the third century, which has been transmitted to modern times as the classic statement of what natural law was and how it differed from the *jus gentium*.

But the stoic doctrine was neither the only one nor the prevailing one among ancient jurists. In most cases they clung to Cicero's definition in which "natural reason" is given as the source of the *jus gentium*. When the gentes concerned were no longer the Italian states around Rome but a complex of nations extending from Britain to Mesopotamia and beyond, the common element in the practises of all of them could hardly be less than a law dictated by nature itself. It is so defined by Gaius in the second century. That is, there was no real difference among writers of this group between *jus gentium* and natural law. The later jurists used the terms interchangeably, and the Christian doctrine that natural reason is of divine origin strengthened rather than weakened the tendency to equate them. It may be said that there were as many kinds of natural law as there were philosophic schools or religious sects and that there was only one kind of *jus gentium*; but the two would of necessity coalesce.

It was inevitable that the larger and apparently more comprehensive term should be the more successful in the early Middle Ages; in the early schoolmen and publicists *jus gentium* is of rare occurrence, even though the popular cyclopaedia of the Middle Ages, Isidore's *Etymologies*, fully defines the term. Upon reading this definition one is struck by the fact that all the elements tabulated and listed in it are of a special sort. They have to do with matters which had at all times been declared specifically to be a part of the Roman *jus gentium* but which had been of little importance in the time of Rome's primacy.

This was the *jus gentium* in the sense of modern international law, the law that regulates the conduct of gentes among themselves. It is sometimes inaccurately said that modern interna-

tional law was the equivalent of the Roman *jus fetiale*, or fetal law. This latter, however, was merely a special type of ritual used in declarations of war and in one or two other incidents of war. Its implications were always magical or religious and its importance was slight. But the substantial elements that were concerned in the conduct of gentes toward each other were definitely called rules of the *jus gentium* by ancient writers. These were matters like the obligatory force of solemn treaties, the inviolability of ambassadors, and rules of warfare, all of which have clear enough analogues or derivatives in modern international law.

Isidore's definition was quoted verbatim in the *Decretum* of Gratian, the foundation of the canon law, and accordingly was something of an axiom among schoolmen. Consequently the publicists of the fifteenth and sixteenth centuries were not conscious of having devised a new term or of having made a new application of an old one when they used *jus gentium* to describe the law which under the conditions of the time had assumed a new importance, the law that attempted to govern the several nations in their relations, either warlike or peaceful, with each other. The *jus gentium* as a branch of the law of nature rather than as identical with it provided a common basis of intercourse for nations, which no longer acknowledged a common religious authority. It must not be forgotten that the *jus gentium* was itself a *particula divini juris*. Perhaps such a phrase as Vitoria's *jus naturale gentium* was an attempt at describing the special character of this revised aspect of natural law; but the expression *jus naturae et gentium*, Milton's "law of nature and of nations," was more generally used until the term international law, *jus inter gentes*, superseded it. The great Spanish Dominicans in the sixteenth century laid a natural stress on the religious sanction of the *jus gentium* as authoritatively determined by the church itself. There can be little doubt that the analysis of this special *jus gentium*, which is particularly detailed in Ayala, powerfully influenced Grotius, but his *jus gentium* was compelled to justify itself by self-evident principles of morality and by the rationalized practises of Christian peoples rather than by appeal to authority.

The *jus gentium* of Grotius did not require absolute uniformity of all nations. It was enough that it included many nations. It passed through a period of development not unlike that of the Roman *jus gentium*, since the immemorial practises and moral ideals of west European nations

had a noticeable common fund which gave an apparent reality and fixity to its rules. International law even in the early nineteenth century could sometimes be regarded as applying only to Christian nations. Obviously modern conditions could tolerate no such anomaly, particularly when non-Christian powers, like Japan, China and Turkey, had to be admitted into the family of nations. The *jus gentium* considered as a *jus inter gentes* has accordingly in its expansion once more placed itself on the basis of a general moral sense, and its obligatory character has often been derived from that fact.

If *jus gentium* became limited to *jus inter gentes* in the early Middle Ages, the doctrines of the conflict of laws, which are usually traced to Bartolus, hid fair to recreate a kind of common *jus gentium* in the older sense. This branch of the law requires the application under definite conditions of a foreign law. The selection of the conditions, however, is based on principles of fairness assumed to underlie the application of any law not specifically statutory. And there is further a moral valuation often placed upon the foreign law before it will be accepted. This leaves at the bottom of the principles of the conflicts of law a certain modicum of *jus gentium* which is capable of considerable extension.

Again, all the tendencies of the study of comparative law have been to assimilate the laws of the countries compared. The mercantile law of Europe was from the beginning a sort of *jus gentium* and is becoming even more so under the pressure of commercial needs. The countries of continental Europe are in a fair way to produce a common private law of obligations, which has already exercised an attractive force on the Anglo-American law of contract. While the movement is consciously only in the direction of a *jus gentium* considered as a segregation of common elements in existing historical systems, it is inevitable that the necessary compromises must meet the test of fairness. Thus a *jus gentium* in the sense of a law common to the majority of civilized communities is not an impracticable ideal for the present and the concept has not lost its vitality.

MAX RADIN

See: INTERNATIONAL LAW; ROMAN LAW; NATURAL LAW; COMPARATIVE LAW; CONFLICT OF LAWS.

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*Systematisches Handbuch der deutschen Rechtswissenschaft*, sect. i, pt. vi, vol. i— (Leipzig 1908— ) p. 62-72; Bögli, Hans, *Beiträge zur Lehre vom ius gentium der Römer* (Berne 1913); Perozzi, Silvio, *Istituzioni di diritto romano*, 2 vols. (2nd ed. Rome 1928) vol. i, p. 91-103; Karlowa, Otto, *Römische Rechtsgeschichte*, 2 vols. (Leipzig 1885-1901) vol. i, p. 451-58; Carlyle, R. W. and A. J., *A History of Mediaeval Political Theory in the West*, 5 vols. (Edinburgh 1903-28) vols. i-ii; Hershey, A. S., *The Essentials of International Public Law and Organization* (rev. ed. New York 1927), and bibliography p. 64.

JUS NATURALE. See NATURAL LAW.

JUST PRICE. Since the beginning of classical economics modern theories of value, whether objective or subjective, have viewed price as a purely market phenomenon. The just price, on the other hand, as a conception and as a doctrine is basically ethical rather than economic. In antiquity ethics was a branch of philosophy and the doctrines of the just price formed a part of philosophical systems. In the Middle Ages ethics was rooted in theology; and accordingly the just price was treated in theological works and in *summae theologiae*.

The general attitude of the Greeks toward economic matters is represented by Aristotle's conception of money and price. In the fifth book of the *Nicomachean Ethics* he sums up his views on this subject, which were constantly quoted, interpreted and developed by the mediaeval scholastic philosophers, with the terse phrase, "Thus has been explained what is just and what is unjust" (v: 9). Aristotle clearly perceived the importance of price in the exchange of commodities; and his emphasis on the place of labor time in the determination of prices has enabled modern theorists in both objective and subjective schools to hail him as their ancestor. But it is with the realization of justice rather than with price determination that the philosopher is concerned. Justice applies not to the inanimate but to the animate, not to the commodity but to the laborer; it is revealed not in the magnitude of an isolated unit but in the correct relation of that unit to the organic whole. Hence the just price does not attach to house or flour or shoe alone. There is rather a just price relationship between house and flour and shoe—a relationship corresponding to that between builder and farmer and shoemaker.

Individualistic Roman law made the determination of prices in commercial transactions entirely a matter of the legally free will. It is true that when mediaeval canon lawyers set out

to harmonize Roman law with the teachings of the church they discovered a rescript of the emperor Diocletian (*Corpus juris civilis: Codex* IV: 44, 2) which enabled them to read the Christian concept of an "objective" just price into the Roman code. This rescript aimed to prevent a too glaring disproportion between the contractual price and the "value" of a given commodity by guaranteeing redress to the seller in cases where the price amounted to less than half of the value. But in addition to the fact that it affected a trifling number of transactions the rescript was in essence un-Roman. It is indeed one of the clearest examples of the force with which the new Christian or rather oriental doctrines began in the third century to permeate and disrupt the Roman structure.

The Christians tried to base all important doctrines upon Biblical revelation. St. Paul's instruction to the Thessalonians that "no man go beyond and defraud his brother in any matter" (1 *Thessalonians* IV: 6) therefore acquired a special significance both for the church fathers and for the scholastics. It was from this source that Lactantius developed the doctrine that not only was it the duty of the seller to point out to the buyer the possible defects of the commodity but also that the buyer should never seek to profit by the seller's mistakes (*Divinae institutiones* V: 16). In St. Augustine's *De Trinitate* (XIII: 3) Paul's passage received a concrete illustration which for a thousand years it was virtually compulsory for writers on the subject to reproduce. It concerns the sale of a precious manuscript by an individual ignorant of the real value; the buyer—evidently St. Augustine himself—paid the just price (*justum pretium*), which was substantially higher than the one demanded.

How the just price was to be determined was a question raised neither by St. Augustine nor by writers during the following centuries which worshiped his authority. In the early Middle Ages, when over a wide area a natural economy had supplanted the money economy of antiquity and when significant changes in price occurred only as a result of crop fluctuations, it was easy to regard the traditional prices as just. At that time moreover the ethical precepts of the church had sufficient force to bind the faithful in every sphere of life. But in the eleventh and twelfth centuries the economic system began to lose its static character. A money economy reemerged in the Italian cities making it possible to satisfy new demands with new commodities; as a result of the crusades large

quantities of money and metals began to pour into the West. Once early capitalism had invaded the mediaeval structure, upsetting the existing social order as well as the traditional price system, the problem of what factors determined the just price could no longer be avoided. Albertus Magnus and Thomas Aquinas accordingly undertook the task of reconciling the traditional church doctrines with the ideas of the recently discovered Aristotle and with the new economic facts.

Albertus in his interpretation of Aristotle was the first to introduce the two concepts with which all the scholastics later tried to determine the just price: labor and cost (*labores et expensae*) (*Ethicorum libri* V: 2, 28). A more precise definition of the two concepts is attempted by Aquinas, who states that the measure of labor is labor time (*In X libros ethicorum ad Nicomachum* V: 5). Cost he leaves undefined, as might be expected in an age when industrial technique was only slightly developed and when there was little fixed capital and little variation between conditions and therefore costs of production. But for the determination of labor and cost taken together Aquinas stresses the significance of *conditio*, or social status; just as the worth of the person depends upon his class, so does the value of his service (*Summa theologiae* II: 2, 61, 2).

With this conception of the just price Aquinas was able to add an economico-ethical justification for the position of moral theology with regard to usury and interest. Commutative justice, he declares, is violated whenever the debtor forfeits more than the creditor (II: 2, 78). On the other hand, profit from commercial transactions is legitimate in so far as it represents a compensation for additional labor and cost, such as would be involved in transportation and storage. In such cases commercial profit is justified as *stipendium laboris* (II: 2, 77, 4). Thus it is incorrect to say that the just price as formulated by Aquinas and later scholastics was entirely devoid of economic content. What distinguishes it from all modern theory and practise is that it recognizes no validity for economic activity as such nor independent economic norms. Its law is derived from theological doctrines and from the philosophy of mediaeval class society. Because the just price was essentially not an economic but an ethical and social concept it did not necessarily coincide with the market price, which Aquinas calls *pretium datum*. For the same reason it was a component of the

objective order of things and was based on natural law: human society could not endure without just buying and selling and the just price (II: I, 95, 4).

The social function of the doctrine was to prevent material gain from becoming the sole motive of economic activity, to extend the Christian way of life to the economic sphere and to safeguard the traditional social structure; its fate therefore depended upon the strength of the faith and of the church and on the authority of the secular power. As these declined progressively between the thirteenth and sixteenth centuries, giving way before the dynamic money economy or even succumbing to capitalistic practices, the possibility of retaining the doctrine in its rigid form diminished correspondingly. To keep pace with economic development thinkers like Henri de Gand, Duns Scotus, Buridan, Nider, Langenstein (Henricus de Hassia) and others continuously offered additions and modifications. A comprehensive system integrating and supplementing these ideas was presented early in the Renaissance in the *Summa theologiae moralis* of Antonino of Florence (4 vols., Venice 1479-80; new ed. Verona 1740).

At a time when the rise of a new artisan and merchant class to wealth and political power had given striking evidence of the changes in the economic set up and of the dissolution of the static order by the forces of capitalism, it was no longer possible to make the preservation of the mediaeval class structure the determining principle of the just price system. Antonino as well as Bernardino of Siena tried to justify the new economy before the bar of divine justice and natural law by recognizing as elements in the just price not only *labor* and *impensae* but also *industria*—the zeal, diligence and creative activity of the new entrepreneur. *Industria* was even legitimate excuse for the merchant to profit by fluctuations in prices and in money value. With this broad view a closer analysis could be made of the concept of cost, which the earlier scholastics had dismissed as a given, invariable quantity. Bernardino perceived that scarcity (*rarity*) was a presupposition of price, and remuneration for risk (*periculum*) a determinant. Antonino included as determinants both utility and scarcity and in addition a third element, the degree of pleasurable use (*comparabilitas*). As a result of all these amendments price ceased to be treated as a numerically fixed magnitude: a margin was left for differences in person, place and time (*Summa* II: I, 16, 3). In contrast to their

predecessors the late scholastic philosophers did not view the just price as a static norm; it became sufficiently loose to embrace dynamic market changes. Antonino distinguishes between three levels of the just price: the lower, intermediate and upper. In view of the uncertainty attaching to human calculations he makes allowance even for slight transgressions of these limits, although he is careful to add that "caution" should be observed in making this known to the public.

Despite this caution and despite the essential preservation of the principle of equivalence in exchange Antonino's doctrine of the three levels met the needs of early capitalistic economy. This is reflected most clearly in the surmounting of the difficulties which had been caused the scholastics by the problem of credit purchase and sale. Since the principle that time is not salable was the fundamental basis for the prohibition of usury, the scholastics were determined at all costs to keep it intact. They were therefore troubled by the fact that it makes a great difference to a merchant whether he sells a commodity for cash or on credit and that this difference is often revealed in the market price. According to Antonino's solution, if the intermediate level of the just price is accepted in cases of cash payment, then the upper level may be demanded in credit transactions (II: I, 8, 1). Thus the gates of the church were opened to the emerging credit economy.

These changes, which necessarily affected the doctrine of the just wage—an integral part of the doctrine of the just price—and which were accompanied by similar amendment of the doctrines of capital, interest and usury, had important repercussions not only from the cultural and religious points of view but from the political and economic. As soon as justice was conceived as a sliding scale rather than an objective norm, the rigid barriers of social and political life were removed. Such governmental regulations as fixed prices lost their objective and metaphysical basis; the interests of the consumers, whose protection had been the chief object of the orthodox doctrine and the system of fixed prices, became secondary to the interests of the producers, who through the expansion of production upset the previous price system and discovered in price fluctuation itself a new source of profit. The extension of the doctrine of the just price, which reached its ultimate conclusion with Antonino, thus marks the point at which Christian theology abandoned its effort to save the

economic and social system of the Middle Ages.

The sixteenth and seventeenth century jurists who undertook the task of interpreting and developing the doctrine were too steeped in Roman law not to assign greater validity to the idea of the free contract in commercial transactions. Thus in analyzing the determinants of price Scaccia in his *Tractatus de commerciis et cambio* (I: 1, 436) relegated cost and labor to the last place and isolated as the primary factors the intrinsic worth of commodities (*bonitas intrinseca*) and supply (*copia vel inopia*). In the eighteenth century, when the physiocrats and classical economists made economics an independent science, the scholastic doctrine lost all significance; henceforth it was of interest only to historians and theologians.

In spite of the virtual disappearance of the doctrine the just price as an idea has managed to survive in the most diverse guises. The "natural price" of the physiocrats is nothing but the old just price in a secularized form and in the new terminology of natural law. Adam Smith's "normal value" is an obvious survival of the old doctrine. The classical economists since Ricardo and the marginal utility and mathematical schools have, it is true, insisted upon the autonomy of economics and have banished from their science the idea of the just price along with all metaphysical notions. But the socialistic labor theory of value represents an attempt to revive the idea of a proper or correct price, although this price is determined not by transcendental justice but by social appropriateness. The most recent doctrines of the universalistic school represented by Spann have gone so far as to resuscitate the just price as a concept. Should events prove that capitalism has begun to decay, a concomitant development may well be the re-appearance of the "correct" and perhaps also of the "just" price as a regulative social principle.

EDGAR SALIN

See: CHURCH FATHERS; PRICE REGULATION; PRICE; VALUE; USURY.

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ment no. 24 (Stuttgart 1931); Schreiber, E., *Die volkswirtschaftlichen Anschauungen der Scholastik seit Thomas von Aquin*, Beiträge zur Geschichte der Nationalökonomie, vol. i (Jena 1913); O'Brien, George, *An Essay on Mediaeval Economic Teaching* (London 1920).

JUSTI, HERMAN (1851-1909), American advocate of industrial conciliation. Justi was successively a clerk, statistician, merchant, bank president and coal operator. He was one of the leading and most influential originators of the practise of trade agreements and of the organization of employers' associations. Constant labor troubles, the violation of contracts and the emergence of a strong miners' union gave him the opportunity to put his ideas into practise. The five months' strike of the Illinois bituminous miners in 1897 made it evident that the temporary truce should be followed by permanent agreements and that the employers would be forced to organize for this purpose. Justi participated in the formation of the Illinois Coal Operators' Association and became its first commissioner, a position which he held until his death. The machinery set up involved no arbitration and constituted a sort of self-government for the industry. Representatives of the miners' union and of the operators met in annual convention to decide upon a general contract; minor questions or disagreements under the contract were settled by permanent machinery operating through the union's officials and Justi as commissioner of the operators' association. Similar machinery was soon created for the other states in the central bituminous coal district—Indiana, Ohio and Pennsylvania; operators and miners joined in conventions for interstate agreements and then for state, district and individual mine agreements. Justi actively propagated his ideas, which had considerable influence in spreading the form of industrial conciliation which he had been instrumental in setting up. Among his published writings, consisting of pamphlets and reprints of articles and speeches, are *Plans of Conciliation and Arbitration* (1900), *Conciliation and Arbitration in the Coal Mining Industry* (1902), *Arbitration, Its Uses and Abuses* (1902), *The Organization of Capital* (1903) and *The System of Joint Trade Agreements* (1905). Justi believed that the labor problem would be solved "in great measure" by universal adoption of trade agreements. "Worthy" unions should be recognized and employers should be organized into associations. He drew a distinction between the "consolidation" of capital to promote effi-

ciency and the "organization" of capital to deal with labor. "Strikes will occur," he said, "until organized capital can meet upon common ground and treat upon equal terms with organized labor." Justi proposed the organization of an American federation of industries (as a parallel to the American Federation of Labor) and a national board of arbitration, non-political in character and chosen by all the interests involved.

JOHN R. COMMONS

**JUSTI, JOHANNES HEINRICH GOTTLÖB VON (1717-71)**, German cameralist. Justi, the leading representative of eighteenth century cameralism, taught at the Theresianische Ritterakademie in Vienna from 1750 to 1753 and at Göttingen from 1755 to 1757. In 1765 he entered the service of Frederick the Great as an administrator of mines. He died in the prison of Küstrin, to which he had been consigned in consequence of financial difficulties in his administration.

Encompassing the basic presuppositions of Justi's numerous writings on cameralistic and administrative science is the political theory which he makes explicit particularly in *Die Natur und das Wesen der Staaten* (Berlin 1760). An advocate of enlightened despotism, justifying the interventionist policy of Maria Theresa and Frederick the Great, he uses the postulate of the general happiness to provide an ethical foundation for the welfare state and explains the formation of the state by the social contract, entered into when the instinct for self-preservation impelled men to renounce their freedom. In these aspects of his doctrine he identifies himself with the mechanistic and rationalistic school represented by Wolff and Pufendorf, as in his general adherence to the mathematical method he belongs to the same group; but in conceiving of the social contract as tacit rather than express he is affiliated with the organic and evolutionistic tendency inaugurated by Montesquieu. Justi stands in fact at the conflux of these two currents. The extended analysis of political forms on which he bases his adherence to monarchy is reminiscent of Montesquieu. He judges "internal administration" to be the center of gravity of the state's power. After reaching the conclusion that a stable balance of power is rendered impossible by the diversity of national character he recommends the formation of a universal monarchy in Europe.

The essential theme of Justi's economic doc-

trine is the importance of stimulating population. Increase of population, which at least up to a still unattained point cannot be carried to excess since its effect is a corresponding increase in means of sustenance, conditions the growth of national wealth. In order to regulate the food supply a suitable proportion might be established between industrial and agricultural enterprise. Such devices as tax exemption, subsidies and extension of building credit should be employed to encourage the influx of foreigners. Justi's monetary theory makes money the symbol of national wealth, the economic expression of political power. Subscribing to the quantity theory as formulated by Montesquieu but rejecting the laissez faireist inferences drawn from the theory by French and English writers, Justi views prices primarily from the point of view of the producing interests. He devotes much attention to the problem of insuring a plentiful supply of working capital and to this end suggests borrowing abroad; various banking schemes for the better organization of credit—for instance, the foundation of a bank combining the features of mortgage bank and insurance company; the establishment of pawnshops and other credit institutions for the benefit of small scale artisans; and the creation of a *Manufakturhaus* to accelerate the sale of the finished products of the industrial class. Taking the ideal of economic self-sufficiency as his point of departure, he is more interested in effecting centralized control of industry than in commercial expansion. His demand for free trade is in line with his demand for the abolition of government price regulation, monopolies, trading companies and other privileges. He draws a sharp distinction between the "general" and the "particular" balance of trade. For the excise tax, the desirability of which constituted the principal problem of finance theorists of the time, he recommends the substitution of a tax on industry, arguing that the shifting of the excise would lead to a general and permanent rise of prices while only a partial rise would result from the tax on industry. Justi's significance for the development of systematic political economy lies in the fact that he endeavored to create a clear demarcation between this science, or cameralistics, and *Polizeiwissenschaft*, or the science of administration.

LOUISE SOMMER

*Works: Gutachten von dem vernünftigen Zusammenhange und praktischen Vortrag aller ökonomischen und Kameralwissenschaften* (Leipzig 1754); *Neue Wahrheiten zum Vortheil der Naturkunde und des gesell-*

*schaftlichen Lebens der Menschen*, 12 pts. (Leipsic 1754-58); *Staatswirtschaft; oder, systematische Abhandlung aller oekonomischen und Cameral-Wissenschaften*, 2 vols. (Leipsic 1755, 2nd ed. 1758); *Grundsätze der Polizeiwissenschaft* (Göttingen 1758; 3rd ed. by Johann Beckmann, 1782); *Vollständige Abhandlung von denen Manufacturen und Fabriken*, 2 vols. (Copenhagen 1758-61; 2nd ed. by Johann Beckmann, Berlin 1780); *Die Chimäre des Gleichgewichts von Europa* (Altona 1758); *Die Chimäre des Gleichgewichts der Handlung und Schifffahrt* (Altona 1759); *Der Grundriss einer guten Regierung* (Frankfort 1759); *Die Natur und das Wesen der Staaten* (Berlin 1760); *Ausführliche Abhandlung von denen Steuern und Abgaben* (Königsberg 1762).

Consult: Sommer, Louise, *Die österreichischen Kameralisten in dogmengeschichtlicher Darstellung*, Studien zur Sozial-, Wirtschafts- und Verwaltungsgeschichte, nos. 12-13, 2 vols. (Vienna 1920-25) vol. ii, p. 170-318; Frensdorff, F., "Über das Leben und die Schriften des Nationalökonom J. H. G. von Justi" in *Gesellschaft der Wissenschaften zu Göttingen, Philologisch-historische Klasse, Nachrichten*, 1903 (Göttingen 1904) p. 355-503; Roscher, Wilhelm, "Der sächsische Nationalökonom Johann Heinrich Gottlob von Justi" in *Archiv für die sächsische Geschichte*, vol. vi (1868) 76-106; Menzel, Adolf, "Beiträge zur Geschichte der Staatslehre" in *Akademie der Wissenschaften, Vienna, Philosophisch-historische Klasse, Sitzungsberichte*, vol. cxx, pt. i (Vienna 1920) p. 458-66; Marchet, Gustav, *Studien über die Entwicklung der Verwaltungslehre in Deutschland* (Munich 1885) p. 271-335; Stieda, Wilhelm, "Die Nationalökonomie als Universitätswissenschaft" in *Sächsische Akademie der Wissenschaften zu Leipzig, Philologisch-historische Klasse, Abhandlungen*, vol. liv (Leipsic 1906-07) no. ii, p. 5, 32-36.

**JUSTICE.** The term justice is currently used in two senses: as representing, on the one hand, the faithful realization of existing law as against any arbitrary infraction of it; and as representing, on the other, the ideal element in all law—the "idea" which the law tends to subserve. It is only in the second sense that the term can have a separable and substantial meaning. But even in this second sense the idea of justice is often understood too broadly and is seen to merge with the entire content of morality. This generally applies to the extent to which law is undifferentiated from the entirety of moral and religious rules or to which philosophic conceptions are adhered to whereby such a differentiation is rendered impossible. It is only as one aims to establish precise distinctions between justice and moral and religious ideals that a clear conception of justice can emerge.

From this point of view the historical development of the idea of justice takes on meaning. Among primitive peoples religious conceptions

particularly with regard to the survival of the soul and its destiny, are by no means based upon an unsatisfied sentiment of justice as they tend to be in the more developed religions; behavior in this world plays no part in the determination of the future state of the soul nor is immortality a compensatory justice. This is not to state categorically that religious representations in turn have no influence upon the idea of justice among primitive peoples. Their entire life and mental attitudes are imbued with these representations and their idea of justice is completely dominated by such of their mystical conceptions as their ordeals, human sacrifices and tabus.

In Greek civilization, there were two opposing conceptions of justice—the popular conception as expressed in the tragedies and the philosophical conception as worked out by Plato and Aristotle. By the popular conception the gods were considered guarantors of human justice, which consisted primarily of submission to destiny; but the gods in turn were not required to observe justice in their conduct toward mortals. What stands out from a sociological viewpoint in this pagan conception of justice is the distinction made between two kinds of justice in its application to human relations: *themis*, or justice inherent in the life of the group, a disciplinary justice integrated with the functioning of the group; and *dike*, or justice external to the life of the group, a justice operative as between groups, families and individuals. Plato and Aristotle, while freeing the idea of justice from all connection with popular religion, failed nevertheless to distinguish sufficiently between justice and morals. This was due to their one-sided universalist conception, which tended to identify morals with the philosophy of law. Justice is, according to Plato, the supreme virtue which harmonizes all the other virtues. But since individual virtues are but reproductions in miniature of the virtues of the "social whole," which Plato considered as identical with the state, one could discover the nature of justice only by studying the harmony of the state. This harmony of the state—that is to say, justice—consists in each individual's accomplishing the task which the need of maintaining the social whole assigns to him; in other words, he must be a particular organ in the entire body. Aristotle modified this purely hierarchical conception of justice by admitting that justice implies a certain degree of equality; this equality might,



however, be either arithmetical or geometrical, the first based on identity and the second on proportionality and equivalence. Arithmetical equality leads to commutative justice, geometrical equality to distributive justice (to each according to his deserts). The second is the business of the legislator while the first is the business of the judge. Political rights and goods should be apportioned according to distributive justice; punishments should be imposed and damages paid according to commutative justice. Holding, as he does, that the supreme criterion of the good is the just mean or the equilibrium, Aristotle recognizes still a third aspect of justice: justice as a moving equilibrium which seeks to reconcile the demands of distributive justice with those of commutative justice. This conception recalls the antithesis in the popular mind between *themis* and *dike* without, however, completely coinciding with it.

Among the stoics justice is increasingly assimilated to the general law of the universe, to which all individuals considered as abstract and identical representatives of the human species must equally submit. This conception represents a transition toward the individualism of the Roman jurists, who borrowed the stoic philosophy and embodied it in their juristic theories. The definition of justice in the Digest (I: iv), "*Justitia est constans et perpetua voluntas ius suum cuique tribuendi*," inclines most to the commutative aspect of justice, but it combines it with the most pragmatic meaning of the term justice as the faithful realization of existing law.

In Hebrew thought the idea of justice passed through three phases corresponding to the three distinct stages in the life of Judaea: social justice, imposed and sanctioned by God; religious justice; eschatological justice. Before the first Exile justice was considered as an ideal principle having its basis in Yahweh and manifesting itself in human relations by benevolence, honesty and loyalty. During the Exile the idea of justice was transformed into "Pharisaic justice"—the strict observance of the divine laws and ordinances and rigorous fidelity to the rites. In the Hebrew prophets after the Exile the idea of justice may be regarded as a preparatory stage for Christian theories. Justice meant to the prophets the reentrance of the Israelites into the grace of God. It was the justice of salvation, of the peace and splendor of heaven and adumbrated the conception of justice among the pre-Augustinian church fathers.

The innovation that Christianity introduced into the conception of justice lay in its subordination to charity and love. Justice remains a purely theological and even eschatological idea, but being based entirely on grace it is to some extent differentiated from morality, which represents the incomparably more efficacious aspect of charity and love. And even this justice, surpassed as it is by charity, may not be realized, according to St. Augustine's teaching, except in the kingdom of God (*civitas Dei*), for it is nothing more than the harmony of the *corpus mysticum* encompassing the earth and the heavens. The visible manifestation of the *civitas Dei* being the church, it is only this institution which can constitute the stronghold of justice on earth. The state, independent of the church, has no connection with justice; it is a *latrocinium bene fundatum*—a deeply rooted brigandage indistinguishable in principle from other associations of brigands.

Into this patristic theory of justice Thomas Aquinas by reviving the Aristotelian tradition introduced some very considerable changes. He clearly distinguishes the *lumen naturale*, pertaining to man, from the *lumen divinum*, and in consequence the *lex naturalis* from the *lex aeterna*—human justice from divine justice. Thus there are other associations than the church—particularly the state—which may serve to advance justice, although the church as the manifestation of the *lex aeterna* stands supreme in this respect among all associations. Aquinas like Aristotle divides human justice into distributive and commutative justice but gives these terms meanings slightly different from the Aristotelian. With Aquinas commutative justice is the justice of contracts and exchange—an individualist justice. Distributive justice he understands in a more hierarchical manner than does Aristotle; the "all," in particular the state, whose harmony is achieved by this type of justice, he interprets not as a complex and objective equilibrium but as the creation of a commanding power, superimposing itself upon the community. What is most interesting about Aquinas' theory is the fact that it represents the first step toward the secularization of the idea of justice. It was the disciples of Aquinas—Biel, Almain and particularly Vasquez—who, in basing their theories on his conception that submission of the will of God to divine reason was immutable as well as on his differentiation between *lumen divinum* and *lumen naturale*, were the first to conclude that justice

would subsist even if there were no God—a thesis made famous in the seventeenth century by Grotius.

The complete secularization of the idea of justice could be accomplished only after the liberating effect of the Renaissance, which multiplied the worldly aspects of life, affirmed a way of salvation through activity that was peculiarly human and mundane and rendered society autonomous with regard to the *corpus mysticum*. But these secular consequences of Renaissance thought were not fully realized until the natural law school of the sixteenth and seventeenth centuries. The religious reformation and the political struggles unleashed by the Renaissance philosophy contributed in the sixteenth century rather to a reinforcement of theological conceptions of justice, as illustrated particularly in the theories of the monarchomachs, who attributed justice directly to the divine will intervening actively in political relations. The contract of submission (*pactum subjectionis*) of the people to the government, which the mediaeval theologians had already posited, is considered by the monarchomachs as sealed by God Himself. The violation of this contract by the monarch is therefore an offense against God, a revolt against divine justice, placing the monarch outside the law. Although the monarchomachs were not individualists, the connection of the idea of justice with the principle of the contract foreshadows the individualistic theories of justice of the seventeenth and eighteenth centuries.

The "natural law" school received its name primarily because it based all consideration of justice on the natural reason of man and opposed all consideration of the supernatural. Two currents in this stream of thought must be clearly distinguished: the individualistic current (the more influential) flowing through Hobbes, Pufendorf, Locke, Rousseau and Kant; and the social and universalist current most notably represented by Grotius, Leibniz, Wolff, Nettelbladt and the physiocrats. Although both are rationalist and secular, their conception of justice differs widely.

While the mechanistic and naturalistic individualism of Hobbes and Pufendorf leads to the identification of justice with the commanding will of the states, their followers Locke, Rousseau and Kant find the content of justice in the synthesis of liberty and equality. Positive laws and institutions that contradict these principles, such as the remnants of the feudal

regime, absolute monarchy and caste privileges, are considered unjust and hence illegal. Justice in society can be realized only by the deduction of all social order from a presumed contract of union (*pactum conjunctionis*) which guarantees the innate liberty and equality of men. Justice is not so much an objective order as a subjective consciousness, identical in all individuals; this is expressed particularly clearly by Rousseau. For him the idea of justice coincides with the principle of the "general will," which should not be confused with the popular will (or with the majority or the will of all) but represents "within each individual" the pure juridical consciousness "which reasons in the silence of the passions." When the individual finds that the laws and in general the commands of the public authorities contradict his consciousness of justice (his general will), the realization of which alone makes for liberty and equality, he is released from the obligation to obey. The idea of justice thus takes a distinctly revolutionary and even somewhat anarchic turn. It is true that all individuals are supposed to have an identical consciousness of justice (whence the term general will) and that the democratic and equalitarian regime is considered as a guaranty of the normal coincidence between the law and justice. Nevertheless, in case of conflict society as such may be dissolved by this recourse to the individual conscience, which is in the last analysis decisive. It is a theory of justice with almost illimitable depths of individualism and subjectivism.

In Kant the individualistic theory leads to a complete separation between justice and morality, a separation already suggested in Pufendorf. Since society, as contrasted with the individual consciousness, is stripped of all direct positive value and limited to the external relations of individuals, justice is confined to the regulation of external activity and to morality is delegated exclusively the concern with the inner life. Hence Kant's celebrated definition of justice, "Handle äusserlich so, dass der freie Gebrauch deiner Willkür mit der Freiheit von jedermann in einem allgemeinen Gesetz zusammen bestehen könne," or in sum—justice is the external liberty of each person, limited by the liberty of all others. The merit of this conception lies in its emphasis on the prime necessity for preserving the inner life of man, his religious beliefs and his opinions from all intervention by social authority. This it does by fixing clearly a line of demarcation

between morality and justice so that the latter may not serve as a pretext for such intervention. But there are palpable defects and dangers involved in this attempt completely to separate justice and morality. It regards justice as a purely external check imposed upon divergent wills; it makes for the avoidance of conflict but it does not organize any community of effort. And how can this external check be effected if not by a superior will which dominates other wills like a kind of mechanical force? It is highly significant that Kant in the applications of his theory of justice clearly approaches Hobbes: the individualistic theory of justice becomes necessarily statist.

Quite another direction was taken by the social wing of the natural law theorists. Grotius, Leibniz and their followers in elaborating a new concept of society as the cooperation of beings endowed with reason defined justice as *custodia societatis*—"Justum est quod societatem ratione utentium perficit" (Leibniz). Justice puts an end to the conflict between the individual and the universal, the microcosm and the macrocosm, and brings about the synthesis between the whole and the parts. That is why justice is by its very essence a *justitia communis*, which reconciles in itself and transcends the commutative, distributive and universal principles. Rational and secular, justice is nevertheless not subjective: it imposes itself upon the consciousness as an objective equilibrium between the principles just mentioned and it is superior to every individual or collective will, which should rather be put at its service. The distinction between justice and morality should not, according to Leibniz and his followers, tend to separate the two domains completely. Justice is "charity in conformance with wisdom." It is moral charity intellectualized and logicalized. "*Justitia hominis affectum erga hominem ratione moderatur*"; it is intermediary between love and reason or logical calculation. This theory of justice, which certainly deserves to be characterized as social and which was adopted for their various uses by a series of nineteenth and twentieth century thinkers, makes of every community and group a medium for the realization of justice, according to no privilege whatever to the state. It is thus that Grotius, Leibniz and Wolff contributed particularly to the development of the idea of international justice which would achieve collaboration and peace in the supranational community.

The early socialist doctrines of the nineteenth century based their criticisms of economic inequality and disorder not on the idea of justice, which seemed to them a mirage produced by individualist preconceptions, but directly on the idea of love, of fraternity, of happiness, or of technology or prosperity. The same attitude of hostility to the prevailing ideas of justice and law may be observed in Auguste Comte on the one hand and in Karl Marx on the other. But the deepest basis of the socialist critique was the search for a more profound justice, not only formal but substantial, which would consider economic realities. The most extensive work ever devoted to the idea of justice, Proudhon's three-volume *De la justice dans la révolution et dans l'église*, proposes the socialization of the idea of justice itself and is thus linked through Fichte and Krause with the trend begun by Leibniz. It is by means of justice, according to Proudhon, that a conciliation is effected between the individual and the whole, which are equally real—a balancing of personal and transpersonal values, which are equally positive. Justice is at once objective and subjective, real and formal, or rather it transcends these opposites because it integrates individuals in a transpersonal, antihierarchical order, in which every individual maintains his own dignity precisely to the extent that he is an indispensable member of a community that cannot be reduced to the sum of its parts. Justice demands the realization of an order which is "neither communism, nor despotism, nor atomism, nor anarchy, but liberty in order and independence in unity." It is through "mutualism," the interplay of collaborative associations and their federations, through the humanization of property by its transformation into a social function in the hands of cooperative associations and, finally, through the counterbalancing of the state by organized economic society that justice can be best approximated. Such a justice is positive and dynamic; it secures with "certainty and fullness" everything which the older concept of justice merely permitted, and it takes account of industrial mobility and change.

Proudhon's conception of justice influenced equally the reformist socialism of Jaurès and the neoliberal doctrine of the French solidarists. It is true that in aiming to "bring back fraternity into justice" and to "render the social debt legal" the solidarists thought not so much of going beyond individualism and statism as of rectifying "the applications of com-

"mutative justice," bridging the gap between the solidarity of men and the actual inequality in their conditions. To apply this conception of justice requires first of all a "reestablishment of equivalence . . . a realignment in the positions of the various members of society," which may be effected by the state through social legislation, the protection of women and children, the progressive taxation of income and similar measures. An analogous position with regard to social justice was occupied by English neoliberalism of the end of the nineteenth century in demanding the establishment of "equality of opportunity" and a minimum standard of living. Before the advent of neoliberalism the utilitarian theory of John Stuart Mill, which valued justice as "the most important and the most privileged of social utilities," adhered nevertheless to an intransigent individualism, identifying justice with the affirmation of the liberty of every individual and making it thus irreconcilable with anything but a formal egalitarianism. Herbert Spencer presents an interesting contrast to Mill. The latter starting with an individualist philosophy arrived at a social theory of justice. Spencer starting with the principle of "integration by differentiation," which seemed not only capable of reconciling naturalistic evolutionism with the ideal of justice but also of rendering the latter social, arrived in reality at a conception of justice as individualist as that of Kant. His belief in the law of the "survival of the fittest" led him to fight any social policy which would aid those who were economically weak and dispossessed.

Juristic thought in the first decades of the twentieth century saw a revival of the idea of "natural law," movements for a "free" and a "living" law and the creation of new instruments of international law, especially the Permanent Court of International Justice. The movements in favor of a living law and the free inquiry of the judge must, however, be distinguished from the others. They revolve not so much around the question of justice proper as around that of equity, which consists in thoroughly appreciating the concrete case and in knowing how to individualize it—a process which Aristotle had already distinguished from justice.

The problem of justice arises only if the possibility is admitted of a conflict between equivalent moral values. Justice presupposes the existence of conflict: it is called upon to harmonize antinomies. In an order harmonized in

advance, in the community of the saints and angels, for example, justice is inapplicable and useless. But a simple conflict of forces is not sufficient: there must be a conflict between irreducible, positive and extratemporal values. Only the principle of the synthesis of individualism and universalism, which excludes any tendency to reduce the a priori values of the whole and of the individual the one to the other but which recognizes them as equivalent, can permit the problem of justice to be grasped in all its importance. It is only in the ideal realm of the moral that the synthesis of individualism and universalism premises a perfect harmony between personal and transpersonal values: in the actual world they are in fierce conflict. And it is precisely this gap between the harmony of the moral ideal and the disharmony of reality that gives rise to the problem of justice.

In the history of ideas justice and morality have been either identified, confused or too completely separated. Justice is an essential medium for the moral ideal, an a priori condition for its realization. It is its necessary *ambiance*; it shines with its reflected light; in its shelter alone the moral ideal may display its richly individualized and complex tissues. Inseparably bound up thus with the moral ideal, justice is nevertheless profoundly distinguished from it by its intrinsic structure, and it is precisely because of this difference in structure that it can play its role. Justice constitutes, as Fichte was the first to indicate clearly, a step in the rationalization of the moral ideal, which is in itself irrational (alogical). The moral ideal is accessible only through action, through a "volitive intuition," consisting in the participation on the transpersonal plane of pure creative activity, in which each must act in a manner absolutely dissimilar from that of all others, discovering by that very fact his place in the whole of creative activity. Justice cools the heat of the moral ideal by making it pass through a logical intermediary. It arrests the intuition-action and amalgamates it into a judgment. Justice is midway between morality and logic. The act to which justice presents itself is not the intuition-action itself but the "recognition" of its value. The recognition of a value is very different from the direct experiencing of it. One may, for example, be insufficiently endowed to grasp the aesthetic values of a symphony, but this does not at all prevent one from be-

coming indignant against whoever disturbs the quiet of the listeners. It is precisely to this act of the recognition of the moral ideal that justice applies itself, and the values which depend on it are consecutive to moral values. Through this act of recognition, strongly impregnated with intellectual elements and presenting the amalgam of a judgment and an action, the logicalization and the generalization of the irrational qualities of the moral ideal are achieved. In justice the general rule is substituted for the strictly individualized precepts of the moral ideal; common types are substituted for subjects not strictly comparable with each other; a certain schematic stability is substituted for creative movement; a quantitative element for the ensemble of pure qualities. It is precisely within the shelter of these boundaries of generality, of stability, of quantification, which are placed by justice at the service of the moral ideal, that the latter can display its creative force.

The relation between justice and the law is quite different from that between the moral ideal and empirical morality. It is much nearer to that between a logical category and the object constituted by that category. Justice plays the role of the *Logos* rather than of the ideal, of the law. The moral ideal is essentially opposed, inasmuch as it is unrealizable, to empirical morality and cannot be embodied in the latter; by its nature it can only exercise a "regulative" function with regard to the moral point of view. Justice, on the contrary, inasmuch as it is strongly impregnated with logical values, has the faculty of forming law directly: it does not oppose it so much as constitute it. Justice cannot serve as a basis of criticism and appreciation of the law because it is one of the elements of it.

It is but a consequence of the particularly complex position of justice as intermediary between the logical categories and the moral ideal that man has always attempted to do justice. Nevertheless, it would be false to identify justice with "natural law." This identification, which was admitted by only a few of the old theorists of the natural law, commits the triple error of placing justice on the same plane as the moral ideal, of pretending to deduce a body of law from this ideal and of identifying a juridical reality with the principle of its appreciation. If in general the existence of natural law could be admitted, it must in any case—as must also positive law—represent an

attempt to realize justice in a given social environment and must in consequence differ from justice itself. To deduce concrete law from justice is at bottom as great an impossibility as to deduce from a logical category the object which it constitutes; as sensation must intervene in the domain of perception, so in the domain of law there must intervene the resistance of the empirical social milieu.

Furthermore justice cannot serve as a criterion of appreciation and criticism of law for the reason that it is infinitely variable, the preliminary reconciliation between moral, personal and transpersonal values (which may themselves also be variable) being essentially mobile and changing according to place and time, while the moral ideal remains invariable in itself. It is not to the idea of justice but to morality that one must turn to discover the supreme criterion of a social and juridical policy. The true role of the idea of justice lies in its being the indispensable foundation of every scientific deduction of the general concept of law. In this sense the theory of justice is the essential prerequisite of a philosophy of law. From the character of justice as the logicalization of the moral ideal there results the fact that the law—the attempt to realize justice in a given social milieu—has a strictly determined and typical character; its requirements are limited and for that very reason the duties of some correspond to the claims of others. The structure of the law is thus multi-lateral and imperative-attributive, while the structure of morality is only imperative and unilateral, its requirements being infinite and strictly individualized. Thence follow the other differences between law and morality: the necessarily positive character of the rules of law, premising a guaranty of correspondence between the claims of some and the duties of others and thus making a purely autonomous law impossible; and also the presence in the law of the element of coercion, which is absolutely excluded from the moral domain.

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See: LAW; EQUITY; JURISPRUDENCE; MORALS; EQUALITY; NATURAL LAW; HUMANITARIANISM.

Consult: Gurvitch, Georges, *L'idée du droit social. Notion et système. Histoire doctrinale depuis le XVII<sup>e</sup> siècle jusqu'à la fin du XIX<sup>e</sup> siècle* (Paris 1932), and *Le temps présent et l'idée du droit social* (Paris 1932); Pound, Roscoe, "The End of Law as Developed in Juristic Thought" in *Harvard Law Review*, vol. xxvii (1913-14) 605-28, vol. xxx (1916-17) 201-25, and *Law and Morals* (2nd ed. Chapel Hill, N. C. 1926);

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JUSTICE, ADMINISTRATION OF. The province of judicial administration is nothing less than the law in action. The law of the books presents a theoretical system of legal precepts, courts, judges and modes of procedure. The course of judicial administration presents phenomena which cannot always be reconciled with the law of the books. In an age of legislation it might be supposed that this tendency to divergence would be less marked than in the age of fiction and equity, but the human factors in administration are as powerfully operative as ever. In fact this is worth comment only because of the wide belief that a government should be one of "laws, not men." Indeed it is somewhat confusing to speak of the administration of "justice." Justice as the goal of law is a philosophical idea which is capable abstractly of various formulations. The administration of justice is at least theoretically supposed to proceed according to the precepts of positive law. Modern juristic practice is dominated by the conception of "justice according to law." It is the traditional ideal of all western democratic legal systems. The law has had a long and difficult struggle against personal and executive justice. But the modern revival of the demand for administrative justice shows that the struggle is still unabated. Of course popular notions of justice have always had important impacts upon the judicial process even where there has been no direct lay participation through such an institution as the jury. The belief that even

trained judges merely disclose the law has been exploded by sociological jurisprudence. It is indeed the growing realization of the true nature of the judicial process that has been primarily responsible for the focusing of attention upon the course of judicial administration. As long as mechanical jurisprudence reigned, jurists confined themselves to the study of legal rules and doctrines. Judges did not "administer," they simply "declared" the law. What was supposed to be automatic hardly needed to be administered.

The judicial machinery of different western democratic countries shows considerable variation in particulars, but the leading objectives of their systems of judicial administration may all be derived fundamentally from the straining for justice according to law. Despite all the attacks of the exponents of realism legal systems still cling to the ideal of certainty. Granted that the judge who is unhampered by fixed legal precepts will not be influenced by improper motives, it is still argued that both individual rights and the public security will be better secured by limiting his powers of free decision. In all the affairs of life there is a striving against uncertainty, but an individual who enters into a legal transaction wishes particularly to know his rights in advance. Especially a system of private property demands certainty as a guaranty of the security of titles. The ideal of certainty thus involves the paradox of suppressing as far as possible the administrative elements of judicial administration. In other words, judicial administration must be characterized by a greater inflexibility than other branches of public administration.

Nothing can so undermine the certainty of justice as a lack of impartiality. Thus the integrity of the administration of justice has been elevated as an ideal. Moreover the insistence has been upon a superior degree of integrity as compared with other branches of administration. Judicial administration has been surrounded with special safeguards. The modern state has striven to achieve a legal justice that should be far superior to its economic justice. In large measure it has succeeded. A judicial scandal is considered especially deplorable. The slightest hint of irregularity or impropriety in the courts is a cause for great anxiety and alarm. A legislator or an administrator may be found guilty of corruption without apparently endangering the foundations of the state but a judge must keep himself absolutely above suspicion. To

speak of "the integrity of the administration of justice" has become almost a fetish. It has perhaps a more intensive existence in common law than in civil law jurisdictions, where the judiciary, since it is not an independent power in the state but a branch of the administration, is less exalted, but it exists everywhere in western countries.

The insistence upon the superior integrity of judicial administration is closely associated with another idea: the sublimity of justice. The administration of justice is considered not only as a function of the state but as something of a mystery. This is apparent from many familiar practices and sentiments. At least high courts of justice are everywhere required to be architecturally magnificent. A trial, particularly a criminal trial, is as much a rite as a judicial inquiry. The proceedings are arranged to impress both the participants and the spectators with the solemnity of the occasion, with the majesty of the administration of justice. Not only the vulgar but the enlightened still respond to the ritual with some feeling of awe.

The reasons for these peculiar attitudes toward judicial administration hark back to an early period in the history of the state, which established the primary importance of rendering justice between man and man. There is a persisting memory of the anarchy of the period of self-help. The early sacred affiliations of the administration of justice are also not forgotten. When the king asserted his power over warring and intractable nobles, justice was established as the very foundations of kingdoms. The common man now had some measure of relief against the aggressions of the mighty. In his gratitude he invested justice with special attributes of sanctity. For many centuries the state remained almost solely the policing state, and the administration of justice was the only public function it undertook in the interest of the common man. Legal justice was synonymous with social justice, and it was natural enough that it should be appreciated very highly. Today the state undertakes many administrative services, and the contact of the average citizen with the state is far more frequent through its administrative than its judicial agencies. The average man may pass through life without coming into contact with the judicial machinery of the state. But it is still considered far less calamitous to have to pay a bribe for an occupational license than to be denied justice in the courts.

The state has gone a long way in preempting the field of judicial administration but it has not yet gone the whole way. In all western countries the sphere of judicial administration is still divided into two branches, the one civil and the other criminal. They have many points of contact, for the same injury may be the basis not only of civil relief but of criminal prosecution. Indeed in many continental countries by virtue of a so-called process of adhesion civil relief may be sought as part of a criminal prosecution. But the civil branch of judicial administration generally differs from the criminal in its problems and approach. The differences are formally expressed in the distinction that civil is "private" while criminal is "public" law. This is only to say that the interference of the state is not as direct and extensive in both branches. In the criminal law the interest of the state in the public security has practically eliminated all vestiges of the system of private composition. Both American states and continental countries have given to public prosecution at least a practical monopoly of criminal administration. The individual may complain but only the public prosecutor may actually initiate a prosecution. The important exception among western countries is England, where any private individual may begin a public prosecution, but even in England a director of public prosecution has been established to take action in the case of most major crimes.

In the administration of the civil law, where the stake is not the public security but individual interests, the state has traditionally maintained an attitude which has been described as one of benevolent neutrality. The state is there with its judicial machinery but it is for the private parties to invoke its aid. It will not ordinarily act upon its own motion. Even when a civil action has been commenced the parties retain control of its subsequent course. They may compromise or abandon it at any stage of the litigation. To a greater or lesser extent they have been permitted even to vary the steps of the legal procedure. To be sure, the state is now prepared to take direct measures of coercion against recalcitrant parties to a civil suit. It has gone beyond the indirect and elaborate process of outlawry which in primitive law in the absence of the idea of judgment by default was necessary to make a contumacious defendant answer. It no longer requires judgment "promisc" before it will issue execution, although where contempt procedure alone is available the

situation is fundamentally not very different. But its general attitude toward civil suits shows plainly that it has never completely abandoned the ancient tradition of self-help.

The two great legal systems of the western world, the common law and the civil law, are formally organized upon different bases. Judicial administration has traditionally been said to be more highly centralized in civil than in common law countries. In continental countries the control of judicial administration has been vested in a ministry of justice which is charged with supervising the whole judicial machinery of the state. The minister of justice is a member of the cabinet and thus closely associated with the policies of the government. He is the liaison officer between the courts and the administration. The doctrine of the separation of powers has never in continental countries been pushed to the extent of making the judicial department a distinct department of government. It is simply a branch of the executive. The ministry of justice is thus not only a judicial but an executive department of government. Judicial administration thus retains something of a Byzantine cast in the countries which are the heirs of the Roman tradition.

The United States has usually been held up as an example of the opposite extreme. Here the English doctrine of the separation of powers has been adopted in such a constitutional form as actually to make the courts supreme rather than the law. The doctrine of the separation of powers has been interpreted in such a way as to make the judiciary an independent department of government which is supposed to be equal and coordinate with the other departments of government.

To be sure, American states now have an officer called the attorney general, but in reality he exercises little or no control over the judicial administration of the state. Theoretically he may have the power to intervene in criminal cases, but practically criminal prosecutions are so much in the hands of local district attorneys that he is quite helpless. Only in a few states, such as Iowa, Indiana, Nebraska and South Dakota, can the attorney general attempt to oust local prosecuting officials, but even there he can do so only through proceedings in the courts. Of course he cannot remove or transfer judges. The attorney general is simply the legal adviser of the governor and represents the state government when it is a party in civil cases. Moreover in such functions as he discharges he is as a

popularly elected official beyond the control of the state governor.

The organization of judicial administration in the federal government is somewhat more centralized than in the states. There has been a Department of Justice in the federal government since 1870. At its head is the attorney general of the United States. It actually controls the United States attorneys throughout the whole country who are charged with the administration of the criminal law. Its agents engage in criminal investigation and prosecution is thus coordinated. Over the judicial hierarchy of course the Department of Justice has no powers, and the attorney general unlike the continental minister of justice plays no part in securing legislation relating to judicial administration.

It is usual to say that in England there is no ministry of justice. It is fair to say, however, that it exists in all but name. As is so often the case in England the needed institution has been approximated without being formally created. The functions of a minister of justice are divided between the law officers of the crown, the director of public prosecutions, the home secretary and the lord chancellor. The two latter are particularly important as ministerial officers. The home secretary controls pardons, supervises the police system and the prison system, appoints all "stipendiary" magistrates and the local criminal judges called recorders and approves of circuit arrangements for the local judges. Even more important is the lord chancellor, who is a member of the cabinet and who since the Judicature Acts has been not so much a judge as an executive and legislative official. As a member of the cabinet he frames measures of a legal character; as an executive officer he appoints judges and supervises the entire court system; and as a judge he presides over the high courts.

As soon as one turns from the general objectives and organization of judicial administration to its results, the existence of a constant dissatisfaction is discovered. Complaints of the perversion of the administration of justice are practically as old as attempts to enforce legal rights. Since there has probably never been a truly static society, a complete complacency with any human institution is not to be expected. But complaints against the courts have been of particularly great volume and intensity. Any familiar book of quotations will more than prove the point. Legal reforms have been more or less



frequent but abuses have persisted. A tabulation of the very frequency of the reforms will show the constancy of the discontent. It is expressed in terms which are familiar enough.

One of them at least, "the law's delay," is classic. It has served to describe the almost immemorial condition of civil suits. 'The dockets, or calendars, of civil causes are always overcrowded, and it may take years to get a trial on the merits. The expense of commencing a civil action and the legal costs involved are too great, and it becomes hardly worth while to base an action on a small claim. The procedure is too elaborate and technicalities impede the litigant at every stage. Even after an initial judgment appeals may be a further cause of delay. Where the final judgment is secured, execution is more than likely to be returned unsatisfied. Under such circumstances the honest litigant is impeded in the assertion of his legal rights, while paradoxically enough the dishonest litigant is encouraged to assert unfounded or exaggerated claims. The very expense of engaging upon a protracted litigation will cause parties to settle for smaller sums.

Delay and technicality are operative not alone in civil actions. But other and more serious charges have been brought against the administration of criminal justice. In the predemocratic era the arbitrary character of criminal justice led to accusations of excessive harshness, while at present the outcry is against an excessive tenderness toward malefactors. Many criminals are never even apprehended. Those who are have more than an even chance to escape by taking advantage of the loopholes of the law. The inherent drama of a criminal trial in the very nature of things always favors the defense. As a result of newspaper exploitation a criminal trial often becomes a public orgy. Except in matrimonial actions and libel cases a civil trial is usually free of such influences. On the other hand, corruption, favoritism and perjury are especially operative in criminal trials. Class and race bias make disinterestedness and objectivity difficult and cause miscarriages of justice. Every period has its own *cause célèbre*. It is a frequently heard commonplace that wealthy and powerful malefactors escape while the poor and friendless go to jail. Innocent men are sometimes "framed" by the police; and it is small comfort that the same technique is employed to get professional criminals behind the bars upon fabricated charges.

Popular dissatisfaction with the administra-

tion of justice has certainly not been less in the twentieth than in previous centuries. A period of particularly accelerated tempo, it would seem easy to explain the prevailing dissatisfaction in terms of institutional transitions. If, however, the phenomenon is constant it can hardly be explained entirely as the result of changing conditions. An explanation solely in terms of sociological differentials can be adequate only if more fundamental factors are absent. It is, for instance, tempting to assign the prevalence of perjury, which so often in modern courts undermines the administration of justice, entirely to the decline in influence of religious ideas. But perjury has always been a not infrequent crime. It should certainly be no less powerful a restraint to fear the punishments of this world than to fear the torments of the next. Authority has maintained itself somehow despite the decay of religious institutions. To take another stock illustration, the vast improvement in means of communication has undoubtedly given the criminal facile means to attempt escape but the advantage is balanced by the ease with which public authorities may pursue him. There is again the pernicious influence of the modern city. To it is attributed the congestion of the courts which is supposed to be the very basis of the modern maladministration of justice. But mere size can hardly account for the evils of metropolitan justice. As a matter of fact the city has been the originator of most of the improvements of procedure in the history of legal systems. If there are more litigants in the city, it has the necessary wealth to secure additional judges.

A great deal has been heard about the breakdown of justice in the United States. Many special causes have been assigned for the state of affairs. They have been repeated often enough to have become stereotyped. Both Puritanism and the pioneer tradition have been blamed for that intractableness of the American population which makes law enforcement difficult. The suspicion of the magistrate which is supposed to have characterized Puritanism is held to be responsible for multiplying the technicalities of procedure; although in the middle of the nineteenth century, when Puritanism was certainly far less remote than it is now, a puritanical American state legislature introduced a system of code pleading which if it had not been perverted by a process of judicial interpretation according to common law tradition would have gone far toward inaugurating a system of pro-

cedure much in advance of the times. Curiously the pioneer too is accused of favoring the proliferation of elaborate procedural devices because of his distrust of the courts. Yet the pioneer at the same time is supposed to have been an exponent of rough and ready justice. Certainly both Puritan and pioneer attitudes are hardly living forces in the American scene of the twentieth century. They were never more than extreme forms of individualism. At any rate the reforms of procedure in the last few decades have been so many that the worst features of the old system can hardly be said to survive. A disposition to be patient with technicalities is not a particularly distinguishing feature of American courts today. Appeals have been greatly curtailed; the sanctity of jury trial in civil cases has been undermined by such a device as the summary judgment; and all sorts of special civil and criminal courts have been erected to care for various special types of litigation, such as domestic relations, juvenile, small claims and municipal courts.

Nevertheless, it is continually asserted that the evils of American judicial administration are primarily due to the failure to "adapt" eighteenth century English institutions to American conditions. The vast superiority of English to American criminal administration makes the charge particularly plausible. Such an explanation is almost inevitable in any country which at one time was engaged in a process of reception of another legal system. Similar complaints of lack of adaptation have been heard in the countries which have received the Roman law. Undoubtedly in the initial stage of reception the receiving legal system is likely to lag behind its model. But for that very reason it is likely in succeeding stages to be even more independent. Generally speaking, legal reception involves much the same problem as cultural diffusion. The institutions of the receiving legal system are apt to be native inventions with foreign externals, often only half understood. As good an example as any is the way the English "rule of law" became American constitutionalism. As a matter of fact American law was making striking departures from English models throughout its history, as the many technical differences between the English and American common law systems show. Even the official dogma was that English law was to be received only in so far as it was suitable to American conditions. Thus in such a matter as debt American law from a very early period

avored the creditor class to a far lesser degree than English law. In the organization of American courts the peculiar English structure of conflicting and overlapping jurisdictions, the result of a great variety of historical accidents, was to a large extent avoided, and it may be said indeed that the more logical American hierarchy of courts showed French influence more plainly than English. Particularly in the criminal law did American legal institutions depart radically from the English models. American law followed European at a much earlier date than English law in introducing the public prosecutor. Until the establishment of the office of director of public prosecution in England in the last quarter of the nineteenth century England still maintained the mediaeval theory of private prosecution. In any event the insistence upon "failure of adaptation" wrongly assumes that the English institutions of the eighteenth century were adapted to the conditions of the motherland at the time.

The conventional division of western law into "common" and "civil" law systems has also encouraged ready explanations of the comparative quality of their results in terms not only of sociological but of technical differences. These certainly were fairly marked in the earlier centuries of their history. But the political centralization which is necessary to the establishment of efficient national legal systems, and which was early achieved in England, has also been accomplished in continental countries. The English constitutional struggles of the sixteenth and seventeenth centuries have had their later counterparts in the democratization of other western countries. The rule of law is not now the exclusive glory of the common law. The establishment of administrative courts in continental countries has brought at least as great a degree of protection of individual rights against the arbitrary encroachments of government as it is possible now to achieve in England by virtue of the immemorial prerogative writs. Without doubt American constitutionalism goes further in favor of individualism, but the doctrine of judicial review is not now an exclusively common law institution, since the right to review legislative acts has also been established in some European countries although it may constitute a less rigid form of control there because of the existence of other factors, such as the greater ease of reversing an unpopular constitutional decision by constitutional amendment and the lesser exaltation of the

position of the judiciary. It must be remembered that in all modern countries the judiciary exercises an undue power in the state by virtue of ordinary powers of judicial interpretation. While the technology of the private law in common and civil law jurisdictions differs considerably, in all western countries they have the same purpose of protecting the institutions of property and contract. Nevertheless, even technologically there are many similarities. The common law can boast the doctrine of consideration but in the civil law may be found the analogue of *causa*.

The substantive law of crimes and punishments in all western countries has a remarkable degree of similarity. As far as criminal procedure is concerned a great deal is still made of the difference between the continental "inquisitorial" as opposed to the Anglo-American "accusatorial" system. Even in the heyday of the classic common law the distinction was not completely justified. The English justice of the peace for some centuries exercised inquisitorial as well as judicial powers. The English court of Star Chamber was hardly an accusatorial institution. Down at least until the Restoration the English practise of an unrestrained and running fire of cross examination by the judges was hardly better than the continental practise of systematic interrogation. Any intimate acquaintance with modern continental criminal procedure will show that there is no longer any basis for the old scholastic distinction. Everywhere the rights of confrontation and publicity are recognized. Private prosecution was a feature of the accusatorial system, but all western countries provide for the institution of the public prosecutor in one form or another. The introduction of the jury into continental countries in the nineteenth century for the trial of major crimes greatly modified the inquisitorial system. It is true that the jury is now on the decline in some continental countries but so it is also in both England and the United States, in the former country as the result of the development of "summary" prosecution, in the latter as the result of the district attorneys' legal or administrative powers of bargaining. As a matter of history the praise of the jury system usually overlooked the devices developed by the judges for its control and above all the effect of its middle class constitution. Besides in the United States the use of the injunction in essentially criminal cases may be cited as a notable example of a funda-

mentally inquisitorial procedure. To this may be added the practise of the "third degree" by the police. As in the Middle Ages the strictness of the rules of proof has led inevitably to the use of torture. Again, it is frequently said that the "local" basis of prosecution in common law jurisdictions, which in its prime made it impossible to prosecute a criminal for a transitory crime, makes it easy for a criminal to escape by crossing territorial lines. In England, however, the local basis of prosecution has been all but eliminated by twentieth century legislation and it has been to a large extent curtailed in the United States by the reception of early English statutes. Everywhere the institutions of extradition and interstate rendition have gone far toward making criminal pursuit international.

The examples may be multiplied almost indefinitely. Each system has its technical virtues and defects but it seems very probable that a rough balance is produced in the general result. It is particularly difficult to understand foreign legal doctrines. But since the course of the administration in foreign countries is even more difficult to follow than the law of the books, it is easy to romanticize the operation of a foreign system. Indeed its defects often recommend themselves to the native observer as positive virtues to be emulated. If cultural values and institutional fundamentals are assumed to be very similar in most western countries, it becomes hard to believe that the effects of variations of juristic technique will not largely be minimized in the actual course of administration.

A universal rather than a particularistic mode of approach explains a great many of the defects of judicial administration. Litigiousness is a strong characteristic of human nature. All over the world a forensic display attracts the admiration of the multitudes. Curiously legal technicalities are despised at the same time that their ingenuity is applauded. Disappointed litigants are not always silent. In their defeat they appeal from "law" to "justice." Lawyers as a class have too much to gain from maintaining the intricacies of their art to simplify it to the extent which would make their services unnecessary. For many reasons legal institutions lag behind changes of public opinion much more than do other institutions.

It seems almost as if the great western tradition of justice according to law lies almost inherent and fateful difficulties. The great con-

cern for the security of individual property demands a considerable formalism in civil procedure. The tendency is for it to run rather to excess. It is true that a civil suit of major consequence in the present century may be completed in a year or two or even less, whereas a few centuries ago it might have taken a decade or two or even more. But before it is concluded that a great improvement has taken place the differences of pace of the respective periods must be taken into account. Again justice according to law tends to strain toward equality. The procedure of the law is devised to deal with all claims upon the same basis. But that basis is the degree of protection necessary for interests of substantial magnitude. To be sure, as the pressure for real equality has made itself felt special procedures or courts have been invented to secure the enforcement of minor claims in a more or less summary fashion. But often the procedure is still too formidable for the size of the economic stake involved. Again, justice according to law demands that the justice of the state be exclusive. The pluralistic competing associations are suppressed with the result that controversies which might have been adjusted quite readily in the intimacy of the group are handled by the state with elaborate delay. The state, which is a stranger to the group, can necessarily proceed only with great caution. It may accept the rules of the group but its procedure will always be its own. A ready example is the perversion of the law merchant in all mature legal systems. Finally, justice according to law demands that legal rules be applied as mechanically as possible. Discretion is considered dangerous. A rule is sometimes selected not because it is the best but because it is easiest to apply. A judgment is often given not because it works justice in the particular case but because it is considered unwise to relax a general rule.

It would be easy enough to overcome the almost inevitable inefficiency of justice according to law. But far reaching changes are certainly impossible while the regime of individualism upon which the prevailing ideal is based is considered desirable. As long as the interest in individual security is preferred to the interest in the general security both civil and criminal justice must remain "inefficient" to a large extent. Those who speak of judicial inefficiency are usually unaware of the highly artificial meaning of the conception. The law is efficient in civil suits when it enters judg-

ment and issues execution as expeditiously as possible. Thereafter its efficiency ceases to be the primary consideration. As a result of the humanitarianism which is the necessary corollary of the regnant individualism a whole series of obstacles arises in the enforcement of execution. The property of the debtor is often put beyond the reach of the creditor either by the procedural delays which make it possible for the debtor to transfer it or by formal exemptions from execution. The person of the debtor is of course beyond seizure. In this respect the law of previous centuries, which more frequently recognized rights of provisional arrest and imprisonment for debt, was certainly more "efficient." But a return to the older law will hardly recommend itself now. In any event there would still remain the economic poverty of the debtor to defeat the efficiency of the law, and it is safe to venture that the latter would be blamed exclusively for every miscarriage of justice. In the criminal law the situation is somewhat reversed. Once judgment against a malefactor is obtained it is much more certain to be executed. But the concern for the individual is manifest in the procedure to judgment. The provisions are not only considered procedural safeguards but are great constitutional rights. They are indeed constitutional rights which have been won only after many centuries of bloodshed and in no western democracy would their abandonment be seriously considered. The almost insoluble dilemma is that they benefit not only the ordinary citizen who occasionally finds himself in the toils of the law but the professional criminal, who by long experience has learned to take advantage of all its defenses.

Although the law has constantly oscillated between concern for the individual and for the general security, the perfect balance has probably never been struck. As one extreme is reached there is a reaction toward the opposite extreme. At present after a century of individualism there is an insistent demand for socialization. In the criminal law it has shown itself in a rather vague demand for a "preventive" criminal justice. In the private law it has led to proposals to make the state assume through some public officer the direct burden of administering civil justice. Less radical proposals look merely toward the establishment of state legal aid bureaus. Here and there within recent decades the conception has begun to penetrate that even civil procedure should be regarded as

public or beyond the control of private parties. But on the whole the movement for "socialization" can hardly have very much success as long as the more fundamental social institutions remain largely unaffected. It is difficult to see the possibility of introducing a monopoly of civil justice as long as private rights are recognized. Most of those who favor such a scheme hardly realize its extreme economic radicalism.

To be sure, individualism is not to the same extent the basis of the social order in all western democracies. Many compromises have been made here and there which have had beneficial effects upon the quality of judicial administration. Special conditions have sometimes accounted for peculiar results. In imperial Germany the pride of a judicial oligarchy was the cause of a period of storm and stress which inaugurated the so-called free law movement. In post-war Germany the country seethed with political murder. South American countries are usually democracies only in name, and dictatorship has far reaching effects upon the administration of justice. The considerable variation in the political systems of different countries has had a particularly marked impact upon their criminal justice. The political institutions of a country constitute its fundamental technique of human relations, of which the criminal law is only a part. It is to the corruption of the American political system rather than to either Puritanism or the pioneer tradition that the reputed inferiority of American criminal justice is to be traced.

Since it is difficult to secure radical alteration of fundamental social institutions, the reform of judicial administration usually concerns itself with adjustments of the judicial machinery. Reforms of procedure are far more frequent than changes of substantive law. Perhaps that is one of the reasons why the results frequently leave so much to be desired. It is true that the distinction between substantive law and procedure is artificial. All reforms of procedure effect substantive rights but certainly they cannot improve the situation where the substantive right is of a dubious character. In general the creation of new courts or the appointment of additional judges to existing courts is a very frequent expedient in reform. Its popularity with politicians arises from the fact that it increases their patronage by providing new offices to fill. Changes in steps in procedure often have the curious result of increasing the congestion of the courts for at least a time. A great deal of

litigation is often necessary to settle their effect. The fundamental puzzle of procedural reform is the indispensability of any one particular device. Since legal technique permits of a considerable degree of variance for the accomplishment of similar ends, it can be said that almost any form of procedure reasonably adapted to secure the fundamental purposes of the law will work if there is the will to make it work.

Of particular reforms of procedure it is impossible here to speak. But as far as the general organization of judicial administration is concerned there has been a great deal of agitation in recent years in both England and the United States for the establishment of ministries of justice upon the continental model. It is very much to be doubted, however, that they would inaugurate a profound change in the direction of judicial administration. Since in England the functions that could be discharged by a ministry of justice are already discharged by several existing officials, the movement for it is intelligible only as one for consolidation of their powers. In the United States a good deal of supervision of judicial administration takes place through such semi-official organizations as the bar associations, which are consulted in the appointment of judges, which draft legislation relating to judicial administration and which in general exercise a good deal of supervision over lawyers, judges and courts. Complaints of the maladministration of justice have been so frequent in the United States that they can hardly be said to be secrets which need to be revealed to the ignorant legislatures by ministers of justice. As for the control of the courts themselves, the great independence of the American judiciary really makes it impossible. Even the shifting of judges from one district to another as they are needed can take place only within limits. Moreover in the prevailing enthusiasm it is overlooked that the supervisory powers of even the continental ministry of justice have been undermined in recent decades by the introduction of guarantees of judicial independence. Thus a centralizing agency is urged that has been decentralized to a considerable extent in the countries of its origin. Moreover there can never be a real organic unity of organization in the administration of justice as long as there survives a disunity of procedure in civil and criminal matters. Even where the ministry of justice exists civil justice does not receive the same degree of oversight as criminal justice. It is forgotten too that at

least as far as civil procedure is concerned the courts in a considerable number of American states no longer need an agency to secure relief for them from the legislatures. In the last two decades a movement to follow English practise in giving rule making powers to the courts to enable them to control procedure has secured legislative approval in Alabama, Colorado, Delaware, Michigan, New Jersey, North Dakota, Vermont, Virginia, Washington and Wisconsin. Curiously the courts in almost all of these states have made little use of their rule making powers.

While no American jurisdiction has established a ministry of justice, a great many have established bodies known as "judicial councils" in imitation of the judicial council provided for in England upon the consolidation of the courts under the Judicature Acts. Judicial councils exist at present in California, Connecticut, Idaho, Illinois, Kansas, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, Texas, Utah, Virginia, Washington, Wisconsin. These councils have in general been made not directive but investigative agencies, and there is little evidence that they are much more than paper institutions. At the most they have produced only a few reports. In England the inactivity of the judicial council of the Supreme Court has been the subject of comment. A federal council, or conference, of senior circuit judges established in 1922 has been more successful. It meets annually to consider the problems of judicial administration in the federal courts. Unlike the state judicial councils it has the important power of transferring judges to various districts where they are needed because of the pressure of judicial business. The right to transfer judges also exists in other American courts, such as unified municipal courts.

The agitation for American ministries of justice is closely connected with plans for laying the foundations of an adequate science of judicial statistics. At present judicial statistics are almost entirely criminal statistics. In continental countries the ministry of justice and in England the office of the lord chancellor publish civil statistics, but generally speaking they relate only to the volume of judicial business and the pace of procedure. As far as the subjects of litigation are concerned only such matters as divorce and bankruptcy are reported with any degree of adequacy. Divorce and bank-

ruptcy statistics are often available also in the United States, where they are reported either by governmental departments or voluntary associations, but for the rest not even the European standard has been maintained. Until very recently there were few statistical reports relating to the civil business of the courts, and no more than a beginning is represented by the civil statistical surveys in Ohio, New York and Maryland which are now being encouraged by the Institute for the Study of the Law at Johns Hopkins University. A few of the reports of the state judicial councils have also been of some value.

Civil judicial statistics, if their compilation can be kept dissociated from particular programs of reform, are bound to prove interesting if not helpful, but certainly too much is not to be expected in the way of palpable results, at least not as far as the immediate future is concerned. Civil statistics are bound to be far less reliable than criminal statistics have proved. It must be remembered again that in civil matters the state does not press to discover when a wrong has been committed. In the attempt to use civil judicial statistics to follow social trends many complicated factors must necessarily be encountered. An increase of complaints may be traced back to an increase in legal transactions rather than to more frequent attempts to escape payment. Again, an increase of complaints may be due not only to economic depression but to a boom psychology which has led debtors to overreach themselves in taking advantage of easy credit. Such factors must be considered even in using civil statistics for the simple purpose of regulating the business of the courts. Despite the availability of statistics it must still remain very difficult to evaluate the effect of a particular procedural reform.

The ultimate test of a system of judicial administration is the extent of the civil controversies and the public crimes which it prevents by its mere existence. On the other hand, it must be remembered that men discharge their civil obligations and abstain from crime not only from fear of legal sanctions but also from moral and practical considerations. The modern tendency is certainly to stress other forms of social control. Finally, it must be realized that even the defects of the administration of justice, at least in civil matters, may have some social value in discouraging litigation, in impelling men to exhaust the possibilities of conciliation.

In an acquisitive society it is perhaps desirable that the paths of litigation be strewn with a few thorns.

WILLIAM SEAGLE

See: JUSTICE; LAW; EQUITY; PROSECUTION; PROCEDURE, LEGAL; COURTS; JUDICIARY; JUDICIAL PROCESS; JURY; JUDGMENTS; LEGAL AID.

*Consult:* A bibliography of judicial administration would repeat for the most part the references under various legal topics. The reader should consult especially the bibliographies of such central articles as JUSTICE; LAW; COURTS; JUDICIARY; PUBLIC PROSECUTION; PROCEDURE, LEGAL. The references under JURISPRUDENCE will show the juristic forms of approach toward the general problems of judicial administration. The works of the sociological school will be found to be particularly preoccupied with the law from the point of view of administration. For the quality of judicial administration in any particular country, its standard legal histories should be consulted. Occasionally there are very illuminating works dealing with a particular period. Thus the works of Ernst Fuchs give an intimate picture of justice in imperial Germany. J. W. Hedemann's *Reichsgericht und Wirtschaftsrecht*, Jena, Universität, Institut für Wirtschaftsrecht, Schriften, vol. 8 (Jena 1929) is especially valuable in showing the manner in which the highest court in Germany adjusted legal rights and interests in the post-war inflationary period. In the United States the most prolific writer upon judicial administration has been Dean Roscoe Pound. He recognizes the difficulties which are inherent in justice according to law but on the whole represents the point of view that the maladministration of justice in the United States is due to the failure properly to adapt early English legal institutions to twentieth century American conditions. See some of Pound's articles: "The Causes of Popular Dissatisfaction with the Administration of Justice" in *American Law Review*, vol. xl (1906) 729-49, "The Administration of Justice in the Modern City" in *Harvard Law Review*, vol. xxvi (1912-13) 302-28, and "Justice According to Law" in *Columbia Law Review*, vol. xlii (1913) 606-713, and vol. xiv (1914) 1-26, and 103-21; also his books: *The Spirit of the Common Law* (Boston 1921) and *Criminal Justice in America* (New York 1930). In connection with the movement to establish ministries of justice in the United States see: Cardozo, B. N., "A Ministry of Justice" in *Harvard Law Review*, vol. xxxv (1921-22) 113-26; Glueck, S., "Ministry of Justice and the Problem of Crime" in *American Review*, vol. iv (1926) 139-56; Edwards, J. Glenn, "The Ministry of Justice in France," and Jenkins, W. S., "A Ministry of Justice in England" in *North Carolina Law Review*, vol. viii (1930) 328-40. For the status of judicial statistics in continental countries see: Hesse, A., "Justizstatistik" in *Handwörterbuch der Staatswissenschaften*, vol. v (4th ed. Jena 1923) p. 537-42. For American judicial statistics: Marshall, L. C., "The Beginnings of Judicial Statistics" in American Statistical Association, Committee on Social Statistics, *Statistics in Social Studies*, ed. by S. A. Rice (Philadelphia 1930) ch. vii. A bibliography of the literature on the judicial council movement in the United States and the rule mak-

ing powers of American courts is found in Willoughby, W. F., *Principles of Judicial Administration* (Washington 1929) p. 607-52.

**JUSTICE OF THE PEACE.** The office of justice of the peace represents one of the oldest and most celebrated of English institutions. By virtue of this office the process of governmental centralization was finally completed in England. The last of the remaining old local courts or officials—the hundred, the toun and particularly the sheriff, who was virtually the ruler of his county—were gradually displaced. But the new justice of the peace was no paid royal emissary. Although appointed by the king and subject to the control of the king's council or courts he was a member of the local landed gentry, whose services very soon came to be entirely honorary. Thus a balance was struck between the necessities of centralization and local self-government, and it was precisely this balance which gave the office of justice of the peace its strength and importance. The office brought English noblemen and gentlemen into contact with the common people of the realm. They became trained in the affairs of government and in the administration of justice. This training produced great efficiency in many justices who later became members of Parliament and had no little effect in determining the final supremacy of the lawmaking body of England. In the seventeenth century Coke declared that the office of the justice of the peace was "such a form of subordinate government for the tranquility and quiet of the realm, as no part of the Christian world hath the like, if the same be duly executed" (*Fourth Institute*, ch. xxxi, p. 170).

Perhaps the forerunner of the justice of the peace may be detected as early as 1195, when the justiciar, the principal minister of state and direct representative of the king, issued a proclamation to the effect that certain knights nominated for the purpose were to take an oath from all aged fifteen years and upward to aid in the preservation of the peace. In any event the justice of the peace can be readily traced from the reign of King Edward III. By statute in the year 1327 this monarch attempted to make his position secure by assigning certain well qualified men in each county of the realm to act as conservators of the peace.

The institution of justice of the peace may be said to date from the year 1360, when the statute 34 Edw. III, c. 1, appointed "one lord, and with him three or four of the most worthy in the county, with some learned in the law" to keep

the peace and try felonies and trespasses at the king's suit. But this authority obtained only when two or more of these officials acted together. From now on they became known as justices and very soon thereafter reference was made to them as "justices of the peace" in the statute 36 Edw. III, c. 12 (1362).

From time to time the powers and duties of the justices of the peace were enlarged, until they became the most important factors in administering local governmental affairs in England. In truth for some three centuries they were the virtual rulers of the county, exercising not only the functions of the sheriff of an earlier day but participating in almost all the multifarious functions of the developing English state, including police, administrative and judicial functions. The last were primarily of a criminal character, for the civil jurisdiction of the justices has always been extremely limited.

After the middle of the nineteenth century many fundamental changes began to be made in the office of the justice of the peace. When a general county constabulary was established in 1856 (19 & 20 Vict., c. 69), the justices abandoned the role of police officials. A series of acts after the early decades of the century had already deprived them of some important administrative functions, and they lost most of the remaining ones when the County Councils were established in 1888 (51 & 52 Vict., c. 41, §§ 1-30) and the Parish and District Councils in 1894 (56 & 57 Vict., c. 73). Moreover the office of a justice is not now always honorary. Legislation has also made it possible for municipal boroughs and urban districts to secure the appointment of paid professional magistrates by petitioning the home secretary. These are the so-called stipendiary magistrates. The metropolitan police magistrates of Greater London are all stipendiaries. Finally in 1906 came the abolition of the property qualifications for justices of the peace (6 Edw. VII, c. 16), which had been £20 a year from 1439 (18 Henry VI, c. 11) to 1732 and £100 a year thereafter (5 Geo. II, c. 18).

The courts held by justices of the peace are still called Quarter Sessions and Petty Sessions. The Quarter Sessions are the sittings of the justices which take place quarterly, although adjourned sessions may often be held at other times. The sessions for divisions of the county are the Petty Sessions. Two or more justices are required to constitute a court unless the magistrate is a stipendiary. The court of Quarter Sessions has very broad powers: it not only tries

persons who have been indicted but makes presentments, and it exercises both original and appellate jurisdiction in civil as well as criminal cases. Originally the Quarter Sessions had jurisdiction to try nearly all criminal cases except those involving treason. But custom and statutes have removed from their jurisdiction cases involving murder and felonies punishable by life imprisonment and certain other specified offenses which usually involve difficult questions of law, although they still try cases of burglary. In the Petty Sessions the justices have summary jurisdiction over a great variety of criminal offenses of a petty nature.

Justices of the peace still act as committing magistrates. The preliminary examinations now held by them have their origin in statutes enacted in the reign of William and Mary. In the beginning the examinations were inquisitorial in nature but ceased to be so in 1848 (11 & 12 Vict., c. 42-43). The Criminal Justice Act of 1925 (15 & 16 Geo. V, c. 86, § 31) extended the powers of justices of the peace in the issue of process. Their process now runs to any county in England or Wales either to effectuate arrest or to compel appearance.

Thus the justices of the peace have become agents for the enforcement primarily of the criminal law. The lay justices had given way as they proved unequal to the task of ministering to all the complex needs of the modern state. The outcome has been much the same in the United States, where the office of the justice of the peace was one of the first instrumentalities of government which was created by the American colonists.

It was provided for by statute in Massachusetts as early as 1630, and the institution was flourishing in most of the colonies before the revolution. The principal function of the early justice was to maintain order. This was done by the exercise of criminal jurisdiction, which in some colonies was limited to specific offenses and in others was expressly made coextensive with the jurisdiction of the English justice of the peace.

The American justice of the peace has generally exercised a more extensive civil jurisdiction than the English justice. Before 1700 the colonial justice began to exercise jurisdiction in civil causes. In 1692 Massachusetts Bay Colony authorized the justice to hear, try and adjudge all manner of debts, trespasses and other matters involving in controversy a value not exceeding forty shillings. In Virginia his civil jurisdiction extended to con-



trousers involving "one hoghead of tobacco not exceeding 350 pounds." In addition to his duties concerning criminal and civil matters the colonial justice also performed numerous administrative functions. Among these were the taking of acknowledgments, the performance of marriage ceremonies and the taking of depositions.

The colonial justice of the peace was an officer of considerable standing. Within the scope of his territorial jurisdiction he seems to have been the *ne plus ultra* of local authority. The execution of the powers given him influenced not only the political, social and economic life of the community but the private lives of the individual citizens. That he was recognized as an important local official and occupied a high place in the minds of the people of colonial America is evidenced by the fact that the office by either statutory or constitutional provision has become a part of the judicial system of every state of the union.

But the justice of the peace of today is not the justice of colonial days, although in many state statutes he is still designated "conservator of the peace." Much of the criminal jurisdiction which he exercised has been withdrawn. He may try only certain misdemeanor cases, punishment for which is specifically limited in both the amount of fine and the term of imprisonment. The justice of the peace is more important, however, in his capacity as a committing magistrate. In this capacity he has authority to issue warrants for the apprehension and arrest of persons charged with the commission of public offenses, both felonies and misdemeanors. As magistrate he may hold preliminary hearings, reduce testimony to writing, discharge the accused or remand him to jail and fix bail. His administrative duties have not materially changed. In his civil jurisdiction he is limited by the amount of money claimed or the monetary value of the thing in controversy. In most states this amount varies from one hundred to three hundred dollars. Within that monetary limitation the variety of cases which the justice may hear and determine is very large.

The justice of the peace today is almost invariably an elective officer. His term of office varies from one to seven years. The usual term is two years. His compensation generally consists of fees paid by the party losing in the litigation. The statutes, beyond requiring the candidate for justice of the peace to be a resident, elector, voter or citizen, are silent on the subject of qualifica-

tions. The result is that the justice is usually a layman.

In the early days of the republic and during the settlement and carving out of new states on the western frontier the population was sparse and the power of government was decentralized. There were then few laws and fewer lawyers. In such pioneer communities protection and stability depended upon the quality of the man who administered the rules of society rather than upon the rules themselves. The justice was usually a man in whom the community had confidence. He was well known and was chosen because of his native ability, sound judgment and integrity. "Rough and ready" justice was necessary, and it was meted out fearlessly. Cases were few, and the trying of them was but an incident to the justice's principal business of making a livelihood. In that atmosphere the office of justice of the peace was a strong social institution.

Today, however, the American population, instead of living in backwoods agricultural communities enjoying a simple social life in which contacts are few, is concentrated in great industrial cities in which social life is most complex and contacts are many. The agencies of government and social control are centralized. The law rather than the individual who administers it is in the ascendancy. These conditions have filled the statute books with multitudinous laws, some simple and many very complicated. These the justice of the peace must interpret and administer. In a city of any consequence moreover the candidate for justice of the peace is little known by more than a few of the voters who elect him, and instead of electing an officer to try a case involving an occasional dispute between neighbors the electors are choosing a full time official of an inferior court.

The changes in the American social and political structure have thus made the office of justice of the peace rather anachronistic. In recent legislative enactments there is a tendency to improve the justice of the peace courts in some quarters and to abolish them in urban districts and great metropolitan centers. Where retained the justices are no longer maintained by fees paid by the litigants but receive a regular and substantial salary paid out of the public treasury. They are legally trained and in many instances are required to have devoted a definite number of years to the practise of the law before becoming candidates. Where these innovations are taking place, however, the new tribunals have

characteristics which really differentiate them from the old courts of the justices of the peace.

CHESTER H. SMITH

See: COURTS; JUDICIARY; JUSTICE, ADMINISTRATION OF; POLICE; COUNTY COUNCILS.

Consult: Maitland, F. W., *Justice and Police* (London 1885) chs. viii and ix; Beard, Charles A., *The Office of Justice of the Peace in England in Its Origin and Development* (New York 1904); Putnam, R. H., *Early Treatises on the Practice of the Justices of the Peace in the Fifteenth and Sixteenth Centuries* (Oxford 1924); Holdsworth, W. S., *A History of English Law*, 9 vols. (3rd ed. London 1922-26) vol. i, p. 285-98, vol. iv, p. 134-51; Howard, P., *Criminal Justice in England* (New York 1931) ch. v; Smith, Chester H., "The Justice of the Peace System in the United States" in *California Law Review*, vol. xv (1926-27) 118-41.

JUSTINIAN I (c. 482-565), Byzantine emperor. Justinian was born in Macedonia of an obscure family of Illyrian peasants. Under the protection of his uncle Justin he received his education at Constantinople, where he became saturated with the culture and traditions of Rome and of Christianity. In 518 Justin, who had risen to be commander in chief of the imperial guard, was able to assume the throne. As his counselor his nephew directed the policies of the government and in 527 became emperor in his own name. Justinian had one absorbing ambition from the moment of his enthronement—to restore the vanished Roman Empire to its ancient limits and glory by destroying the barbarian kingdoms which had been erected on its ruins. As soon as internal peace had been attained by the suppression of the Nika sedition in 532 he undertook the task of reconquering the west. In 533-34 his general Belisarius recaptured Africa from the Vandals; a prolonged war (536-52) resulted in the defeat of the Ostrogoths in Italy; in 554 part of Spain was wrested from the Visigoths. About the Mediterranean, once more a Roman lake, there thus emerged an empire of incomparable prestige, defended by immense fortifications on all its frontiers and headed by a skillful diplomat. Seeking to follow the tradition of the great Roman sovereigns in his internal policy also, Justinian ordained the restatement of the Roman law which is embodied in the *Corpus juris civilis* (q.v.), made extensive administrative reforms and enhanced the splendor of his office by the building of public works and the establishment of a luxurious court. His eternal glory is assured by two monuments, the Justinian Code and the basilica of St. Sophia.

Justinian's achievements were bought at heavy

cost. In his anxiety to undertake the western campaign he had made a hasty peace with Persia in 532, and between 540 and 555 Persia was able to win a disastrous victory over the empire in Asia; Huns and Slavs found opportunity to make inroads in the Balkan Peninsula. His gigantic foreign and domestic enterprises entailed expenditures necessitating oppressive taxation and leading finally to financial ruin. The legacy of the aged Justinian to his successors was a disrupted empire, an army near to annihilation and the difficulties of liquidation.

The end of the reign also demonstrated the transiency of his religious policy. Justinian had early realized that in order to secure his preponderance in the west he must effect a reunion between the Eastern and Western churches, root out the Monophysite and Nestorian heresies and establish the orthodox religion of the papacy. Under the influence of his wife, Theodora, a friend of the Monophysites, he attempted to carry out this policy by finding a basis for compromise with that sect. All his theological ardor and all the authoritarian brutality of his "Caesaropapism" were employed to this end. But the death of Theodora in 548 deprived him of a collaborator of remarkable intelligence and political wisdom. In spite of the apparent success of the Fifth Oecumenical Council in 553 he failed completely to reestablish religious unity. The miserable close of his reign does not, however, affect his position in history as an eminent representative of two great ideas, imperialism and Christianity. Justinian the Great—posterity in Byzantium did not begrudge him the title—was indeed the last of the great Roman emperors.

CHARLES DIEHL

Consult: Diehl, C., *Justinien et la civilisation byzantine au VI<sup>e</sup> siècle* (Paris 1901), and *Histoire de l'empire byzantin* (Paris 1919), tr. by G. B. Ives (Princeton 1925); ch. ii; Vasiliev, A. A., *History of the Byzantine Empire*, University of Wisconsin, Studies in the Social Sciences and History, nos. xiii-xiv, 2 vols. (Madison 1928-29) vol. i, ch. iii; Bury, J. B., *History of the Later Roman Empire from the Death of Theodosius I to the Death of Justinian*, 2 vols. (London 1923); Pfannmüller, Gustav, *Die kirchliche Gesetzgebung Justinians* (Berlin 1902); Holmes, W. G., *The Age of Justinian and Theodora*, 2 vols. (2nd ed. London 1912); Pullan, Leighton, *From Justinian to Luther, A.D. 518-1517* (Oxford 1930).

JUSTO, JUAN BAUTISTA (1865-1928), Argentinean statesman and sociologist. Justo studied surgery in Argentina and Europe and was a practising physician, abandoning his profes-

sion upon entrance into the Argentinean National Congress. In 1895 he founded the Socialist party of Argentina, which sought to reform the venal and fraudulent local assemblies. With the introduction of secret voting in 1912 by the Law of Sáenz Peña he succeeded in being elected to the Chamber of Deputies as member for Buenos Aires; he remained there until 1924, when he was appointed to the Senate.

Justo in 1909 expounded his social doctrine systematically in *Teoría y práctica de la historia*. He looked upon life as an intelligent activity through which man understands and dominates the biological world and creates the technical world with which history begins. With the development of economic activity and of means of communication cooperation arises, at first constrained, then intelligent; and as a result authority and the state are created. When authority becomes vested in a class jealous of its own privileges, the struggle of classes, which is the dynamic force of history, appears. From the standpoint of a scientific statesman rather than of an academic sociologist he analyzed Argentinian life in numerous pamphlets, articles and speeches. With a passion for individual and collective discipline he formulated the program of the Socialist party in Argentina and Uruguay; he elaborated its doctrine, directed its parliamentary activity and from his vantage point as critic in the minority party did much to shape the ideas and methods of other parties. He translated the first volume of Marx' *Capital* and adapted Marxism to Argentinian economy, enlarging on the questions of land, money and taxation. He favored direct and progressive income and capital taxes, advocated free trade and sound money by free convertibility of paper money into specie and followed the principles of Henry George in denouncing the privilege of property in land, in advocating the confiscation of the unearned increment of rent and in demanding legislation regarding leases in order to bring about the economic stability of the farmer and to encourage agricultural progress.

Justo was eminently practical and was an agnostic in religious outlook. In addition to his political activity he founded a daily, *Vanguardia*, and was instrumental in organizing cooperatives, trade unions and universities and libraries for workmen; he imported from abroad new civilizing procedures and devices—from the use of asepsis in surgery to English political practises.

ROBERTO GIUSTI

*Important works:* *El método científico* (Buenos Aires

1896, 2nd ed. 1905); *Socialismo argentino* (Buenos Aires 1915); *La teoría científica de la historia y la política argentina* (Buenos Aires 1898, 2nd ed. 1915); *Teoría y práctica de la historia* (Buenos Aires 1909, 2nd ed. 1915).

*Consult:* Obituary in *Nosotros*, vol. lix (1928) 103-06; Schweide, Iso Brante, "Die sozialistische Bewegung in Argentinien" in *Gesellschaft*, vol. v (1928) 169-73; Weil, Felix, "Die Arbeiterbewegung in Argentinien" in *Archiv für die Geschichte des Sozialismus und der Arbeiterbewegung*, vol. xi (1925) 1-51.

JUVENILE COURTS. See JUVENILE DELINQUENCY AND JUVENILE COURTS.

JUVENILE DELINQUENCY AND JUVENILE COURTS. In discussions of the problem child the term juvenile delinquency is sometimes loosely applied to youthful aberrance in general but it is more accurately a precise legal term defining the legal status of a child offender. Recognition of an offender as a juvenile delinquent places him in the jurisdiction of juvenile courts rather than the ordinary courts of criminal procedure; it gives him the status of ward of the state and subjects him to administrative authority or direct judicial control rather than to the processes of criminal law. He is placed under the legal disabilities and immunities of infancy. State supreme courts in the United States have held consistently that the private informal hearings of juvenile courts, their admission of social evidence, the absence of defense attorneys and the lack of trial by jury do not constitute a violation of due process of law because the child is not charged with crime. The procedure is primarily protective and educational rather than punitive, and the commission of a child to a correctional institution is deemed to be for his welfare and not for the sole purpose of inflicting penalty. Usually a specific act of misconduct must be alleged and proved in order to give the court jurisdiction over the child offender, but once he is before the court attention shifts from his act to his total situation in relation to the community. The informal procedure of the court and the regimen of correctional schools may mask real severities but on the whole there is a vast difference between a criminal procedure mitigated by occasional leniency on the part of a humanitarian judge and a legal system which accords separate consideration to offenders adjudged to be lacking in adult responsibility.

Theoretically it might be possible to trace the concept of juvenile delinquency in the grad-

ual evolution of law, which has long recognized limitations of legal capacity in childhood. Civil codes of all civilized societies have held that a child is unable to assume control of property or to contract personal obligations and have subjected him to a varying tutelage, endowing the father, mother, guardian or the court with authority to protect him from the consequences of folly and inexperience before he has reached the age of majority. It has been generally recognized that very young children are incapable of criminal intent, but the age of discretion has been placed very low—usually at seven years. Children over the minimum age limit were usually held fully responsible if they could be proved conscious of guilt. There has been no recognition of ameliorative factors, such as inadequate parental control or environmental conditioning. It is by no means demonstrated that the concept of juvenile delinquency was ever present. The line between child and adult was drawn with discrimination only where it was in the interests of profitable rights. To attribute to the early lawmakers the concept of child delinquency is pure guesswork, based on the desire to produce an ancient genealogy for a modern development.

The modifications in viewpoint and procedure which are entailed in the concept of juvenile delinquency arose from a changing public opinion, from new scientific knowledge and from the deliberate effort of social workers, humanitarians and educators. Their argument was that the common law concept *parens patriae* should be extended to criminal as well as civil law, that the immunities, privileges and disabilities which the state had already granted to children in the civil law dealing with property should be set up also as a barrier between the child offender and the rigors of adult criminal law. It was assumed that the child offender was handicapped by immaturity of body and mind and by a lack of effective parental control so that the exercise of discretion and the assumption of legal responsibility for conduct could not be exacted of him. The first comprehensive formulation in legal terms of the concept of juvenile delinquency, made by a committee of the Chicago Bar Association concerned with preparation of the first juvenile court law (1899), stated that "the fundamental idea of the law is that the State must step in and exercise guardianship over a child found under such adverse social or individual conditions as develop crime. . . . It proposes a plan whereby he may be

treated, not as a criminal or one legally charged with crime, but as a ward of the State, to receive practically the care, custody and discipline that are accorded the neglected and dependent child, and which, as the act states, 'shall approximate as nearly as may be that which should be given by its parents.'" It is evident that the intention of the sponsors of this law was to create an entirely fresh legal philosophy in the matter of crime committed by children.

The growing body of knowledge concerning the physical and mental processes of childhood furnishes the scientific basis for the concept of juvenile delinquency. Demonstration of significant differences between children and adults in memory, learning capacity, imagination, reasoning and volition have indicated that normal functioning depends upon maturation. Precise information as to the age of maturity in this scientific sense is lacking, but studies of the integrative action of the nervous system indicate that the adjustments necessary to full responsibility are impossible to the normal individual until after adult body size and weight are reached and the more subtle phases of neurological growth are completed. Whereas some individuals may attain "years of discretion" at eighteen or twenty-one, other normal individuals may require a longer period. Whatever further light research may throw on the biological nature of the causes of difference between the child's organism and the adult's, the fact of difference is now clearly established. The consequence of this observation is an increasing awareness of the child's inability to bear the full burden of adulthood.

Evidence from education and social work brings additional support to the concept of juvenile delinquency and indicates that the child's conduct is to a great degree a response to his environment. As knowledge has increased concerning the influence of emotion and personality upon behavior, techniques of child management in homes and schools have been gradually improved. Mental and physical health have become goals to be attained by following the laws of child development, and misconduct has become a problem to be solved by the use of knowledge rather than force.

The shift of emphasis from the symptoms to the causes of delinquency has led to intensive study of individual cases. Lying, stealing, truancy, stubbornness, running away, sex offenses and destructive acts are the chief objective manifestations of delinquency. In so far as

they are susceptible of a general statement it may be said that they are due to maladjustments of the child's personality; these maladjustments usually result either from an abnormal environment for the normal range of childish activities or from a warping of the child's personality through fear, antagonism and a sense of inadequacy.

The first step in understanding delinquency is the diagnosis of the child's personality. This is a cooperative task for physician, psychologist and social worker and involves prolonged observation. Evidence of physical and mental health, the objective features of environment, family background, economic and social situation, associations, recreation, school life and influence of religion become the foundation for an interpretation of the emotional and mental life of the child and for a program of treatment for the individual in the midst of his human relationships.

The clinical approach to the study of delinquency began in 1909 under William Healy in the laboratory established for the juvenile court in Chicago. Healy showed that a combination of factors is associated with delinquency and the particular combination varies with the individual case. Cyril Burt applied the analytic method to a study of English children in 1925 and reached a similar conclusion. The Rousseau Institute in Geneva and the German association for child welfare (*Zentrale für Jugendfürsorge*) have further emphasized the individual approach. Child guidance clinics have been organized in all large cities in the United States; the child guidance clinic serves as a diagnostic center and an agency of consultation for the juvenile court. It does not relieve the court of responsibility for treatment. Probation officers and social workers carry out the recommendations of the clinic and enlist the cooperation of families and schools. The educational result is therefore beyond that of the case treated; it includes the adults who assist in the administration. In 1931 a child guidance clinic was opened in London.

The habit clinic, which is usually connected with a hospital, school or state department of mental diseases, receives cases of incipient delinquency and young children subjected to handicap; it is another important resource in the treatment of delinquency. Adult education classes for parents form a further effective means of instruction in the problems of childhood. In Los Angeles, Detroit and New York City

foster mothers caring for children under the jurisdiction of the juvenile court have been instructed in classes of hygiene, nutrition, mental health and recreation. In some cities settlement houses conduct classes in child care and parents of delinquent children are urged to attend.

The two outstanding developments of the last decade in dealing with juvenile delinquency are the social control of the mental defective and the use of foster homes for the normal delinquent. The increasing use of standardized mental tests in the public schools has demonstrated that feeble-mindedness occurs among the non-delinquent population and bears no high causal relation to delinquency. Training programs for mental defectives include special education, within or without an institution, which may be followed by supervision in the community. Under such social control the feeble-minded are no more likely to commit offenses than the normal. Placement of normal delinquent children in foster homes rather than in institutions has developed chiefly in Massachusetts, California and Virginia. This method of dealing with delinquency is successful only where an extensive organization exists for child study and investigation of homes and where supervision by trained workers is adequate. No comparative study of costs exists but it is believed that foster home care is less expensive than is institutional care and its results of more permanent value.

A more recent suggestion is the control of delinquency by influencing the total social environment rather than proceeding by the case method. Studies of "delinquency areas" begun by Clifford R. Shaw in 1926 in Chicago and continued by Shaw and McKay in 1930-31 in Cleveland, Philadelphia, Seattle, Birmingham, Denver and Richmond indicate that high delinquency rates are always found in the belt of disorganized slum neighborhoods in the vicinity of business and industrial regions. These rates are relatively uninfluenced by nationality, degree of intelligence, family discord or psychological factors. The conclusion is that delinquency is correlated with the maladies of an industrial, competitive social order and can be best combated by changing the goals of civilization itself.

The Illinois law of 1899, already mentioned, introduced the juvenile court into the American system of jurisprudence. Since that time non-criminal tribunals for children have been established in all the states except Maine and Wy-

oming. In 1923 a committee appointed by the Children's Bureau to formulate juvenile court standards recommended that the age limit under which the juvenile court may obtain jurisdiction should be not lower than 18 years; at the present time over half the states have accepted this limit and in 5 states the limit is 21. In 28 states it is possible for a child charged with any offense, no matter what its degree, to be brought before the juvenile court. In some states the judge of the juvenile court may have jurisdiction at his discretion. In the District of Columbia, Georgia, Iowa, Louisiana, Massachusetts, New Jersey, New York, Utah and Vermont the law specifically excludes the juvenile court from jurisdiction in cases of felony or of crimes punishable by death or life sentence. In Ohio a recent enactment gives the juvenile court original jurisdiction in such cases.

In 1918 the Children's Bureau conducted a study of all courts, with a few minor exceptions, which have authority to hear children's cases involving delinquency or neglect (United States, Children's Bureau, *Publications*, no. 65, 1920). Of the 2391 courts addressed 1088 reported 79,946 cases of juvenile delinquency, 390 reported no delinquency cases and 556 did not report the number of cases handled. Nearly half of the courts had probation service. There were 321 courts in 43 states and the District of Columbia which were "specially organized" in the sense of offering a significant degree of specialization and organization for children's work. Of the total of 57 courts serving areas containing cities of 100,000 or more population 56 were specially organized and the other court failed to report. It is probable that most of the courts not answering the inquiry were unspecialized.

Accurate statistics as to the volume and extent of juvenile delinquency are difficult to obtain because of the lack of any precise and uniform definition of what constitutes delinquency, the variation in the age groups handled by the courts (15 to 21 being the range of the upper age limit), the numerous cases of felony by children which are brought before adult courts, the meager and inconsistent statistical records and the failure of the courts to cooperate. Statistics of cases coming before the juvenile courts have been collected by the Children's Bureau and figures are available for 1927, 1928 and 1929 (United States, Children's Bureau, *Publication*, no. 195, 1929, no. 200, 1930, and no. 207, 1931). A total of 46,312 cases

of delinquency were reported for 1929 by 93 juvenile courts representing 20 states and the District of Columbia. Because some of the children were dealt with more than once this figure represents only 41,101 children. There were 64 courts which reported cases dealt with unofficially, i.e. adjusted informally without being placed on the court calendar, and these numbered less than one third of the total number of cases reported by all the courts. In 16 percent of the official cases (89 courts reporting) and 2 percent of the unofficial cases the child was committed to an institution, and in 40 percent of the official cases and 11 percent of the unofficial cases the child was placed on probation. There were 61 courts reporting cases dismissed from probation or supervision and 14 percent of these dismissals were for purpose of commitment to an institution.

United States Census Bureau figures for juvenile delinquents in institutions are available for no year later than 1923 (United States, Bureau of the Census, *Children under Institutional Care*, 1923, 1927, p. 260-381). At that time figures were collected from 145 institutions in 46 states and the District of Columbia. On January 1, 1923, the number of children 10 to 17 years old, inclusive, in institutions primarily for juvenile delinquents was 23,003. On the basis of figures for the first six months of the year the number of children under 18 years of age admitted during the entire year was estimated at 18,640. These figures do not, however, include the entire juvenile population of correctional and penal institutions. In 1931 the juvenile delinquency section of the National Commission on Law Observance and Enforcement made a census of minors in the 98 adult penal institutions listed in the 1930 report of the Census Bureau. Data were compiled from 78 institutions, having an aggregate of 97,249 inmates, or 77 percent of the total prison population in the United States. Of these 54.8 percent were under 21 years of age when committed. The total number under 18 was 4493 boys and 228 girls, or 24.6 percent of those under 21.

Juvenile courts have been adopted also in England and throughout Europe, in Australia, New Zealand, Japan, Turkey and several other countries. European statistics are scrupulously compiled but in the absence of international definitions of delinquency and procedure comparison is almost impossible. It is believed, however, that the number of children appearing before juvenile courts is now decreasing through-

out the world, presumably because of extralegal methods of child care.

Juvenile courts in Europe were an outgrowth of American juvenile courts and for some time were guided by American precedents. Germany has had juvenile courts since 1908. The leading juvenile courts of France, Belgium, Holland and England were established by 1912. In 1930 the International Association of Children's Magistrates was organized in Brussels and 15 nations sent representatives to the convention. The purpose of the association is an interchange of the experience and ideas of those persons throughout the world who work with child offenders under judicial control, "so that young delinquent aliens may be treated according to a universal understanding."

European juvenile courts present both similarities and differences as compared with those in the United States. There are of course important variations throughout Europe. The courts of Austria, England, France, Germany and Czechoslovakia have incorporated educational ideals into existing criminal procedure, while Belgium, Holland, Spain and Portugal have created courts which depart more radically from penal methods. Throughout Europe, however, the juvenile courts are under central control and professional jurists exercise the dominant influence. In the United States there is no central control. The range of conflicting philosophies to which the child may be subjected is tremendous. For example, theft committed by a 14-year old boy may result in probation or a long term in an adult prison or commitment during minority to a juvenile training school or placement in a foster home; nor is the type of treatment always determined by differences in the child's case history. All degrees of intelligence and social experience are found in these various agencies. In the United States the local political situation and public opinion have more to do in determining juvenile court policy than a scientifically wrought plan.

According to European legal conceptions the judge must be the authoritative influence in juvenile court decisions. In Germany lay judges are nominated by the child welfare department (Jugendamt); they assist the judge in applying psychological and educational methods, but the treatment is primarily the responsibility of the presiding judge. This emphasis on legal authority, while found in some American juvenile courts, is entirely absent in others; in Cincinnati, for example, Judge Charles Hoffman

believing that the issues are sociological entrusts both decisions and treatment to child welfare experts, and his teaching and practice have been followed by many other American judges. In European courts there is a tendency to place the administration of juvenile probation in the hands of private organizations, doubtless because of the unprofessional nature of probation work in continental countries.

Following precedents of the Austrian law Germany has included those 18 to 21 years of age in juvenile procedure, and a strong movement has grown to withdraw those under 16 and to place them under a purely guardianship procedure. Belgium has established 16 as the age period below which children are legally *sans discernement*; Switzerland and Sweden have followed the same principle with certain modifications. Substitutes for juvenile courts are sought in a combination of what is called trustee education and boards of public welfare.

In the United States the police are dominant in the supervision of child offenders. In Europe special bureaus of police officers for children have developed but they are under judicial control whenever a child is removed from home. The American system gives to the police great discretionary powers over individuals, whereas in Europe their function is limited to preventive work under strict supervision of ministers of justice.

European juvenile courts in general, although they received their impetus from American ideals of state guardianship, have been more critically aware of the original objectives; they have developed uniform procedures closer to the civil side of the law than have American juvenile courts, which fluctuate between civil and criminal methods and are more dependent on the personality of judges, changes in public opinion and politics. The juvenile court in the United States is midway between two goals. It may develop into an agency of protection of the rights of childhood. In this case it will not administer treatment directly but will cooperate with schools, clinics and public welfare departments, all of them forming together a board of strategy to work for the best interests of the child. On the other hand, the juvenile court may become a criminal tribunal, hearing only serious cases which public and private social agencies have failed to prevent. In either case the outcome will be similar. By introducing the scientific study of cases, by individualization of treatment, by use of probation and by quickening the sense of

collective responsibility for the neglected and forsaken child the juvenile court method has permeated the criminal court and has put its yeast into the entire system of justice.

MIRIAM VAN WATERS

**See:** CHILD; GANGS; ENVIRONMENTALISM; MALADJUSTMENT; SOCIAL WORK; MENTAL HYGIENE; MAJORITY, LEGAL; PROBATION; COURTS; PENAL INSTITUTIONS; CRIME; CRIMINOLOGY.

**Consult:** White House Conference on Child Health and Protection, Committee on Socially Handicapped, *The Delinquent Child* (New York 1932); Reckless, W. C., and Smith, M., *Juvenile Delinquency* (New York 1932); Van Waters, Miriam, *Youth in Conflict* (New York 1925); Shaw, Clifford R., and others, *Delinquency Areas* (Chicago 1929); Cooley, Edwin J., *Probation and Delinquency* (New York 1927); Healy, William, and others, *Reconstructing Behavior in Youth, a Study of Problem Children in Foster Families*, Judge Baker Foundation, Publication, no. 5 (New York 1929); United States, Children's Bureau, "Juvenile-Court Standards," *Publication*, no. 121 (1923); Lou, Herbert H., *Juvenile Courts in the United States* (Chapel Hill, N. C. 1927); United States, Children's Bureau, "The Child, the Family and the Court," by B. Flexner and others, *Publication*, no. 193 (1929); United States, National Commission on Law Observance and Enforcement, "The Child Offender in the Federal System of Justice," *Reports*, no. 6 (1931); United States, Children's Bureau, "Juvenile Courts at Work," by K. F. Lenroot and E. O. Lundberg, *Publication*, no. 141 (1925); United States, Children's Bureau, "A Summary of Juvenile-Court Legislation in the United States," by S. P. Breckinridge and H. R. Jeter, and "The Legal Aspect of the Juvenile Court," by B. Flexner and R. Oppenheimer, *Publication*, no. 70 (1920), and no. 99 (1922); League of Nations, Advisory Commission for the Protection and Welfare of Children and Young People, Child Welfare Committee, *Organisation of Juvenile Courts and the Results Obtained Hitherto*, 1931, iv, 13 (Geneva 1932); Abbott, Grace, "History of the Juvenile Court Movement throughout the World" in Addams, Jane, and others, *The Child, the Clinic and the Court* (New York 1925) p. 267-73; Hall, W. C., *Children's Courts* (London 1926); Burt, Cyril, *The Young Delinquent* (London 1925); Kleist, F., *Jugend hinter Gittern*, Jugendgefängnis, Menschenbildung und Menschheitsgestaltung, vol. vi (2nd ed. Jena 1931); Haackel, Heinrich, *Jugendgerichtshilfe* (Berlin 1927); Owings, Chloë, *Le tribunal pour enfants* (Paris 1923); Nuchât, Hassau, *Les jeunes délinquants* (Paris 1913); Donati, Luigi, *La delinquenza minorile e la sua prevenzione* (Piacenza 1924).

**KABLUKOV, NIKOLAY ALEKSEYEVICH** (1849-1919), Russian statistician and economist. Kablukov worked for over two years in the statistical bureau of the Moscow zemstvo and was later engaged in gathering statistical data on rural industries in the various provinces of northeastern Russia. From 1885 to 1907 he was the chief of statistics of the Moscow provincial

zemstvo and in this capacity supervised the rural household census of 1898-1900. His introduction to the tabular report of this census, reissued later as a separate volume (Moscow 1912), offers a valuable guide to the methods employed in zemstvo statistics. At the same time he was active in the statistical section of the Moscow Law Society, which functioned as the coordinating body for the work of zemstvo statisticians. In 1894 Kablukov began teaching at the University of Moscow; his courses included statistics (*Kurs statistiki*, Moscow 1911), agricultural economics and economic theory. He was the first chairman of the Chuprovo society for social sciences, affiliated with the university and editor from 1914 to 1917 of the *Statisticheskyy vestnik*, a magazine published by the society.

As an economist Kablukov was interested principally in the question of the development of Russian agriculture along capitalistic lines. He did not share the belief current in the 1870's and 1880's that national peculiarities of the Russian people would guard it against the adoption of capitalism on the western model and pointed out that even the emancipation of the peasants in 1861 was dictated by the interests of developing capitalism. He maintained, however, that the specific forms of capitalist development vary in accordance with the characteristic peculiarities of the social economic systems in different countries. In studying agricultural estates in the province of Moscow he became aware of the difficulties encountered in the organization of large scale capitalist farms in Russia, and his work on capitalist agriculture in England (*Vopros o rabochikh v selskom khozyaystve*, Moscow 1884; tr. in part as *Die ländliche Arbeiterfrage*, 2nd ed. Stuttgart 1889) convinced him that farming based on hired labor is unprofitable and inefficient. In a later study, *Ob usloviyakh razvitiya krestyanskogo khozyaystva v Rossii* (Conditions of development of peasant farming in Russia, Moscow 1899, 2nd ed. 1908), which appeared at the time when the dispute between the populists and the Marxists was at its height, Kablukov supported the contention of the former group in pointing out that small peasant farming is capable of progressive development and that this is one of the essential prerequisites for the expansion of industry in Russia.

S. PROCOPOVICH

**KADLEC, KAREL** (1865-1928), Czech historian of comparative Slavonic law. Kadlec occupied the chair of Slavonic law at the Charles



University at Prague from its establishment in 1899 until his death. He was general secretary of the Czech Academy of Arts and Sciences and editor of the periodical *Šborník věd právnických a státních* (Archives for legal and political science).

Kadlec was an outstanding authority on comparative Slavonic law. He broke with the romantic school and treated Slavonic legal history, which he regarded as a part of general comparative jurisprudence, in a positive and critical spirit. His special interest was the legal institutions of the Slavs before their dispersion and differentiation into various nations, for he held that the tribal characteristics of Slavonic law had not yet been scientifically established. In *Rodiny nedil čili zadruga v právu slovanském* (Prague 1898, 3rd ed. 1923) he discussed the Slavonic *zadruga*, an institution which he acknowledged to be peculiar to all agricultural peoples at a certain stage in their development and which he did not idealize in the fashion of other writers. Together with the history of Slavonic law he treated Hungarian and Rumanian law, which contain Slavonic elements, and he also investigated the law of the Wallachians as one of the foreign systems of law which operated among the Slavs. His articles in the fourth volume of the *Encyklopédia polska* summarized the history of Slavonic law up to the tenth century, which he reconstructed by the comparative regressive method. In his lectures read at the university he presented legal history from the tenth century on in separate courses on the public law of the different Slavonic peoples and in comparative treatments of the history of civil and criminal law and procedure. He was the author of *Dějiny veřejného práva ve střední Evropě* (Prague 1920, 4th ed. 1928), which studied comparatively Polish, Czech and Croatian public law as part of a system of central European law. Kadlec also devoted considerable attention to Yugoslav law, especially the Dalmatian statutes. At his death he left in manuscript a glossary of Slavonic law, the preparation and publication of which was taken over by the Czech Academy of Arts and Sciences.

#### THEODOR TARANOVSKY

*Other important works:* "Verbőczyovo Tripartitum a soukromé právo uherské i chorvatské slechty v něm obsažené" (Verbőczy's "Tripartitum" and the private law of Hungarian and Croatian nobility therein included) in *Česká Akademie*, Prague, *Rozprawy*, vol. x (1902) nos. 1, 3; *Válsci a valašské právo v zemi slovanských a uherských* (The Wallachians and Wallachian law in the Slavonic and Hungarian countries) (Prague 1916); "Les Slaves à la lumière de leur histoire politi-

que" in *Monde slave*, n.s., vol. ii (1925) pt. ii, 368-400, pt. iii, 29-61; "Statutem et reformationes insulae Brachine" in *Monumenta historico-juridica slavorum meridionalium*, vol. xi (Zagreb 1928).

*Consult:* Taranovsky, T., *Uvod u ustorijsu slovenskih prava* (Introduction to the history of Slavonic law) (Belgrade 1922) p. 182-88; *Arhiv za pravne i društvene nauke*, vol. xxxv (1928) 1-14; Saturnik, T., in *Slovanský Ustav, Ročenka*, vol. i (1928) 51-54; Schmid, H. F., in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung*, vol. xlix (1929) 739-43; Odložilík, O., "Karel Kadlec" in *Slavonic Review*, vol. viii (1929-30) 204-05.

KAGWA, APOLO (1865-1927), Bantu statesman. Kagwa was converted to Christianity by Bishop Mackay of Uganda. He supported the British against the French and Mohammedan claimants of religious supremacy and trading rights in Uganda. In 1889 he became *katikiro*, or prime minister; three years later he took the leading part in drawing up the document whereby the Christian chiefs pledged themselves to emancipate their slaves. His influence largely convinced Mwanga, the *kabaka*, or king, and the people of Uganda to accept British protection. When in 1897 Mwanga revolted with the support of the Sudanese troops, Kagwa remained loyal to the British and led an army of Baganda against the rebels. He was the virtual ruler of Uganda during the long minority of the present *kabaka* and was the guiding spirit among the signatories of the Uganda Agreement of 1900, which defined the constitutional relationship between the British and the Baganda. Henceforth he was intimately associated with a succession of British administrators; he directed their educational program among his people, led the way in improving housing and sanitation and helped to further the cotton industry. Displaying keen interest in the legends and customs of the Baganda he rendered assistance to the anthropologist Roscoe and wrote two books in Luganda on the history of the Baganda kings and on Uganda folklore.

#### I. SCHAPERA

*Consult:* Gollock, G. A., *Lives of Eminent Africans* (London 1928) p. 90-105.

KAHL, WILHELM (1849-1932), German jurist. Kahl was born in Bavaria and studied at the University of Munich. He taught ecclesiastical, constitutional and criminal law at Rostock, Erlangen and Bonn and in 1895 succeeded Rudolf von Gneist at Berlin. His earliest important works are concerned with Protestant ecclesiastical law. With the exception of the important

expert opinion he rendered in 1896 in the controversy over the succession to the throne of Lippe, Kahl took little part in the development of constitutional law, which at that time was characterized by formalistic tendencies. After 1895 he devoted himself primarily to criminal law and was influential in bringing together the classical and modern schools of criminal law in the preparation of the new criminal code. Even better known than his achievements in the academic field are his practical and political contributions: he played an important part in the constitutional development of the Prussian evangelical church; he was instrumental in the reform of the criminal law and in the preparatory work for a new criminal code; he assisted in the drafting of the Weimar constitution and in subsequent legislative achievements under the republic.

Kahl's importance in the history of the social sciences in Germany is due to his peculiar combination of theory and practise. He was a follower of the German historical school of jurisprudence and of the German idealist philosophy; he did not specialize as do modern scholars and thus formed no school of his own. On the other hand, he typified the intellectual and spiritual universality characteristic of German historical and social thought in the middle of the nineteenth century. This quality was basic to his practical influence, to his unique eloquence, which was far more profound than mere oratorical technique, and to his frequently criticized capacity for compromise. He was the last representative of the so-called "political professors."

#### RUDOLF SMEND

*Important works:* *Lehrsystem des Kirchenrechts und der Kirchenpolitik* (Freiburg i. Br. 1894); "Religionsvergehen," and "Geminderte Zurechnungsfähigkeit" in *Vergleichende Darstellung des deutschen und ausländischen Strafrechts*, Besonderer Teil, vol. iii (Berlin 1906) p. 1-100, and Allgemeiner Teil, vol. i (1908) p. 1-78; *Gegenentwurf zum Vorentwurf eines deutschen Strafgesetzbuchs*, in collaboration with F. von Liszt and others (Berlin 1911).

*Consult:* Alsberg, M., *Wilhelm Kahl* (Berlin 1929) containing a bibliography of Kahl's chief works.

KÁLLAY, BENI (1839-1903), Austro-Hungarian statesman and historian. After a previous career in parliament, in the diplomatic service and in the Ministry of Foreign Affairs Kállay served from 1882 until his death as imperial minister of finance and in this capacity was administrator of Bosnia and Herzegovina. He was

especially qualified for these responsibilities by his travels in the Near East and his constant studies in the history and literature of the Balkan nations. His administration was conducted in an enlightened but cautious and conservative spirit, natural enough considering the unbalanced state of affairs of the Hapsburg monarchy at that time. Kállay was fully conscious of the inevitable disintegration of the Turkish Empire and of the growth of Serbia which would ensue. He was aware also of the danger for the monarchy and particularly for Hungary inherent in the situation; accordingly he and Count Andrássy tried to counterbalance it by the occupation of Bosnia (1878). Kállay's administration of Bosnia consisted in developing the economic and strategic resources of the country and in trying to create a special Bosnian nationality distinct from the Serbian and Croatian. He therefore favored the Moslem landowning nobility against the Greek Orthodox Serbian and Catholic Croatian peasantry.

Among his notable literary works are *Oroszország keleti törkevései* (Budapest 1878, 2nd ed. 1879; tr. into German by H. Schwieker as *Die Orientalpolitik Russlands*, Budapest 1878), an analysis of the Russian policy in the Near East, and two works on Serbian history, *A szerbek története 1780-1815* (Budapest 1877; tr. into German by H. Schwieker as *Geschichte der Serben von den ältesten Zeiten bis 1815*, 2 vols., Budapest 1878-85) and *A szerb felkelés története 1807-1810* (2 vols., Budapest 1909; tr. into German by S. Beigel as *Geschichte des serbischen Aufstandes, 1807-1810*, Vienna 1910). Kállay was an indefatigable fact gatherer and his judgment of the sources is sagacious and unbiased. He belongs to that class of historians so rare on the continent who combine scholarly erudition with the experience of the practical statesman.

#### ROBERT BRAUN

*Consult:* Thallóczy, Lajos, *Benjamin Kállay, Gedenkrede* (Budapest 1909); Wertheimer, E. von, "Ein ungedrucktes Memorandum Benjamin von Kállays über die Annexion Bosniens" in *Ungarische Rundschau*, vol. iii (1914) 425-34, especially 425-26.

KAMÁL MAHMAD NÁMÜK (1840-88), Turkish publicist. Kamál was educated by private tutors except for a brief period of formal schooling in Constantinople. The descendant of eminent government officials who had suffered from the arbitrary rule of the sultans, he was impressed at an early age with the ideas of resistance to evil and revolt against despotism. As a

young man he came under the influence of Şinâsî, who was endeavoring to attract the Turkish intellectuals to western culture, and at about twenty he began his journalistic career as a contributor to Şinâsî's newspaper, *Tâşvîr-i Afkâr*, in which he attacked fearlessly the old regime. In 1864 he became its chief editor and allied himself with the Young Turk movement. From then on he lived the feverish life of a revolutionary agitator, frequently suffering prison and exile; the government occasionally effected his removal from the capital by appointing him to provincial offices.

Kamâl became the most prominent of the group of remarkable men who in a mediaeval environment laid the foundations of a new era. He aimed at a literary, political and social awakening in Turkey and through his essays in the periodical press, through his historical novels, plays, poems and histories, he tried to give the Turks a new interpretation of their past and a new idea of their destiny. In 1866 he fled to London, where he published the organ of the Young Turks, *Hürriyat* (Liberty), which was distributed secretly in Turkey. Upon his return in 1871 he published the daily *İhtat* (Instruction), the most influential periodical in modern Turkey, which not only strove to bring about a public spirited progressive government but also to develop new principles in morality, in family life and in the position of women and to create a new and simpler language. Kamâl's patriotic play, *Wâdân* (Fatherland, Constantinople 1872), was produced in 1873 and created a wave of frenzied enthusiasm. In the play, which stressed devotion to the fatherland rather than the older loyalties to the sultan and Islam, a Turkish girl dressed as a man became a soldier in a defensive war against Russia. *Wâdân* was suppressed after its second performance.

Kamâl never completed his history of the Ottoman Empire, which he considered his life work. *Madkhal*, the introduction, deals with Roman and Islamic history to 1046. The history proper goes only so far as the death of Sultan Selim I (1520). These works are, however, more significant for their style than for their historical value. Kamâl's other historical writings deal with biographies of prominent Turks and with remarkable episodes in Turkish history. He also translated into Turkish the works of Montesquieu, Rousseau and Bacon.

Despite the constant suppression of Kamâl's works they were circulated secretly in Turkey and had a revolutionary effect upon public

opinion. They were an important force in creating the concept of a Turkish nation and in introducing western ideas. Kamâl's outstanding part in the development of modern Turkish prose has earned him a unique position in literary history.

AHMET EMIN

*Consult:* Wells, Charles, *The Literature of the Turks* (London 1891) p. 148-206; Carra de Vaux, B., *Les penseurs de l'Islam*, 5 vols. (Paris 1921-26) vol. v, p. 189-96; Babinger, F. C. H., *Die Geschichtsschreiber der Osmanen und ihre Werke* (Leipzig 1927) p. 370-71.

KAMIŃSKI, HENRYK MICHAŁ (1812-65), Polish nationalist and social philosopher. A nobleman and landowner, Kamiński played both a political and an intellectual role in the struggle for national independence. He took part in the armed insurrection of 1830-31 and in the years following was active as a member of a secret revolutionary society and as one of the leaders of the "enthusiasts," the group of writers and intellectuals who were fostering a national Polish consciousness. Because of his revolutionary activity he was banished to northern Russia for three years. After his return he freed the serfs on his estates and went to live in Switzerland.

Like Cieszkowski Kamiński sought to work out a system of national Polish philosophy. Except for stating the general philosophic principle of activism, that existence is justified by action rather than by thought, he was concerned not so much with metaphysical principles as with the development of a system of social economics applicable to a rejuvenated Polish nation. He elaborated his views in his chief work, *Filozofia ekonomji materialnej ludzkiego społeczeństwa* (The philosophy of material economy of human society, 2 vols., Poznań 1843-45); accepting as basic the law of progressive development of society he viewed the institution of private property as indispensable to progress and adopted the general principle of harmony of individual and social interests operating through the mechanism of exchange. He regarded labor as the source of wealth and judged the social adequacy of an economic system by the extent to which it provided the people with opportunity to work; he stressed particularly the right of the peasant to the soil. He condemned all forms of exploitation whether based on physical force or on intellectual superiority. In *O prawdach żywotnych narodu polskiego* (On the vital truths of the Polish nation, Brussels 1844), written under

the pseudonym Filaret Prawdoski, he argued convincingly that the success of a political uprising against Russia depended upon the emancipation of the peasants, who would thus be won for the cause of national freedom. In his *Rosja i Europa-Polska* (written under the pseudonym X. Y. Z., Paris 1857; tr. into French as *La Russie et l'avenir*, 1858), a profound analysis of Russian government and society, Kamiński advises Poland to strive toward an understanding with Russia without renouncing national independence. He was probably the first to point out that the Russian agrarian commune was not an original autonomous institution as represented by the Slavophiles but an organ created by Russian bureaucracy in the interests of the state and the nobility.

FRANCISZEK BUJAK

Consult: Korbut, G., in *Wiek XIX, sto lat myśli polskiej* (The nineteenth century; one hundred years of Polish thought), ed. by B. Chlebowski and others, vol. ix (Warsaw 1924) p. 152-61; Limanowski, B., preface to abbreviated ed. by Z. Daszyński-Goliński of Kamiński's *Filozofja* . . . (Warsaw 1911); Głabiński, S., *Ekonomika Społeczna*, vol. i- (Lwów 1905- ) p. 339-41.

K'ANG YU-WEI (1858-1927), Chinese political theorist and reformer. After receiving a classical education K'ang Yu-wei traveled through China, visiting Hongkong and Shanghai, where he was impressed by the achievements of western civilization. In 1891 he opened a school in Canton to teach what he conceived to be the "new learning," an eclectic conglomeration of Confucianism, Buddhism, the rational philosophy of neo-Confucianism and the rudiments of western science. Later he established a similar school in Kweilin. Convinced that China's salvation lay in reform along western lines, he started during the Sino-Japanese War the first political reform movement by organizing in a memorial to the emperor over a thousand candidates who were in Peking for the imperial civil service examination. He continued to petition the throne for radical political reforms and in 1898 won the confidence of the emperor Kuang-hsü, who soon proclaimed far reaching reform measures drafted largely by K'ang and his associates. When the inevitable reaction set in, the emperor was deprived of political power and K'ang fled to Japan. Remaining loyal to the idea of a constitutional monarchy he founded among the overseas Chinese the Pao Huang T'ang, a society for the protection of the emperor and for Chinese reform. It attained a considerable fol-

lowing but with the development of Sun Yat-sen's movement it gradually experienced a loss of prestige.

K'ang Yu-wei's political philosophy as expressed in his *Ta Tung Shu* (The book of the great communion) was a peculiar combination of Confucianism and Buddhism intermingled with socialistic theories. It was based upon a highly utopian paragraph in the seventh book of the *Li Ki*, where the ideal state was described as the great world unity in which there was no private property and everyone had suitable employment. K'ang acknowledged the Buddhist conception that life is endless suffering and laid down the principle that political thinking should aim at relieving man's suffering and enhancing his happiness. Human suffering comes from the division of mankind into contending groups, like the family, the religious sect, the state and the race. In K'ang's utopia all such groupings are to undergo gradual elimination, ending in the abolition of national boundaries and the development of a world state.

In his theory of the Confucian canon K'ang was a follower of Liu Feng-lu (1776-1829), who had tried to prove that the *Tso Chuan* was an independent history and not a commentary on the Confucian *Ch'un Ch'iu*. K'ang developed the latter's ideas and won them serious consideration. He tried to revive Confucianism by reinterpreting it to conform with modern conditions. To him Confucianism was international and progressive. Its true doctrines were, he claimed, to be found only in Confucius' own writings. In his *Hsin Hsiieh Wei Ching K'ao* (Forged classics of the new dynasty, Peking 1891) he condemned a number of the classics as forgeries of the Ancient Script school, attempting to prove with copious documentary evidence that these most readable and therefore most influential of the Confucian texts were forged by Liu Hsin (d. 22 A.D.) for the support of the dynasty founded by Wang Mang (9-23 A.D.). But when all these texts including the *Tso Chuan* and the *Chou Li* are excluded, very little is left of Confucianism; thus the great leader of the last revival of Confucianism unwittingly sounded its death knell as a state religion. His theories have, however, exercised great influence upon modern Chinese thought.

HU SHIH

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**KANKRIN, COUNT EGOR FRANZEVICH** (Georg Cancrin) (1774-1845), Russian statesman and economist. Kankrin, the son of a German engineer in Russian employ, went to Russia in 1797. He attracted attention with his *Fragmente über die Kriegskunst* (St. Petersburg 1809, 2nd ed. Brunswick 1815) and from 1811 to 1820 occupied important positions in the army supply service. In 1821 he was appointed to the State Council and from 1823 to 1844 served as minister of finance. By exercising the most rigid economy, avoiding an increase in the public debt and rationalizing the organization of the ministry and its accounting system he succeeded in balancing the normal budget and in raising the badly shaken credit of the government virtually to par. He imposed only one new tax, a moderate tobacco excise, and with a view to increasing revenue and combating official corruption restored the farming out of the government liquor monopoly. Public revenue was also increased by the protectionist tariffs which he substituted for the prohibitory tariff of 1822; he used them deliberately, changing the rates from time to time, to tax the privileged classes and to encourage the development of industry either by the promise of huge profits or by the threat of foreign competition. A similar interpenetration of fiscal and economic considerations characterized the currency reform of 1839-43. Since the assignats (paper money) were at a discount of 70 to 80 percent in terms of silver, he refused to follow the program of Speransky and the previous finance minister, Count Guryev, who resorted to foreign loans in an attempt to raise the value of the assignats to par. Kankrin proposed instead to stabilize paper money in relation to silver at the ratio of  $3\frac{1}{2}$  to 1. The economic progress of Russia and the increased Russian output of gold favored the success of the plan and in 1839 the silver ruble was declared the standard coin. In 1840 the government issued in exchange for gold and silver deposit certificates backed in full

by a metallic reserve. The succeeding stages of the reform—the issue of credit notes with a metallic coverage of one sixth begun in 1841 and the exchange of assignats and deposit certificates for credit notes begun in 1843—were carried through at the initiative and insistence of Emperor Nicolas I despite the opposition of Kankrin, who feared the abuse of credit note issue by the government, an eventuality which came to pass during the Crimean War. Aided by currency stabilization, protection and measures taken to promote technical education Russian industry advanced rapidly during Kankrin's administration.

As a writer on economic subjects Kankrin showed more understanding of contemporary Russia than the German-Russian economists of the Smith-Say tradition. He was critical of the abstractness and rationalism of classical economics, anticipated List's critique of free trade and some of the ideas of the historic-ethical school and treated mercantilism in a manner resembling the later work of Schmoller.

#### SOLOMON KUZNETS

*Important works:* *Über die Militär-Ökonomie im Frieden und Krieg*, 3 vols. (St. Petersburg 1820-24); *Weltreichthum, Nationalreichthum und Staatswirtschaft* (Munich 1821); *Die Ökonomie der menschlichen Gesellschaften und das Finanzwesen* (Stuttgart 1845).

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**KANT', IMMANUEL** (1724-1804), German philosopher. A professor at the University of Königsberg during his entire academic life, Kant left an influence on modern philosophy which is unexampled in its scope. His philosophy, known as criticism or critical idealism, besides producing several schools of disciples formed the point of departure for the development of the various philosophies of absolute idealism. In regard to social science and social philosophy Kant's influence was felt both through the repercussions of his general philosophy and through the applications which he himself made in his works on philosophy of history, philosophy of law, anthropology and the like.

For a proper understanding of Kant's thought one must begin not, as is ordinarily thought, with the *Critique of Pure Reason* but with the *Critique of Practical Reason*. In the didactic and methodic order of Kant's writings the former precedes the latter, but in the real, systematic order Kant maintains always the primacy of the practical reason. At the center and focus of Kant's thought there is always to be found the concept of transcendentalism and the transcendental problem of freedom. But freedom here means for him not chance or arbitrariness, not an antithesis to law; it signifies rather the highest realization of the idea of law in the universe. Man is free as an ethical subject; for although as an ethical subject he is governed by a universal system of laws, the system is not one which is imposed on him from without through the impersonal compulsion of things or through the command of an external authority but rather one that he has given to himself. The concept of freedom thus coincides for Kant with the concept of self-legislation, or autonomy. He does not maintain that man is free from the domination of the law of causality: as an empirical being, as a phenomenon in space and time, he is on the contrary bound by it; and all his acts taken as purely empirical appearances fall under this law. But over against this order of mere nature stands another order, the order of ends; the noumenal world over against the phenomenal world, the *mundus intelligibilis* over against the *mundus sensibilis*. In this noumenal order man reveals himself as free because, while here too he is subjected to law, this relationship in no way implies a dependence upon a foreign will but rather brings his own will to realization. By his own will must be understood of course not desire and sensuous inclination but the pure will of reason, the norm of practical reason. "A rational being must always regard himself as giving laws either as member or as sovereign in a kingdom of ends which is rendered possible by the freedom of the will. . . . Morality consists then in the reference of all action to the legislation which alone can render a kingdom of ends possible. This legislation must be capable of existing in every rational being, and of emanating from his will, so that the principle of this will is, therefore, never to act on any maxim which could not without contradiction be also a universal law, and accordingly always so to act that the will could at the same time regard itself as giving in its maxims universal laws." This sums up what Kant means by the fundamental

ethical law, the categorical imperative. This law implies also that man as a subject of moral self-legislation can be subjected to no other norm than one that he can regard as rational and recognize as intrinsically necessary. Man can never be considered and treated as a mere means, as a cog in the social machine; on the contrary, he is and remains, ethically considered, an unconditioned end in himself. This self-legislation includes the state of being an end for oneself: autonomy includes autotelicity. The categorical imperative may therefore be expressed more precisely and completely in the form: "So act as to treat humanity, whether in thine own person or in that of any other, in every case as an end withal, never as a means only."

If the principle of transcendental freedom is also to be maintained and validated in the field of theoretical philosophy, then indeed nothing short of a complete intellectual revolution is necessary. The nature of the problems treated by previous metaphysics must be changed from the ground up. Metaphysics started out from the concept of being; it attributed to being a definite nature, i.e. definite predicates which belong to it necessarily and inherently, and it taught further that it was the function of knowledge to apprehend these predicates completely. The truth of knowledge thus consisted in the fact that in knowledge the essence of things was correctly and adequately copied. The revolution made by Kant, which he himself compared to the work of Copernicus, consists in the fact that he does not begin with any dogmatic description of being in order to determine on this basis the concept and nature of knowledge but rather starts with an inquiry into knowledge in order that in the end he may advance to being, to firmly grounded propositions about the reality of things. In this sense the key to the problem of knowledge lies for him in the fact that knowledge must not be regulated by things, but that things as empirical objects must be regulated by the fundamental condition of the faculty of knowledge. For as objects of experience (as phenomena) they can be given to us only in the form of experience and according to its fundamental and universal laws; these laws in turn depend, however, on the form of the understanding and on its *a priori* basic functions. Thus here too the spontaneity of the pure understanding, the free lawmaking power of the theoretical faculty, becomes a condition for every judgment concerning the being of objects, a condition for objective truth. Here too we can

"know of things a priori what we ourselves put into them"; we find an order in nature, in the appearances of space and time, because these appearances in order to be known by us must have assumed the form of knowledge, i.e. must be determined in accordance with the general and necessary rules of perception and pure thought.

The idea of freedom stands at the center of Kant's philosophy of history and his social philosophy, and it is this idea which determines their entire construction. "One can," he explains in his *Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht* (1784), "regard the history of the human race in general as the fulfilment of nature's secret plan to prepare an internally and, for this purpose, also externally complete system of government, as the only condition in which it can fully develop all its designs on mankind." Thus the greatest problem for the human race and the greatest concrete task placed before it become the attainment of a universal law administering civil society; i.e. a society which is not founded on a mere relationship of might, a relationship of rulers and ruled, but which considers every one of its members as an end in himself, as a free agent who participates in the constitution and administration of the whole and who to that extent heeds the laws only because he has given them to himself. In the development of this thought Kant follows primarily the natural right doctrine of Rousseau, who is for him the "Newton of the moral world." He too bases the state and society on the idea of the social contract, but in the formulation of this contract he differs from Rousseau especially in that he lays a much greater stress upon the pure ideal significance of the idea of contract. The original contract is for him no empirico-historical fact, but it remains nevertheless or rather for this reason the guiding maxim behind all legislation and all civil and social administration. It is by no means necessary to assume it as an actual fact—indeed this is quite impossible; it is rather a mere idea of reason, which has, however, its unquestionable practical reality; namely, "to bind every law giver to make his laws in such a way as they could have sprung from the united will of an entire people, and to regard every subject, in so far as he wishes to be a citizen, on the basis of whether he has conformed to that will."

The historical significance of Kant's social and political philosophy lies not in the specific content of these propositions, which he took

from the natural right doctrines of the seventeenth and eighteenth centuries, but rather in the fact that he translated these propositions into the language and systematic relations of his critical philosophy. The effect of this translation was twofold. In the first place, it separated natural right or natural law as the basis of social and political thought from all confusion with natural law in the physical sense. What the political rationalists had called natural laws were for Kant the laws of freedom or moral laws; and these were applicable to the sense world as regulative maxims side by side with the theoretical laws of science, since both emanated, although in different ways, from the free law-making powers of the human spirit and neither represented the naked laws of being. In the second place, by setting up the content of natural right as the contribution of moral reason or the noumenal world acting in opposition to the sense world Kant, whether intentionally or not, introduced a principle of development into his political theory where the theorists of the Enlightenment had seen only the fixed and eternal principles of natural law, which were incidentally those of political individualism and parliamentary democracy. Because the principles of freedom were regulative maxims, Platonic ideals rather than fully realized facts, it soon became apparent that the immanent ideal force behind these principles was superior to any specific rational interpretation of them made at a given stage of human history. It was in this way, for example, that Fichte proceeding on a Kantian basis developed the principles of socialism by reinterpreting Kant's doctrine of the autonomy of the will and simultaneously overthrowing the individualistic version of the social contract idea.

Because of the immanence of such fertile seeds in his doctrine the influence of Kant's social philosophy has been no less profound than the theoretical developments which proceeded from his *Critique of Pure Reason*. The philosophy of German idealism, as it took form in the systems of Fichte, Schelling and Hegel, proceeded essentially from his doctrine. Hegel's doctrine that world history is a progress in the consciousness of freedom and that the essential task of all philosophy of history consists in recognizing the necessity of this progress is in a certain sense the complete expansion of the principle formulated and established by Kant in his *Ideen* of 1784. Hegel of course substituted for the Kantian opposition of the noumenal and phenomenal worlds, by means of which freedom is realized,

the objective dialectic of the historical process; and as a result he deviates fundamentally from Kant in the construction of his own philosophy of law and political theory. He rejects and even subjects to sharp criticism the notion of natural law from which Kant set out, and he not only makes law identical with the positive law of the state but makes the state the basis of ethics instead of ethics the basis of the state. Fichte, on the other hand, followed closely, as has been said, the original Kantian tendency; and he has the essential merit of having derived from it definite, concrete consequences, which have penetrated deeply into the modern doctrine of society and which moreover have had a lasting influence on the development of the socialistic theories of the nineteenth century.

Fichte was enabled to draw new consequences from the Kantian doctrine of ethics and politics principally by bringing together far more closely than Kant had done the moral world of ends and the phenomenal world of things. The moral personality of the individual, which belongs to the kingdom of ends and which is in no way to be determined by the world of things or the empirical influences exercised by the world of things, must for Fichte express itself in the phenomenal world by imposing its form, its action, upon it. This conception, when taken in connection with the Kantian categorical imperative bidding us to regard all personalities as free ends and never as means, meant that the problem of freedom and expression for one personality could not be solved without a simultaneous and organic solution of the problem of freedom and expression for all personalities. Otherwise the free expression of one personality would mean the exercise of empirical pressure and empirical determination on other personalities. Thus for Fichte individual ethics was dissolved into social ethics. Moreover another consequence of bringing closer together the moral and the sense worlds was to introduce a continuity between ethics and politics where Kant had left too large a gap. For Fichte the moral life in relation to the state was not confined to a legitimizing of political obedience as a moral necessity; it included the duty of rationalizing the state in accordance with moral principles—otherwise the moral life could not be properly carried on even in its own sphere. From this Fichte deduced the necessity for economic socialism (cf. *Der geschlossene Handelsstaat*, Tübingen 1800) as an element of the political administration necessary for the liberation of the individual.

But while enlarging the activity and power of the state Fichte, unlike Hegel and the philosophies derived from Hegel, sought to make the state itself subordinate to the invisible moral society. In this way he remained faithful to the original Kantian conception of the moral autonomy of personality, while deducing from it both a non-individualistic ethics and a program of enlarged state functions.

In their joint relationship the basic ideas of Kant and Fichte have exercised an important influence on the formation of socialistic theories in the nineteenth century. While strict Marxism attached itself to Hegel, the influence of the Kantian tradition has been manifest in the case of non-Marxian socialist thinkers and sometimes even in the case of professed Marxists as well. Among the pioneers of German social democracy Lassalle should be mentioned as having derived some of his ideas from Fichte. Later within the movement of German neo-Kantianism the close connection between Kantian ethics and socialism was strongly emphasized by Hermann Cohen and Paul Natorp. They pointed out that socialism was a necessary consequence of the Kantian categorical imperative and that the socialist movement was essentially a moral movement whose philosophic basis is best expressed in the Kantian moral philosophy.

An increasing interest in Kant is also manifest among the political and intellectual leaders of the socialist movement. Among the French socialists Jaurès particularly referred to Kant in his thesis *De primis socialismi germanici lineamentis apud Lutherum, Kant, Fichte et Hegel*. In Germany the revisionist movement headed by Eduard Bernstein may be said to reflect the Kantian influence in its denial of the historical inevitability of socialism as preached by Marx and in its consequent stress upon the moral aspect of socialism. On the other hand, a quite different interest in Kant is represented in the writings of the Austrian socialist Max Adler. Disregarding the usual affinity drawn between the Kantian moral philosophy and the socialist movement Adler seeks to combine a more or less orthodox Marxism with Kant's theoretical philosophy, or critical methodology of science.

In contrast to the influence of Kant on the socialist movement mention should be made of the neo-Kantian school of jurisprudence represented by Stammler. Taking advantage of the Kantian critical metaphysics Stammler rehabilitates in his doctrine of the just law the essential contention of the old theory of natural right but



gives to natural right a variable content, corresponding to what is just under given historical conditions rather than to a fixed natural principle for all time. In this way he avoids what he regards as the formalism and circularity of the legal positivists, who confine themselves to what the law is and never discuss its relations to the human purposes which it seeks to express. While regarding the just law as the regulator of social and economic life Stammler contrasts law and economics as form and content, the line of demarcation between which he defines once and for all. Unlike many of the philosophical neo-Kantians he is opposed to socialism and to any alteration of the present constitutive distinction between the sphere of law and that of private economic activity regulated by law.

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KARADŽIĆ, VUK STEFANOVIĆ (1787-1864), Serbian language reformer and nationalist leader. Vuk, the son of a Herzegovinian peasant, is especially important for his work in the field of linguistics and literature. He raised the popular Serbian tongue to the level of a literary language. He introduced phonetic spelling, brought the popular vocabulary into lexicographical form and improved the Serbian grammar. He collected folk songs, tales and proverbs, translated the New Testament and by overcoming the enormous resistance of unenlightened tradition brought about the conditions prerequisite to the development of the newer Serbian literature. Skerlic has called him the "chief author of Serbian nationalism in the nineteenth century," for his work was instrumental in bringing the Serbians, hitherto under the Turkish yoke and scarcely known to Europe, into proud self-consciousness. It was as a result of his efforts that Serbian folk songs were brought to the enthusiastic attention of Goethe, Jacob Grimm and Alexander von Humboldt; and it was his active preparation and cooperation that enabled Ranke to write his important work on Serbian history. The spread of Serbian nationalism was accelerated not only by this new interest on the part of western thinkers but also by the very nature of the reform Vuk introduced, which had its roots in the language and customs of the mass of the people. The idiom of the peasants and herdsmen now took on all the dignity of a literary language, and the Serbian nation became aware of its past as reflected in song and tradition. In his researches Vuk embraced the whole of Serbian nationality, unlimited by administrative or religious boundaries, and thus brought to the Serbs a new realization of their intellectual and cultural unity. Maintaining that the essence and strength of the Serbian people were centered not in the "European" Serbs of Hungary but in those in the southwest—Serbia, Bosnia, Herzegovina and

Montenegro—Vuk was largely responsible for the emphasis on the Balkan character of Serbian nationalism.

Vuk indignantly opposed the attempt to force on the Serbians the labored designation Illyrians and put forward the untenable concept that in the then existing kingdom of Croatia there were no Croats but in addition to Slovenians only Catholic Serbians. Actually, however, Vuk's reform of the Serbian language aided Gaj in his reform of the Croatian language; through the work of these two men the Greek orthodox and the Croatian parts of the Serbo-Croatian nation attained a common literary language, even though one used the Cyrillic and the other the Latin alphabet. In 1850 Vuk organized in Vienna a formal literary convention, in which distinguished intellectual leaders of Croatia took part; adopting as its basic principle the view that "one people must have one literature" this convention proclaimed the phonetically written dialect of southern Herzegovina as the common literary language of the Serbians and Croats, thus erecting a milestone on the road to Yugoslav unity.

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KARAGEORGE, PETROVIĆ (1768-1817), Serbian nationalist and statesman. One of the founders of modern Serbia, he was of peasant stock and fought in the Austrian army against Turkey. Among the chief organizers of the Serbian rising in the pashalic of Belgrade caused by the intolerable oppression of the Dahis, the chiefs of the Janizaries, in 1804 he was chosen commander in chief of the insurrectionary forces. The revolt began as a typical peasant insurrection. Even Karageorge believed that his principal task was to free the pashalic of the "bad" Turks rather than of Turkish dominion in general. Later, however, as the movement succeeded and as it became obvious that an agreement with the sultan could not be arrived at peaceably, Karageorge yielded to the influence of the Serbian intellectuals of Austria-Hungary and directed the movement toward complete independence, appealing to the Serbs of other Turkish provinces to join him. He won popular support in his own province and in 1811 was proclaimed hereditary ruler of Serbia by the

Skupština (national assembly). Although recognized by the European countries this move was effected only after a long and embittered struggle with other leaders and led to party differences which considerably weakened national resistance. During Karageorge's rule schools and courts were established and a national government was organized under a constitution which aimed at centralized control. The withdrawal of Russian support, due to the war between Napoleon and Russia, led, however, to renewed attacks by Turkey and to the signal defeat of the Serbs in 1813. Karageorge fled to Austria and then to Russia but returned in 1817 intending to foment a general revolt of all Christians in the Balkans, after a new rising under Miloš Obrenović had ended in 1815 in a compromise agreement with the Turks. Shortly after his return he was murdered, probably with the connivance of Obrenović. Nevertheless, the relative success of Karageorge's earlier insurrection gave a tremendous impetus to the movement for the liberation of the Serbs and of all the southern Slavs living under foreign dominion.

The idea of Yugoslav unity was furthered by Karageorge's descendants. His son, Prince Aleksander Karageorgević (1806-85), who reigned from 1842 to 1858, was primarily interested, however, in transforming Serbia from a Turkish province into a modern European state and therefore devoted himself to laying the foundations of government and to sponsoring an educational renaissance. The grandson of Karageorge was King Peter I (1844-1921). He encouraged parliamentary government and his reign from 1903 to 1921 marked an era of relative prosperity.

FERDO ŠIŠIĆ

*Consult:* Vukićević, M., *Karageorge*, 2 vols. (Belgrade 1907-12); Ćorović, V., *Karageorge* (Belgrade 1923); Novaković, S., *Vaskrs države srpske* (3rd ed. Belgrade 1914), tr. into German by G. Grassl as *Die Wiedergeburt des serbischen Staates (1804-1813)* (Sarajevo 1912); Temperley, H. W. V., *History of Serbia* (London 1917) p. 180-95, 226-38.

KARAMZIN, NIKOLAY MIKHAYLOVICH (1766-1826), Russian historian and man of letters. Karamzin, who matured in the second, reactionary half of Catherine II's reign, represents a generation averse to politics and inclined toward literature. Early in life he shed the liberalism borrowed from the Masonic friends of his youth, the Novikov group, and in the course of time became increasingly conservative; thus in 1811 he spoke for the nobility in opposing

Speransky's liberal reforms in a memorial on the old and new Russia (*Zapiska o drevney i novoy Rossii*) presented to Alexander I. Karamzin's significance in the history of Russian culture is manifold. As a writer he inaugurated the short period of sentimentalism which followed the pseudo-classicism of the eighteenth century. His tales, *Bednaya Liza* (tr. as *La pauvre Lise*, Paris 1808) and *Natalya, boyarskaya doch* (Nathalie, a boyar's daughter), the earliest and best novels of this school, won for him a large following among readers and writers. More important is his contribution to the reform of the literary language, in which he anticipated Pushkin. Striving after French elegance he substituted a graceful prose and a number of neologisms of his own for the heavy Germanic-Latin syntax of Lomonosov and old Slavonic idioms. His *Pisma russkogo puteshestvennika* (tr. as *Travels from Moscow* . . . , 3 vols., London 1803), describing his journey through Germany, France, Switzerland and England in 1789-90, introduced Russian readers to the literary and philosophical novelties of contemporary Europe but failed to indicate any comprehension of the significance of the French Revolution.

Karamzin's chief and most lasting work is *Istoriya gosudarstva russiy skago* (History of the Russian state), which presents a general survey of Russian history from the earliest times to 1611. It was begun in 1803, when he received from the government an annual stipend and the title of historiographer, and was left unfinished at Karamzin's death. The history, emphasizing the personalities of the rulers, acquired immediate popularity; it was written attractively, vividly portraying the heroes as models of virtue while painting the villains an uncompromising black. Its scientific value, however, is limited to the extensive notes which furnished excerpts from primary sources, of which some had hitherto been unknown and others have since been lost. Karamzin followed the established authorities for various periods, such as Schlözer and Shcherbatov, and remained faithful to the traditional interpretation of Tatishchev which regarded autocracy as the sole state building factor in Russian history. For this reason Karamzin's history served under Nicholas I as the banner for the forces of the official "Russian orientation."

PAUL MILIUKOV

**Works:** A collection, which does not include the history, correspondence and a number of other writings, was first published in 8 volumes (Moscow 1803-04); the best later edition is in 9 volumes (4th ed. St. Petersburg

1834-35). The first edition of the history appeared in 8 volumes (St. Petersburg 1818); the first complete edition is in 12 volumes (St. Petersburg 1818-29); the best later edition is the 5th with a valuable guide by P. M. Stroeve (St. Petersburg 1842-43). There exists a German translation of the history (11 vols., Riga 1820-33), and one in French by St. Thomas and Jauffret (11 vols., Paris 1819-26).

**Consult:** Pogodin, M. P., *N. M. Karamzin*, 2 vols. (Moscow 1866); Miliukov, P. N., *Glavnyia techeniya russkoy istoricheskoy misli* (Main currents of Russian historiography) (2nd ed. Moscow 1898) p. 147-258; Mirsky, D. S., *A History of Russian Literature* (London 1927) p. 79-84.

KARAVELOFF, IUBEN (1837?-79), Bulgarian revolutionist, author and folklorist. Karaveloff, whose parents were engaged in commerce in the Balkan mountains, traveled in his youth through Bulgaria, Serbia and Bosnia, thus attaining a wide knowledge of the life of the Bulgarian people, which was to serve him in his works on folklore. In 1857 he went to Russia, where he remained until 1866; this sojourn was of decisive significance for his later political and literary activity and for the genesis and formation of his ideas. In Moscow he associated with the radicals prominent in the 1860's and was considerably influenced by the socio-political critique of Herzen, Bakunin, Chernyshevsky, Dobroluhov and Pisarev, which aroused him to constructive activity for the political and social liberation of his fatherland and his people. This activity was first concentrated in journalism: Karaveloff contributed informational, propagandist reports and articles on Bulgaria to Russian journals; published ethnographical, folklore material, such as his *Pamyatniki narodnago bita Bolgar* (Memorials of Bulgarian folk customs, Moscow 1861); and wrote tales of Bulgarian life. After his return to the Balkans in 1867 he soon attained a leading position in the emigrant movement in Belgrade and Bucharest. In Belgrade he became the authoritative teacher of the Bulgarian legionaries, whom he provided with completely new aims and duties, conceiving of the revolutionary organization of the masses as the only real means of carrying on the struggle against Turkey. He was active also as a publicist among the Serbs and soon attained a leading role in the Serbian radical youth movement which cooperated with the Bulgarian legionaries.

Karaveloff's chief activity was carried on between 1869 and 1874. After the rupture between the "old" emigrants, who sought liberation through Russian intervention and demanded for the Bulgaria of the future a plutocratic constitu-

tion with a bicameral system, and the younger radical democratic and social revolutionary progressives Karaveloff became in 1871 chairman of the newly formed Central Revolutionary Committee. Supported by V. Ievski he organized a network of revolutionary organization cells throughout Bulgaria, which were to serve as the skeleton of the revolutionary army. The newspapers edited by him, *Svoboda* (Liberty) and *Nezavisimost* (Independence), also served the same end, the revolutionary awakening of the people to active warfare against foreign domination. After his retirement from political life in 1875 Karaveloff devoted himself to literary and cultural pursuits.

Karaveloff held that the liberty and independence of Bulgaria were to be attained only through revolutionary civil warfare and self-liberation. He attacked not only the Ottoman system of political and economic domination over the Balkan peoples but also its parasites, the opportunist Bulgarian patricians. Stressing the idea of a Balkan federation he advocated the principle of the solidarity of the Bulgarian interests with those of the other Balkan peoples, the Serbs and the Greeks. In his *Weltanschauung* he was a rationalist and positivist: "knowledge is power." He was thus in favor of practical positive knowledge to be dedicated to the attainment of improvements in material conditions of living, in the natural and economic sciences, in social progress and in the democratic organization of social life.

JOSEF MATL

*Works: Sochineniya*, 8 vols. (Ruschuk 1886-88).

*Consult: Semenov, N. P.,* *Lušin Karaveloff, sa vie et ses oeuvres* (Fribourg 1897); Klincharov, I. G., *Lušin Karavelov* (in Bulgarian) (Sofia 1925); Angelov, B., *Bŭlgarska literatura*, 2 vols. (Sofia 1923-24) vol. II, p. 191-213.

KAREYEV, NIKOLAY IVANOVICH (1850-1931), Russian historian and sociologist. Kareyev graduated from the University of Moscow in 1873, taught at Warsaw University from 1879 to 1884 and at the University of St. Petersburg from 1885 to 1899, when he was dismissed for advanced political views. He was able to continue teaching at the Alexander Lyceum and at the Polytechnic Institute (from 1902 to 1907) since neither of these institutions was controlled by the Ministry of Public Instruction. In the years preceding the 1905 revolution he was active in politics as member of the Constitutional Democratic (Cadet) party, to whose program of au-

tonomy for national minorities he was particularly attached, and in 1906 he was elected to the Second Duma. In 1907 he resumed teaching at the University of St. Petersburg, where he remained until he was retired on a pension by the Soviet government.

Kareyev belongs to the generation of Russian intelligentsia which was influenced by the revolutionary struggle of the populists (*narodniki*) against the government of Alexander II, and his prolific writings reflect their preoccupation with the agrarian problem and their social idealism. Kareyev's earliest studies dealt with the position of the French peasantry on the eve of the revolution, a controversial question which his researches in French archives helped to clarify. In the last twenty years of his life he returned to the subject of the French Revolution, publishing monographs on the Paris sections, on the revolutionary committees and on the historiography of the revolution. His doctoral dissertation on the basic questions of philosophy of history, which elicited a lively controversy upon its publication in 1883, was the first of his many works on philosophy of history and on sociology. Opposed to historical materialism, he emphasized the importance of individuality and individual volition in the historical process and advocated a subjective-teleological interpretation of history; thus he shared the views of the Russian subjective sociology school of Lavrov and Mikhaylovsky and had points of contact with Simmel and Dilthey.

Kareyev's writings on French and Polish history and his collaboration on French scientific publications brought him renown abroad, particularly in France. In Russia he was most widely known for his six-volume text of modern European history, of which he prepared many abridgments for secondary school and college use, and for his five "typological" courses, in which he surveyed important historical periods emphasizing the typical political institutions. Before the World War he was very popular with the Russian youth, with whom he kept in close touch as professor, as leader of many private study circles, as chairman of the St. Petersburg organization for promoting self-education—the Russian prototype of the English university extension—and as author of general essays intended as aids in forming a *Weltanschauung* and in advancing intellectual and moral development.

PAUL MILIUKOV

*Important works: Krestyane i krestyansky vopros* 190

*Frantsii v posledney chetverti XVIII veka* (Moscow 1879), tr. by C. W. Woynarowska as *Les paysans et la question paysanne dans le dernier quart du XVIII<sup>e</sup> siècle* (Paris 1899); *Les sections de Paris pendant la Révolution française* (St. Petersburg 1911), published simultaneously in Russian: *Istoriya zapadnoy Evropy v novoye vremya* (History of western Europe in modern times), 6 vols. (St. Petersburg 1892-1910), the first five volumes of which passed through several editions; *Osnovnye voprosy filosofii istorii* (Basic questions of the philosophy of history), 2 vols. (Moscow 1883; 3rd ed. in 1 vol. St. Petersburg 1897); *Sushchnost istoricheskogo protsessa i rol lichnosti v istorii* (The meaning of history and the role of personality in the historical process) (St. Petersburg 1890, 2nd ed. 1914); *Stariye i novyye etudy ob ekonomicheskoy materializme* (Old and new essays on economic materialism) (St. Petersburg 1896); *Vvedeniye v izucheniye sotsiologii* (Introduction to the study of sociology) (St. Petersburg 1897, 2nd ed. 1907); *Pisma k uchashcheymsya molodezhi o samoobrazovanii* (Letters to young students on self-education) (St. Petersburg 1894, 9th ed. 1907).

KARISHEV, NIKOLAY ALEXANDROVICH (1855-1905), Russian economist. In the years 1885 to 1899 Karishev, a graduate of the University of Moscow, taught economics and statistics at various institutions of higher learning in Moscow, St. Petersburg and Dorpat. During some of this time he lived on his estate in the province of Ekaterinoslav, where he was active in zemstvo work, particularly in developing and improving rural education. From 1889 to 1891 he also directed the economic division of the Moscow zemstvo, where he initiated systematic assistance to peasant agriculture.

Karishev was a prolific writer on economic and social subjects, particularly those related to agriculture and agrarian organization. He contributed numerous articles to newspapers and magazines and from 1893 to 1898 published monthly economic-statistical surveys in the populist magazine *Russkoye bogatstvo* (Russian fortune). In *Trud, ego rol i usloviya ego prilozheniya v proizvodstve* (Labor, its role and the conditions of its application to production, St. Petersburg 1897) he provided the first instalment of a system of inductive-descriptive economics, which he strongly championed in opposition to abstract theory. His most important work, *Krestyanskiya vnenadelniya arendy* (Peasant tenancies, Moscow 1892), is a thorough analysis based on a large collection of zemstvo statistics. The renting by peasants of lands owned by the nobility was an important feature of peasant economy in post-reform Russia; it resulted from the inadequacy of allotments granted the peasants at the time of their emancipation and reflected a hunger for land which was becoming more acute with

the natural increase of the peasantry. Karishev described the amount and geographic distribution of peasant tenancies, the variation in the form and terms of the leases and the influence of the system on peasant agriculture, the intensification of which it retarded. He found that the demand for rentable land exceeded its supply; that land was rented mostly under one-year leases and often through intermediaries; that leases calling for rent in kind (share of the crop or labor) were increasing; and that rent per unit was inversely correlated with the size of the peasant's own holdings. In a posthumous collection of articles, *Iz literaturi voprosa o krupnom i melkom selskom khozyaystve* (Problem of large and small scale agriculture; ed. by A. Fortunatov, Moscow 1905), he advocated the development of cooperative agriculture on the basis of the Russian land commune (*obshchina*) in preference to capitalistic large scale farming on the one hand and small scale peasant proprietorship on the other.

K. KOCHAROVSKY

*Consult:* Kaufman, A., in Russia, Ministerstvo Narodnago Prosveshcheniya, *Zhurnal* (1905) no. 5, p. 1-16.

KARL FRIEDRICH, MARGRAVE AND GRAND DUKE OF BADEN (1728-1811). Karl Friedrich was distinguished for his attempt to introduce physiocratic principles into the administration of three villages in his province. Practically he was concerned with lightening the burden of feudal regulations and with restricting the excessive subdivision of peasant property. As opposed to large feudal estates and farm tenancy he encouraged the ownership of land by the peasant cultivator. At the same time he claimed as a sovereign the right of coproprietorship and the reversion of a share of the net product in the form of a land tax. His views as well as his reforms, which were unsuccessful, were tinged with a certain cameralistic-fiscal patriarchalism characteristic of German physiocracy and particularly of Schlottwein, his learned adviser and assistant. The margrave received advice also from French sources; his correspondence with Mirabeau and DuPont de Nemours (ed. by Karl Knies, 2 vols., Heidelberg 1892) forms an important contribution to the physiocratic literature. The *Abrégé des principes de l'économie politique* (printed originally in *Éphémérides du citoyen*, vol. i; published separately, Karlsruhe 1772; reprinted in E. Daire's *Physiocrates*, Paris 1846, pt. i, p. 367-85), in which the margrave summarized his views, is nearest to pure physio-

cratic doctrine and reflects at the same time the rationalist conceptions of the age of Enlightenment.

LOUISE SOMMER

*Consult:* Emminghaus, A., "Karl Friedrichs von Baden physiokratische Verbindungen, Bestrebungen und Versuche" in *Jahrbücher für Nationalökonomie und Statistik*, vol. xix (1872) 1-63; Moericke, Otto, *Die Agrarpolitik des Markgrafen Karl Friedrich von Baden*, Volkswirtschaftliche Abhandlungen der badischen Hochschulen, vol. viii, no. 2 (Karlsruhe 1905); Drais, K. W. L. von, *Geschichte der Regierung und Bildung von Baden unter Karl Friedrich*, 2 vols. (Karlsruhe 1816-19).

KÁRMÁN, MÓR (1843-1915), Hungarian educator. Kármán played a decisive part in the modernization of the educational system of Hungary. While he owed much to the ideas of Herbart he possessed considerable originality. After two years in Leipsic, where he worked with Ziller, Kármán returned to Hungary and in 1872 joined the faculty of the University of Budapest as *Privatdozent* in pedagogy, psychology and ethics; later he became professor. He influenced the entire Hungarian educational system as teacher, writer and public official and trained a new generation of teachers. The earliest result of Kármán's activity was the reform of the elementary school curriculum. His most important sphere of activity, however, was the high school. Here he gave expression to the strong national spirit in education which developed when Hungary regained its autonomy. The entrance of the middle classes into the high schools and the addition of the natural sciences to the curricula led Kármán to the promotion of three types of high schools emphasizing respectively the historical sciences, the natural sciences and preparation for scholarship. At the same time Kármán considered also the possibility of a unified school in which national literature, history and geography as well as various elective languages would be taught all pupils. In methodology he was an adherent of Ziller's theory of cultural stages and formed the curricula accordingly. Kármán assigned the methodological and pedagogical training of high school teachers to the philosophical faculty, to which high schools were attached as practise schools. The curriculum and disciplinary system which he worked out for the secondary schools dominated Hungarian education until 1927.

HELMUT WIESE

*Important works:* *Középiskolai tantervek* (Budapest 1888), tr. into German as *Beispiel eines rationellen*

*Lehrplanes für Gymnasien*, Sammlung pädagogischer Abhandlungen, vol. iii (Halle 1890); "Ungarn" in *Handbuch der Erziehungs- und Unterrichtslehre für höhere Schulen*, ed. by A. Baumeister, vol. i, pt. ii (Munich 1897) p. 315-64; *Ungarisches Bildungswesen: geschichtlicher Überblick bis zum Jahre 1848* (Budapest 1915).

*Consult:* *Emlékkönyv Kármán Mór* (Budapest 1897); *Magyar paedagogia* (1916) no. 10, an issue devoted to Kármán and containing a bibliography of his works; Kont, I., "L'oeuvre d'un pédagogue hongrois" in *Revue internationale de l'enseignement*, vol. lxii (1911) 325-27.

KARO, JOSEPH BEN EPHRAIM (1488-1575), Jewish codifier and commentator. Karo was born in the Iberian Peninsula and as a child witnessed the expulsion of the Jews from Spain in 1492 and from Portugal in 1496. He was brought by his family to Turkey and after 1535 lived at Safed in Palestine, the intellectual center of the refugee Spanish Jews. Together with his teacher Jacob Berab he attempted in 1538 to renew the old Talmudic ordination, which would have led eventually to the convocation of a great Sanhedrin empowered to issue new laws for the Jewish people, but the movement failed because of the opposition of the Jerusalem rabbis.

Two extensive commentaries on the great mediaeval codes of Jacob ben Asher and Maimonides constitute Karo's chief work. In his *Beth Yosef* (4 vols., Venice and Sabbionetta 1550-59) supplemented by the *Belek ha-bayith* (Salonika 1605) Karo subjected Jacob ben Asher's code to close scrutiny and supported it by extensive quotations from the original sources of Jewish law down to his own contemporaries, frequently, however, reaching an independent conclusion. In his *Kesef mishnah* (4 vols., Venice 1574-75; tr. into French by J. de Pavly and M. A. Neviasky as *Rituel de judaïsme*, 12 vols., Orléans 1898-1917) he rendered the same service to Maimonides, defending him especially against the attacks of ibn Daud.

But it is to a brief synopsis written primarily for pedagogic purposes rather than to these extensive works that Karo owes his great prominence in the history of Jewish codification. In his *Shulchan aruch* (Venice 1565) he adopted Maimonides' method in stating the law briefly without quotations from previous authorities. Unlike Maimonides, however, Karo eliminated all Talmudic laws which were no longer applicable in his own time. In this respect as well as in the whole arrangement of the four parts he followed the lead of Jacob ben Asher. The book at first provoked vigorous opposition, particu-

larly on the part of the German-Polish rabbis, who saw in its decisions a one-sided glorification of the Spanish-Jewish ritual and customs. It also found a strong competitor in a similar compilation by Mordecai Jafe. Nevertheless, it soon became and still remains the authoritative code of laws for orthodox Jewry. This achievement was partly due to the work of an opponent, Moses Isserles, who through his criticisms helped to spread rather than to destroy its authority. The Polish rabbis of the seventeenth century further enhanced its authority through their own extensive commentaries. On the other hand, the book has always been severely denounced by anti-semitic writers who, lifting certain statements out of their context, managed to give them an unfavorable connotation. Liberal Jews in modern times have likewise frequently attacked it as the embodiment of Jewish "legalism."

SALO BARON

*Consult:* Cassel, D., "Josef Karo und das Muggid Mescharim" in *Lehranstalt für die Wissenschaft des Judenthums*, Berlin, *Bericht*, no. 6 (Berlin 1888) p. 3-10; Friedberg, B., *Rabbeinu Yosef Karo*, in Hebrew (*Drohohez* 1895); Tschernowitz, C., *Die Entstehung des Schulchan-Aruch* (Berne 1915).

KASIM AMIN (c. 1865-1908), Egyptian social reformer. Kasim Bey Amin studied law in France and he was thereafter employed in the government service for twenty-three years, first with the Mixed Tribunal and finally as judge of the Native Court of Appeal.

He was one of the pioneer champions of women's rights in the Islamic world and the author of *Tahrir al-mar'ah* (Cairo 1899; tr. into German by O. Rescher as *Über die Frauenemanzipation*, Stuttgart 1928) and *Al-Mar'at al-jadidah* (A discussion on the rights of women, Cairo 1901; Russian translation by I. U. Krachkovsky, St. Petersburg 1912). The subject status of women is a tenet of the Islamic faith and these literary labors for the emancipation of eastern womanhood would have had little effect against fanatical conservatism but for Kasim Amin's presentation of the reform. He not only protested against regarding emancipation as antireligious but presented it rather as a religious reformation and a revival of the equal and equitable status assigned to women by primitive Islamic society. His argument that the harem and purdah are not in their origin Islamic but Iranian and are due to the corruption of Turkish and Arabic tribal liberty and sexual equality by Byzantine and Persian despotisms and disenfranchisements was sufficiently convincing to

obscure the more fundamental religious fact of the attitude of Mohammed toward woman as expressed in the Koran.

His second and more sound approach was that emancipation is not only in the interests of the sex but in the interest of society. It is indeed disputable whether women gain by sacrificing the sufficient if subordinate economic provision for all sorts and conditions of womankind secured them in the Islamic community in return for the more prominent but far more precarious prospects of economic competition with men. Kasim Amin, however, in insisting that by subjecting women Islamic society lost its vitality gave the feminist cause a more convincing case than it had hitherto had. He urged such specific reforms as improved education for girls, a gradual transition from their existing status to one of economic independence, the abolition of polygamy and changes in the divorce law. Kasim Amin's work aroused considerable interest in most of the Islamic countries; but the effect of such academic attacks as his can easily be overestimated, and Egypt, the field of his labors, is now one of the less fertile in feminist progress.

GEORGE YOUNG

*Consult:* Rescher, O., Introduction to his German ed. of *Tahrir al-mar'ah* (Stuttgart 1928).

KASKEL, WALTER (1882-1928), German jurist. Early in his career Kaskel entered the national insurance office, where he aided in the solution of the many legal problems arising from the recently codified social insurance law. Later he became municipal counselor for the city of Schöneberg (now part of Berlin). In 1913 he began to teach at the University of Berlin, where he became professor in 1920; he taught with equal success also at the Berlin Handelshochschule, the Hochschule für Politik and the Verwaltungsakademie for the education of public officials.

Kaskel may be regarded as the founder of the science of modern German labor law. *Das neue Arbeitsrecht* (Berlin 1920, 2nd ed. 1920) and the textbook *Arbeitsrecht* (Berlin 1925; 4th ed. by H. Dersch, 1932) furnished the first legal elaboration of this new field of law, which has come to be of basic significance for the whole of German legal development. In his legal-dogmatic and systematic works Kaskel expounded with unparalleled clarity all the new legal concepts which underlie the modern tendency toward socialization of the law. His system of German labor law is now generally accepted. In addition

Kaskel's numerous essays and longer works have on many occasions provided the definitive expositions of various special problems of labor law.

Kaskel's writings on labor law were preceded by studies in social insurance law; the *Grundriss des sozialen Versicherungsrechts* (in collaboration with F. Sitzler, Berlin 1912) achieved an importance in this field almost equal to that later attained by his labor law writings. Kaskel was also the founder and codirector of two periodicals which have become of fundamental importance, the *Neue Zeitschrift für Arbeitsrecht* (1921) and the *Monatsschrift für Arbeiter- und Angestellten-Versicherung* (1913).

German legal science of the 1920's possessed scarcely any systematizer who could be compared with Kaskel. In his philosophy of law he was a positivist, but the charge of specialization and one-sidedness which is frequently made against him is unfounded, for he always recognized the interdependence of all fields of law. He realized especially the necessity of combining theory with practise, and on this account he exercised during the third decade of the present century an influence on the evolution of legislation and the administration of justice which scarcely any other university professor could match.

HANS PETERS

*Consult: Juristische Wochenschrift*, vol. lvii, pt. iii (1928) 2889-90; Peters, H., in *Monatsschrift für Arbeiter- und Angestellten-Versicherung*, vol. xvi (1928) 578-83.

KA'TKOV, MIKHAIL NIKIFOROVICH (1818-87), Russian journalist. Katkov was a professor of philosophy at the University of Moscow from 1845 to 1850 and in 1851 leased from the university its daily newspaper, *Moskovskiy vedomosti* (Moscow Gazette). He began to take his journalism seriously in 1856, when he established a monthly, *Russky vestnik* (Russian messenger). In 1863 he returned to the Moscow Gazette, with which he was associated in the last twenty-four years of his life as owner and editor. In this capacity he made a reputation as an independent journalist who was allowed unusual latitude in his criticism of the government and whose opinion carried weight in high circles. In fact, however, he had no genuine insight into political problems and was merely trimming his sails to impending changes in government policy. His apparent independence was the result of protection accorded to him by Alexander II and

Alexander III, who regarded Katkov as a conservative guide of public opinion.

Although in his youth he belonged to an advanced group of intellectuals led by Belinsky, as editor of the Moscow Gazette Katkov attacked most persistently and venomously the radical intelligentsia and the national minorities. He violently denounced the Polish insurrectionists of 1863 and thereafter detected "Polish intrigue" or radical inspiration in whatever incurred his displeasure. The virulence and occasional brilliance of his editorials scarcely compensated, however, for the instability of his opinions. Although for a number of years he advocated close collaboration with Germany he died a Franco-ophile. Originally a rabid free trader, he later became an extreme protectionist. During the period of liberal reforms under Alexander II, Katkov professed admiration for the aristocratic institutions of old England and for this reason favored the establishment of local self-government (zemstvo) and trial by jury; but he attacked them most bitterly and called for an increase in gentry representation on zemstvo organs when after 1870 and especially after the accession of Alexander III government policy turned reactionary. In this period he advocated also Count Dmitry Tolstoy's educational reform, which for ulterior purposes stressed the study of Greek, Latin and mathematics in secondary schools.

PAUL MILIUKOV

*Important works: 1863 god. Sobranie statey po polskomu voprosu* (1863. Collection of articles on the Polish question), 2 vols. (Moscow 1887); *Sobranie predoverykh statey Moskovskikh vedomostey, 1863 1887 godov* (Collection of editorials of the Moscow Gazette, 1863-87), 25 vols. (Moscow 1897-98).

*Consult: Sementkovsky, R., M. N. Katkov* (St. Petersburg 1891); Liwoff, G., *Michel Katkoff et son époque* (Paris 1897).

KAUFMAN, ALEXANDR ARKADIEVICH (1864-1921), Russian statistician and student of agrarian problems. Kaufman, a converted Jew, was graduated from the University of St. Petersburg in 1885 and from 1887 to 1905 was in the service of the Ministry of Agriculture. Until 1893 he took a prominent part in a study of Siberian peasantry organized by the ministry, devoting particular attention to the immigrants from European Russia who settled in the provinces of Tobolsk and Tomsk. In the course of this study, whose methods followed those previously developed by zemstvo statisticians, Kaufman clearly grasped the characteristic features in the development of peasant land tenure



in Siberia. He found that despite the absence of serfdom and the relative freedom from administrative pressure the original individual holding of land by right of occupation had been changing, with the growing shortage of land, in the direction of increasingly communal and equalitarian forms of tenure; the unhampered evolution of landholding in Siberia appeared thus to reproduce the development of the land commune in Russia proper. This evolutionary scheme, constituting an important original contribution, Kaufman presented in a manner characteristic of his methods first in an article (in *Vestnik Evrope*, 1893, no. 6), then in a small book (*Krestyanskaya obshchina v Sibiri*, The peasant commune in Siberia, St. Petersburg 1898) and, finally, in a large tome (*Russkaya obshchina v protsesse eyo zarozhdeniya i rosta*, The Russian commune in the process of its birth and growth, Moscow 1908). After 1893 he concentrated upon problems of governmental land policy in connection with new settlements in Siberia and in other Russian colonization areas and prepared a number of official reports and memoranda. He generalized some of his conclusions in *Pereselenie i kolonizatsiya* (Migration and colonization, Moscow 1905), in which he held that migration to new areas merely mitigates the acuteness of the land problem; as a radical solution he advised the intensification of agriculture, which he believed to be compatible with the maintenance of communal tenure. In 1905 and 1906 he assisted in drafting a project for the compulsory alienation of land from the nobility and its distribution among the peasants; upon the failure of this plan he was active as an agrarian expert in the councils of the Constitutional Democratic (Kadet) party. After 1908 he taught statistics in St. Petersburg. Although then past middle age and enfeebled by a chronic disease he succeeded in becoming a recognized master in a field relatively new to him—theory and methods of statistics. His treatise on statistics (Moscow 1912, 4th ed. 1922; German version as *Theorie und Methoden der Statistik*, Tübingen 1913), still the best general text in Russian, synthesizes the empirical advances of zemstvo statistics and the logical mathematical contributions of European theorists. His history of Russian statistics published posthumously (*Statisticheskaya nauka v Rossii*, Moscow 1922) furnishes the only available survey of developments in theory and methodology from 1806 to 1917.

K. KOCHAROVSKY

**KAUTILYA**, Hindu political theorist. Kautilya is identified according to ancient Indian tradition, which has been questioned by many scholars, with Chanakya, the Brahman minister of the Maurya emperor Chandragupta, who reigned from about 321 to 296 B.C. A number of European scholars ascribe the writings of Kautilya to the Gupta period (c. 320–480 A.D.). He is the reputed author of a work, long lost but recovered in 1909, entitled *Arthashastra*, which deals with the art of government, including civil law and the science of warfare. *Arthashastra* signifies the art of government, and quotations and references in the work of Kautilya and others point to a long antecedent line of individual authors and schools dealing with this subject. Kautilya's task was to summarize and put in order the chaotic ideas of these authors. His work, however, is much more than a mere synthesis; it is rather a reconstruction of the science of government. Whereas some of the older teachers in accordance with the avowed aim of *Arthashastra* to promote the security and prosperity of the state refused to include the holy *Vedas* among the four traditional sciences, Kautilya gives the *Vedas* along with philosophy, economics and politics their due place in the social economy. Nevertheless, he considers politics the determinant of all the rest, because punishment comes within its sphere. His theory of kingship, which in the interests of monarchical power derives the authority of the king from his divine nature and from a kind of social contract, was by no means fundamental and was subsequently superseded by the theory of the king's divinity by virtue of his office.

But Kautilya's theories of the state were merely incidental. He was primarily interested in the concrete problems of government, and the essence of his thought like that of his predecessors relates to statecraft in the two broad divisions of the acquisition and preservation of dominion. His guiding principle is the interest of the monarch. Education and self-discipline of the king, he urged, are the first requisites of successful government. This precept is fortified by a number of examples from traditional history, a fact which illustrates the author's application of the historical method. Expediency forms the keynote of Kautilya's rules concerning foreign relations, and in his nice balancing of policy with the circumstances of states he makes a fine art of politics. In sacrificing morality and religion to the interests of the state Kautilya, who has been called the Indian Machiavelli,

followed the example of earlier authors. He advocated the free resort to assassination for the suppression of ill disposed and wicked subjects. His rules for replenishing the treasury in emergencies include various ingenious methods for the political exploitation of popular superstitions. In general, however, he reserved his immoral statecraft for extreme cases, while elsewhere, as in his rules for the acquisition of dominion, he favored kind treatment of subjects as an important means of insuring royal rule.

Kautilya's influence upon later Hindu political theory was far reaching. He founded a tradition of statecraft which became a synonym for unscrupulous cunning and which although condemned by some was adopted by many later thinkers. His treatment of the older categories and concepts of *Arthashastra* gave them the stamp of finality in later Indian literature. Finally, his virtual reconstruction of *Arthashastra* probably helped the wholesale incorporation of its material into the law books (*Dharma Shastre*) and the *Mahabharata* (great epic).

U. N. GHOSHAL

*Works:* The *Arthashastra* was first published by R. Shamasastry (Mysore 1909, rev. ed. 1924); improved editions are by T. Ganapati Sastri in Trivandrum Sanskrit series, nos. 79, 80, 82 (Trivandrum 1924-25), and by Julius Jolly and Richard Schmidt in the Punjab Sanskrit series, no. 4, vols. i-ii (Lahore 1923-24). An English translation was prepared by R. Shamasastry with an introduction by J. F. Fleet (3rd ed. Mysore 1929).

*Consult:* Banerjee, N. C., *Kautilya*, vol. i- (Calcutta 1927- ); Stein, Otto, *Magasthenes und Kautilya*, Akademie der Wissenschaften, Philosophisch-historische Klasse, Sitzungsberichte, vol. xcxi, pt. v (Vienna 1921); Ghoshal, U. N., *A History of Hindu Political Theories* (2nd ed. London 1927) ch. iii; Nāg, Kālidās, *Les théories diplomatiques de l'Inde ancienne et l'Arthashastra* (Paris 1923) chs. iii-v, tr. by V. R. Ramchandra Dikshitar in *Journal of Indian History*, vol. v (1926) 36-50, 235-66, 331-58, and vol. vi (1927-28) 15-35; Kane, P. V., *History of Dharmashastra*, vol. i- (Poona 1930- ) p. 85-104; Winternitz, M., *Geschichte der indischen Literatur*, 3 vols. (Leipzig 1905-20) vol. iii, p. 509-29.

**KAUTZ, GYULA** (1829-1909), Hungarian economist. Kautz studied in Pest, Berlin, Heidelberg and Leipzig and taught first in Pozsony and later in Nagy-Várád and at the superior technical school in Pest. From 1863 to 1868 he was professor of public and administrative law and from 1868 to 1892 of economics and finance at the University of Budapest; after 1865 he was a member of parliament and from 1892 to 1900 governor of the Austro-Hungarian Bank. In

economics he was influenced primarily by Roscher, but he also devoted much attention to the doctrines of Hildebrand, L. von Stein and F. B. W. von Hermann. His interest centered mainly in the history of economic doctrines, in which he was undoubtedly the leading figure of his epoch. This fact was recognized not only by Karl Kries but also to a greater or less extent by Alfred Marshall, Ingram, Schumpeter and most of the new historians of economic theory. His works are characteristically comprehensive in scope; they display broad knowledge of the literature, great accuracy and amazing industry. Kautz endeavors always to explain economic phenomena and economic doctrines in relation to the general political and social development of their periods. Because of the wide range of his researches in the history of economic thought he was in many respects a pathfinder. He contributed much to the correct understanding of Cantillon and was also the first to point out the significance of the doctrines of Gossen. Essentially a follower of the older historical school, Kautz retained its eclectic tendency: with a basic emphasis on the spatial and temporal diversity of economic phenomena and special preference for socio-ethical considerations he still attempted to introduce in his discussions fragments of classical doctrine. He was stronger in comprehensive, synthetic research than in analysis and creativeness. In the main his method was narrative rather than critical; his style somewhat turgid and fatiguing. In the field of applied economics he was particularly interested in problems of currency and credit; in his practical work he emphasized the interests of an independent but liberal Hungary. Kautz was the author of the first Hungarian textbook in economics.

TIBOR SURÁNYI-UNGER

*Important works:* *Theorie und Geschichte der National-Ökonomik*, 2 vols. (Vienna 1858-60); *Politika vagy orszádgazdaságtan* (Politics or political science) (Pest 1862; 3rd ed. 1878); *A nemzetgazdaság- és pénzügytan* (Economics and finance), 3 vols. (Pest 1863; vol. i 5th ed., vols. ii-iii 4th ed. Budapest 1880-90); *Nemzetgazdaságunk és a vámpolitika* (Our national economy and the customs policy) (Pest 1866); *A nemzetgazdasági eszmék fejlődési története és befolyása a közviszonyokra Magyarországon* (Pest 1868, new ed. 1911), abridged translation by Sigmund Schiller as *Entwicklungs-Geschichte der volkswirtschaftlichen Ideen in Ungarn und deren Einfluss auf das Gemeinwesen* (Budapest 1876); *A társadalmi intézmények a nemzetgazdaságban* (Social institutions in the national economy) (Pest 1871, new ed. 1887).

*Consult:* Földes, Béla, "Kautz Gyula emlékezete" (Commemoration speech on Julius Kautz) in *Buda-pesti szemle*, vol. vi (1917) 321-72.

**KAVELIN, KONSTANTIN DMITRIEVICH** (1818-85), Russian political philosopher and publicist. Kavelin received a doctorate at Moscow in 1844 for his dissertation on Russian law courts in the seventeenth and eighteenth centuries. He taught legal history at the University of Moscow from 1844 to 1848 and civil law at the University of St. Petersburg from 1857 to 1861 and at the Military Law Academy from 1878 until his death. In the years intervening between these professorships he was in the government service. His work as a scholar was not of lasting value. In accordance with his general view that social development involves the transition from a clan society with the individual personality completely submerged to a political society providing for the complete emancipation of the individual personality he supported Ewers' theory of clan organization as characteristic of the early period of Russian history. Kavelin's work on psychology and ethics, with which he was occupied after the political tide had turned reactionary in the late 1860's, was intended merely to provide a broad philosophical basis for the idealism of Russian youth and a refutation of positivism and materialism.

Kavelin is most important as a political philosopher and publicist. In the decade following his graduation he was affiliated with the westernists as the friend of Belinsky, Granovsky and Herzen but later showed himself a true conservative, a *narodnik* (populist) with a monarchist bias. He advocated the emancipation of peasants with land in order to create a conservative property owning class of farmers; for a similar reason he championed a moderate form of village community. At the same time he was skeptical of constitutional reform because it would transfer the dominant role in the state to the nobility and bourgeoisie and so disturb the political balance. Although in 1877 and again in 1881 he pleaded for the emancipation of the judiciary from political control, for greater autonomy in local government and for the introduction of members elected by the *zemstvo* organs into the State Council (the "Loris-Melikov constitution") he remained a consistent exponent of the idea of "social monarchy" or "autocratic republic," i.e. "a free czar independent of both the nobility and the plutocracy."

SOLOMON KUZNETS

*Works:* A nearly complete collection of Kavelin's works has been edited by D. A. Korsakov, 4 vols. (St. Petersburg 1897-1900), with biographical notices and appreciations by D. A. Korsakov, V. D. Spasovich

and A. F. Koni. His essay on communal tenure is translated by I. Tarassoff as *Der bäuerliche Gemeindebesitz in Russland* (Leipzig 1877) and his correspondence with Herzen by B. Minzes as *Sozial-politischer Briefwechsel* (Stuttgart 1894).

**KAY-SHUTTLEWORTH, SIR JAMES** (1804-77), English educational reformer. Kay was born in Rochdale and graduated in medicine from Edinburgh. In 1842 he married Janet Shuttleworth and assumed her name. He was a Benthamite in method, a Protestant by conviction, an Englishman in his instinct for administrative compromise, an anti-Owenite in his dislike of the French revolutionary ideal of centralized educational control by the secular state. A physician in Manchester from 1828 to 1835 and a distinguished physiological and pathological researcher, he became well known by his work among the poor during the 1832 cholera epidemic and by his writings on unsanitary living conditions among factory operatives. His careful studies inspired the establishment of the Manchester Statistical Society, which investigated the state of education in northern towns. He was for a while secretary of the Manchester Board of Health. An advocate of free trade and social reform, he saw education as the key to reform and urged the establishment of schools for poor children, libraries, mechanics' institutes, provident associations and adult classes in science, economics and domestic economy. He was appointed assistant poor law commissioner and was stationed in East Anglia from 1835 to 1838, when he was sent to London. In 1839 he was appointed first secretary to the Committee of Council on Education. Between 1834 and 1846 he designed a system of adjusting denominational schools to the central authority by means of inspection and grants-in-aid, a device which was copied for India by the East India Company in 1854 and confirmed by the British government in 1864. Partly guided by foreign experience, he introduced pedagogical training and the pupil-teacher system and tried numerous educational experiments. He devised a concordat between government and the churches on educational affairs which, although attacked by many Churchmen and Nonconformists, proved a stable foundation for the modern English elementary school system established in the acts of 1870 and 1902. After resigning in 1849 he continued to be active in public work; his chief energies went to the establishment of evening classes in east Lancashire factory towns, the development of a public relief system during

the cotton famine of 1862 and the advancement of higher education.

MICHAEL E. SADLER

*Important works:* *The School in Its Relations to the State, the Church and the Congregation* (London 1847); *Four Periods of Public Education, 1832-39-40-62* (London 1862); *Reports on the Training of Pauper Children* (London 1839); *The Moral and Physical Condition of the Working Classes Employed in the Cotton Manufacture in Manchester* (London 1832, 2nd ed. 1832).

*Consult:* Smith, Frank, *Life and Work of Sir James Kay-Shuttleworth* (London 1923), and *A History of English Elementary Education* (London 1931).

KEARNEY, DENIS (1847-1907), American politician. Kearney was born in Ireland and came to California in 1868. As a drayman in San Francisco he was for "law and order" and affected contempt for the laboring man. After the great railway strike of 1877 he became America's most proficient leader of unemployed workers, exploiting the popular slogan "The Chinese must go!" to keep San Francisco in an uproar and in constant expectation of mob violence. His vituperative speeches were directed also against selfish corporations and corporate control of government. As a result of repeated arrests he acquired the crown of a labor martyr. His success in bringing to a head the issue of Chinese exclusion he owed to the support not only of the white California worker but largely to the small employer and merchant who also felt the pinch of Chinese competition. His Working Men's party shaped and carried to adoption a state constitution favorable to his views and was a major factor in city and state politics from 1877 to 1880, but his attempt to become more than a local figure had failed utterly when he retired in 1884.

The Kearney movement, innocent of any broad social philosophy, is significant chiefly as a dramatic forerunner of the job and wage-conscious trade unionism developed by Gompers and Strasser a few years later. Incidentally it contributed to creating a race issue which still makes for disunion among California workers, although the Chinese question has become much less important. Kearney's advocacy of independent labor politics had little influence.

SELIG PERLMAN

*Consult:* Eaves, Lucille, *A History of California Labor Legislation*, University of California, Publications in Economics, vol. ii (Berkeley 1912); Commons, John R., and others, *History of Labour in the United States*, 2 vols. (New York 1918); George, Henry, "The Kearney Agitation in California" in *Popular Science Monthly*, vol. xvii (1880) 433-53.

KEITH, MINOR COOPER (1848-1929), American capitalist. Keith was the most important personal force in the economic penetration of Central America by the United States. In 1871 his brother, Henry M. Keith, secured a contract from the Costa Rican government to construct a railroad from Puerto Limón to San José. When the government funds for the completion of the project were soon exhausted, Minor Keith undertook his first piece of foreign public financing, not only raising the capital for the railroad but floating a loan to consolidate the Costa Rican external debt. To supply traffic for the railroad he introduced banana plantations along its route and popularized the consumption of bananas in the United States, where they had until then been a rare luxury; he thus initiated an industry which spread all through Central America. In 1899 Keith organized the United Fruit Company, a combination of his own interests with the interests of the Boston Fruit Company and other companies in Cuba, Jamaica and Santo Domingo. The combination, which owned plantations, railroads and ships, integrated and augmented the formerly small and scattered American interests in the Caribbean. Serious charges of monopoly were made against Keith in connection with the organization and operation of the banana industry, the largest single activity of the United Fruit Company. The company with its increasingly varied interests was the spearhead of economic and political penetration of Central America by United States capital. In 1912 Keith organized the International Railways of Central America, which combined his railroad interests in Guatemala and Salvador. His project for a through Pan-American railway route to the isthmus, linking all the Central American lines with Mexico and the United States, was not quite realized before his death. Keith's imperialist methods led to his personal flotation of a loan to the Republic of Salvador in 1922, when he signed a contract with the government by which he and the International Railways of Central America secured \$19,750,000 for the republic on condition that 70 per cent of the customs of Salvador should be administered by an American collector general nominated by the bankers with the concurrence of the United States secretary of state, any disputes arising under the loan contract to be referred to the chief justice of the Supreme Court of the United States. For his almost single handed enterprise in exploiting and developing Central America Keith has been called the American Cecil

Rhodes. The empire he created expanded. In 1931 the United Fruit Company with fixed assets of \$170,000,000 cultivated over 470,000 acres in Central America, Colombia, Jamaica and Cuba and owned about 2,830,000 unimproved acres; it owned or operated 1773 miles of railroads, 568 miles of tramways and a fleet of 105 ships.

MARGARET ALEXANDER MARSH

*Consult:* Adams, Frederick Upham, *The Conquest of the Tropics* (New York 1914); Crowther, Samuel, *The Romance and Rise of the American Tropics* (New York 1929); Bitter, Wilhelm, *Die wirtschaftliche Eroberung Mittelamerikas durch den Bananen-Trust* (Brunswick 1921); Dunn, Robert W., *American Foreign Investments* (New York 1926).

KELETI, KÁROLY (1833-92), Hungarian statistician. Keleti was the first director of the department of statistics which was organized in the Hungarian Ministry of Finance in 1867. In 1871, when largely because of his efforts the ministerial department was expanded into an independent central bureau of statistics, he was appointed its first director and remained its leading spirit for over twenty years. For a time he was editor of *Eötvös' Politikai hetilap* and of the agricultural and statistical publication of the Hungarian Academy of Science, of which he became a member in 1868.

Keleti is recognized as the founder of Hungarian official statistics. The general lines of statistical organization as laid down by him are still followed today. He introduced the use of individual census cards in the census of 1880. The compilation and textual explanations of that census as well as of the subsequent censuses of births, marriages and deaths were likewise prepared by him. He provided an exemplary organization for the collection of trade statistics. His compilation of Hungarian alimentary statistics is not only an interesting document on the standard of living in Hungary but is valuable also from the biological and medical viewpoint. Keleti played an active part in international statistical congresses, for which he prepared numerous papers and reports.

THEODOR SZÉL

*Important works:* *A politikai gazdaság kézikönyve* (Handbook of political economy) (Pest 1863); *A magyar mező gazdaság* (Hungarian agriculture) (Pest 1867); *Telekadó és kataszter* (Land tax and the cadaster) (Pest 1868); *Hazánk és népe* (Our country and people) (Pest 1871; new ed., 2 vols., Budapest 1889); *Magyarország szőlészeti statisztikája, 1860-1873* (Budapest 1875), tr. into French by F. Schwiedland as *Viticulture de la Hongrie* (Budapest 1875); *Nemzetiség*

*viszonyok Magyarországon az 1880 évi népszámlálás alapján* (National composition of the population of Hungary according to 1880 census) (Budapest 1882); *Magyarország népességének élelmészeti statisztikája* (Budapest 1887), in German as *Die Ernährungs-Statistik der Bevölkerung Ungarns* (Budapest 1887); *Magyarország népességi mozgalma 1876-ban* (Vital statistics of Hungary for 1876) (Budapest 1878), with a sequel for 1878 (Budapest 1879).

*Consult:* Jekelfalussy, J. de, in *Institut International de Statistique, Bulletin*, vol. vii, pt. i (1893) 155-57.

KELLER, FRIEDRICH LUDWIG (1799-1861), Swiss jurist. Keller was born in Zurich. He was professor of Roman law at the universities of Zurich, Halle and Berlin. A disciple of Savigny and a firm adherent of the historical school, he prepared himself by travel and study in France and England for a political career. In Zurich in addition to his scientific work he was active as leader of the Liberal party, which assumed the political power in 1831 and completely reformed the constitution of the republic. Keller insisted on the separation of powers and a complete reorganization of the administration of justice. In Zurich he also published his first scientific works, which established his scholarly reputation in the field of Roman law. His political career having ended in failure, he left Switzerland in 1844 and devoted himself exclusively to science, after 1847 as successor of Savigny and Puchta at the University of Berlin. He died in Berlin.

Keller's scientific works, which are few but significant, deal especially with civil procedure. His essentially practical point of view found compatibility in the Roman jurists. His wide experience as a magistrate and his highly developed political sense gave his historical works a rare degree of clarity. "It was as though he himself had seen and heard the old praetors," writes one of his disciples. Keller took special interest in the English judicial system and is to be considered as one of the first to spread knowledge of English legal institutions in Germany.

HANS FRITZSCHE

*Important works:* *Über Litiscontestation und Urtheil nach classischem römischem Recht* (Zurich 1827); *Semestrarium ad M. Tullium Ciceronem libri sex*, 3 pts. (Zurich 1842-51); *Der römische Civilprocess und die Actionen* (Leipzig 1852; 6th ed. by A. Wach, 1883); *Pandekten*, ed. by E. A. Friedberg (Leipzig 1861; 2nd ed. by W. Lewis, 2 vols., 1867).

*Consult:* Schneider, A., "Rede zur Feier des hundertsten Geburtstages des Prof. Dr. Fr. L. von Keller" in *Zeitschrift für schweizerisches Recht*, n.s., vol. xix (1900) 300-20; Schwarz, A. B., "Pandektenwissenschaft und heutiges romanistisches Studium" in Uni-

versity of Zurich, Rechts- und staatswissenschaftliche Fakultät, *Schweizerischer Juristentag 1928*. . . *Festschrift* (Zurich 1928) p. 211-52; Fritzsche, H., *Begründung und Ausbau der neuzeitlichen Rechtspflege des Kantons Zürich* (Zurich 1931).

KELLEY, FLORENCE (1859-1932), American social worker and social reformer. She was interested in most of the social reform movements in the late nineteenth and early twentieth centuries but was most closely associated with the campaigns for protective laws for women workers, for effective child labor laws and for the establishment of the federal Children's Bureau. For the greater part of her working life she served as executive secretary of the National Consumers' League, an organization designed to use the power of consumers to remedy industrial ills, and she was largely responsible for the development of the league as an agent of propaganda and for its program of social welfare legislation.

Her education and previous experience made her unusually qualified for this work. Her interest in social problems, which was derived largely from her father, William D. Kelley, an eminent protectionist, had led her to enter Cornell University as one of its first women students; to continue her studies in Zurich, where she became interested in the doctrines of Marx; and at a later date, 1894, to take a degree in law at Northwestern University. From 1891 to 1899 she lived at Hull House in Chicago, learning at first hand about living and working conditions among the poor and seeking measures for their improvement. She was especially active in the campaign for the Sweatshop Act of 1893 and on the passage of the act was appointed by Governor Altgeld the first chief factory inspector in Illinois. Her vigorous enforcement of the law and her reports of the conditions she found in her inspections are unusual in the history of factory inspection in this country.

Florence Kelley was outstanding among the reformers of the period. She fought the battles of the workers, especially the women and child workers, with aggressiveness and determination both in arousing public opinion and in pressing legislation on the lawmaking bodies. She was much influenced by Marx and did not hesitate to show her feeling that employers were enemies who could be constrained to a minimum of decency only by legislation, nor did she fear to state openly that the goal for which she worked could never be achieved while production was carried on for private profit. She reflected the

spirit of her time in her desire for immediate remedial measures but not in her desire for the eventual overthrow of a capitalistic order; she was in accord with her time in her faith in legislation as an instrument of control but she was in advance of her contemporaries in her belief in national legislation and in her interest in skilful, intelligent administration in order to make laws effective.

HELEN R. WRIGHT

*Important works:* 'Translation of Engels' *Die Lage der arbeitenden Klasse in England in 1844* (New York 1886; new ed. London 1892, with special preface by Engels); *Some Ethical Gains through Legislation* (New York 1905); *Modern Industry* (New York 1914).

*Consult:* Adams, Mildred, "A Pioneer in Social Justice" in *Woman Citizen*, n.s., vol. ix, no. 12 (1924) 9, 29-30; Goldmark, Josephine, "Twenty Five Years of It" in *New Republic*, vol. xl (1924) 271-72; Lathrop, Julia C., "Florence Kelley 1859-1932" in *Survey*, vol. lxvii (1931-32) 677.

KELLEY, OLIVER HUDSON (1826-1913), American rural organizer. Kelley was born in Boston and was for a while a newspaper reporter and telegraph operator. He farmed in Minnesota from 1849 to 1864, when he became a clerk in the United States Department of Agriculture. In 1866, following an investigation of southern agricultural conditions, he conceived the idea of organizing farmers for education and social intercourse. He planned a secret fraternal society for men and women and in 1867 with six other government clerks organized the National Grange of the Patrons of Husbandry, of which he was national secretary until 1878. For five years Kelley devoted himself to the difficult work of organization, and he established the Grange soundly. Ceremonials and secrecy, deriving from Kelley's knowledge of Masonry, appear to have been effective in maintaining interest. In 1878 he ceased to be active in Grange affairs.

OLON J. BUCK

*Consult:* Kelley, Oliver H., *Origin and Progress of the Order of the Patrons of Husbandry in the United States* (Philadelphia 1875); Atkeson, Thomas C., *Semi-centennial History of the Patrons of Husbandry* (New York 1916) p. 315-17.

KELLEY, WILLIAM DARRAH (1814-90), American politician. Kelley, a native of Philadelphia, studied law and entered politics as a Democrat, serving as county attorney and as judge of the Common Pleas Court in Philadelphia. In the late 1850's falling under the influ-

ence of his townsman Henry C. Carey he became convinced that the depression following the panic of 1857 was due to free trade policies. He joined the newly formed Republican party and became one of the most ardent defenders of the protective system. His membership in the House of Representatives from 1861 to 1890 and in particular his association during much of this time with the Ways and Means Committee, of which he was chairman in the Forty-seventh Congress, enabled him to exert a decisive influence in committing the United States to a permanent policy of protective tariffs. His constant solicitude over the iron and steel schedule gained him the sobriquet of "Pig-Iron" Kelley, a designation at which he took no umbrage.

Kelley's views were embodied in a volume, *Speeches, Addresses and Letters on Industrial and Financial Questions* (Philadelphia 1872), in which he held that in order to stimulate the active circulation of goods within a country it was necessary to protect capital and labor from foreign competition. By shutting out foreign products the nation also encouraged a needed inflow of immigrants and capital. Price, he maintained, was a relative term; goods were cheap not according to their money price but according to the ease with which they were disposed of in payment for purchases. Hence protection made for true cheapness of commodities by increasing the purchasing power of labor. Kelley addressed himself chiefly to the American working man and farmer. From the protective system, he insisted, every blessing was to flow. Thus in reply to an inquiry from a trade union group in 1869 concerning his stand on the eight-hour day he wrote: "Under its [protection's] influence labor is in demand, and the laborer is steadily becoming more independent; and if we perfect and maintain a system of thorough protection, you will be able to establish and maintain the eight-hour system."

After the Civil War Kelley opposed in a number of pamphlets the legislation aimed at currency deflation. He also voted against the Resumption Act of 1875 and for the Bland-Allison silver purchase bill of 1878, even joining with the majority to override President Hayes' veto of the latter measure. But in the Greenback and free silver agitations of the 1880's he played no part, leaving to Bland and other western representatives the task of championing the cause of cheap money.

A. D. H. KAPLAN

Consult: United States, Congress, *Memorial Addresses*

*on the Life and Character of William D. Kelley Delivered in the House of Representatives and in the Senate, 51st Cong., 1st sess., House Miscellaneous Documents, no. 229 (1890); Tarbell, Ida M., The Tariff in Our Times (New York 1911).*

KELLOGG, EDWARD (1790-1858), American monetary reformer. Kellogg was the son of a substantial Connecticut farmer and after receiving an elementary school education followed a business career in New York. He went bankrupt in the financial panic of 1837 but subsequently accumulated a competence and retired to devote himself to plans of monetary reform. His first work, *Remarks upon Usury and Its Effects* (New York 1841), was followed by *Currency: the Evil and the Remedy* (New York 1844, 6th ed. 1846), which was circulated by the aid of Greeley and the *New York Tribune*. His major publication, which passed through many editions, was *Labor and Other Capital; the Rights of Each Secured and the Wrongs of Both Eradicated* (New York 1849). After his death Kellogg's ideas continued to be promulgated by his daughter, Mary Kellogg Putnam, who had collaborated with him and who reissued his writings in many pamphlet editions between 1861 and 1868 under the title *A New Monetary System*. His basic idea was the abolition of interest, the rates of which were extremely high at the time. He suggested that the government issue legal tender notes and loan them on the security of land or other real values at 1.1 percent, which he believed to be close to the usual rate of accumulation of physical wealth in the United States. The government was also to issue bonds bearing the same interest, which Kellogg called "inter-convertible bonds" because they were to exchange freely for the notes. This system, Kellogg believed, would maintain interest rates close to 1 percent, the labor cost, as he calculated it, of carrying on banking. In fact, during the Civil War the government issued bonds which yielded 3.65 percent, and which with the establishment of the national banking system became the basis of banknote currency. Although his proposal of government notes as a substitute for private banknotes did not become a political issue for two decades, Kellogg may rightly be called the father of Greenbackism. Proposals based on Kellogg's theory and put forward by Alexander Campbell, the author of *The True American System of Finance* (Chicago 1864), were endorsed in 1867 by the National Labor Union. Although these proposals favored a 3 percent interest rate, whereas Kellogg desired to abolish interest charges in excess of

banking costs, the improvement over the current bank rates of 8 or 10 percent was sufficient, from the point of view of laborers, farmers and small merchants, to attract considerable support. This endorsement paved the way for the Greenback campaigns of 1872 and 1876; in the latter campaign the Greenback party nominated for president Peter Cooper (*q.v.*), who had long advocated the Kellogg plan. In his view that the process of exchange and the practices of a financing class deprive the producing class, which creates all values, of a full remuneration and in his proposal to eliminate these factors and to base the interest rate on the actual labor cost of running the banking system Kellogg resembled such contemporary European economists as Proudhon.

JOHN R. COMMONS

*Consult:* Commons, John R., and associates, *History of Labour in the United States*, 2 vols. (New York 1918) vol. ii, p. 119-21; Dettler, Chester McA., "The Influence of Edward Kellogg upon American Radicalism, 1865-96" in *Journal of Political Economy*, vol. xl (1932) 338-65.

KELLY, EDMOND (1851-1909), American social reformer. Kelly was essentially the aristocratic humanitarian in politics and one of the few Americans of his class and type to become an avowed socialist. Born in France, he was graduated from Columbia University, practised law for many years in New York and Paris and from 1895 to 1898 lectured on municipal government at Columbia. Kelly was actively interested in the reform of municipal government, as were many men of his type at that time; and in 1892 he founded the City Club of New York, which was to mobilize the forces of "good government" against civic corruption. But the new organization, composed of conservative and wealthy people, rejected Kelly's plan that it organize a series of subsidiary "good government clubs" to appeal especially to workers. Kelly himself organized many such clubs, which contributed powerfully to the defeat of Tammany Hall in 1894. But he was disappointed by the results and concluded that "mere good government in itself did not constitute a platform upon which a political party could be maintained." His disappointment and further intellectual development led him to acceptance of a collectivist philosophy and a mild form of reformist socialism.

Originally an extreme Darwinian and Spencerian with a strong bias against socialism, Kelly subjected the individualist philosophy to severe

criticism; he asserted its validity in the natural world and in primitive civilizations but insisted that it did not imply acceptance of the contemporary program of laissez faire: "Man is no longer the mere result of his environment, but can become its master." In harmony with Lester F. Ward, who influenced his ideas considerably, Kelly defined justice as "the effort to eliminate from our social conditions the effects of the inequalities of nature upon the happiness and advancement of man, and particularly to create an artificial environment [government] which shall serve the individual as well as the race, and tend to perpetuate noble types rather than those which are base." Individualism could not offer an adequate program for a complex civilization; Kelly consequently espoused collectivism, which in terms of practical politics meant the municipal and government ownership then popular among reformers. Influenced by Fabian ideas and his own moral approach to the social problem, Kelly a few years before his death concluded that only socialism could "put an end to the three gigantic evils of pauperism, prostitution and crime." His socialism was idealist and evolutionary: an essentially moral appeal for change by means of successive reforms which would "make the Golden Rule practical." It rejected the class struggle in favor of "the whole of democracy, including employer and employee," and favored only partial elimination of competition and a kind of guild organization of industry. Kelly had some influence on men of his class and type but none on organized socialism, although the American Socialist party, despite its Marxist terminology, was in practice close to many of Kelly's ideas.

LEWIS COREY

*Important works:* *Evolution and Effort, and Their Relation to Religion and Politics* (New York 1895; 2nd ed. 1898); *Government or Human Evolution*, 2 vols. (New York 1900-01); *A Practical Programme for Workingmen* (London 1906); *The Elimination of the Tramp by the Introduction into America of the Labour Colony System* (New York 1908); *Twentieth Century Socialism*, ed. by Florence Kelley (New York 1910).

*Consult:* Giddings, F. H., "Introduction" in Kelly's *Twentieth Century Socialism* (New York 1910) p. v-xii; Fuller, Paul, "Memorial of Edmond Kelly" in *Association of the Bar of the City of New York, Yearbook* (1911) p. 163-66.

KĒMÁL, MÉHMÉD NÁMŪK. *See* KAMÁL MAHMAD NÁMŪK.

KEMBLE, JOHN MITCHELL (1807-57), English historian. After leaving Cambridge Kemble visited Germany, where his interest in



philology was aroused and where later he pursued philological studies under Jacob Grimm and others. He gained a reputation, first in England and then on the continent, by his edition of *The Anglo-Saxon Poems of Beowulf* (London 1833) and by the *Codex diplomaticus aevi saxonici* (6 vols., London 1839-48), a valuable if not always accurate collection of documents. His most famous work, *The Saxons in England* (2 vols., London 1849; new ed. by W. de Gray Birch, London 1876), was superseded only by Stubbs. Kemble has been criticized for his exaggerations and many of his theories concerning early European society have since been abandoned; but he will long be remembered as the first writer to make extensive use of Anglo-Saxon charters and as a powerful exponent of the "scientific" methods of Germany. Much of his writing appeared in periodicals and he was for a time editor of the *British and Foreign Review*.

Kemble was an early representative of the "Germanic school" of English nationalistic historians. He protested in the name of scientific accuracy against the liberties taken by romanticists like Scott and Thierry, but his own writings were colored to no small degree by an abounding enthusiasm for the primitive Germans and by a tendency toward a racial interpretation of history. For him the contrast between the turmoil of continental Europe amid the revolutionary upheavals of 1848 and the comparative calm of his own country was explained by England's heritage, particularly in free representative institutions, from Anglo-Saxon times. He believed in the purifying effect of the barbarian invasions on Roman society, the Germanic character of the English people and institutions and the superiority of the German stock to other races. Although lacking both the art and the desire to attract wide popular attention he exerted by his contributions to research a considerable influence on serious students; and because of the character of his views this influence helped develop a nationalist outlook.

THOMAS P. PEARDON

Consult: *Fraser's Magazine*, vol. IV (1857) 612-18; Ford, H. J., *Representative Government* (New York 1924) p. 46-49.

KEMPER, JERÓNIMO DE BOSCH. See BOSCH KEMPER, JERONIMO DE.

KENT, JAMES (1763-1847), American jurist. In 1779 after the dispersal of Yale's youthful student body before the approaching revolution-

ary armies Kent, while safe in a Connecticut country village, found and read "with awe" the four volumes of Blackstone's *Commentaries*. Two years later he graduated from Yale and continued the pursuit of the law in a lawyer's office, becoming familiar with Grotius and Pufendorf, with Hale's *History of the Common Law* and the old *Books of Practice*. Throughout his life a Federalist and an eighteenth century gentleman who methodically read his Greek and Latin classics, in his early days of practise Kent pieced out a living by serving in the state assembly of New York and by lecturing at Columbia College on civil government, constitutional history and the law of nations. In 1798 he entered a judicial career which brought him to the highest offices in New York state.

As a lawyer and a teacher, as judge and commentator, Kent along with Joseph Story became the most influential force in the recreation of American law in the image of Blackstone. Pre-revolutionary American law was a closed record to the lawyers of the new sovereign states. There were no printed colonial reports; the pre-war bar, which had been thoroughly Tory, was discredited and exiled. Kent's postrevolutionary generation accepted literally the dictum of the fathers of the revolution that the rights of the common law, lightly made identic with constitutional rights, were brought to the American shores by the early settlers as the heritage of free born Englishmen. But not knowing what had happened in the law imported in the seventeenth century it accepted the common law of eighteenth century England, so clearly restated in Blackstone. The population was predominantly English, and the habits and thought of the country were receptive to the English common sense embodied in eighteenth century common law. The bench and bar entrenched in Blackstone and schooled by Kent and Story likewise took over the techniques, the procedure and, for the rapidly developing commercial life, the rules of the common law, resisting the blandishments of the civil law despite the pro-French movements after the French Revolution.

As judge Kent introduced in the New York courts the practise of written opinions. At a time when English authority did not stand high he subdued opposition by a plethora of favorable precedents culled from the books; nor did he hesitate to enrich the common law by employing the *Corpus juris*, whose name his republican colleagues ingenuously revered. He was appointed chancellor in 1814 and took to the

moribund Court of Chancery his broad reading in English equity reports; by rearing there a new and powerful court on the English model he joined Story in laying the foundation of equity jurisprudence in the United States.

When he reached the statutory age limit of sixty he retired to a professorship at Columbia College. His lectures, following closely the model of Blackstone, were published as the *Commentaries on American Law* (8 vols., New York 1826-30) and became an authoritative exposition of the English common law from the American point of view and a standard interpretation of the constitution. The chapters on international law were published in England as an independent treatise under the title *Commentaries on International Law* (Cambridge 1866). Kent was particularly fortunate in that throughout his terms on the bench his court opinions were carefully recorded by William Johnson, one of the best of the early reporters, and that a generation after his death the twelfth edition of his *Commentaries* was edited by Oliver Wendell Holmes, Jr. (Boston 1873), making its influence directly traceable into the present century.

NORMAN L. MEYERS

*Consult:* Kent, James, *Memoirs and Letters*, ed. by William Kent (Boston 1898); Duer, John, *Discourse on the Life, Character, and Public Services of James Kent* (New York 1848); Hicks, F. C., *Men and Books Famous in the Law* (Rochester 1921) ch. vi; Coxe, MacGrave, "Chancellor Kent at Yale" in *Yale Law Journal*, vol. xvii (1907-08) 311-37, 553, 72; Scott, James Brown, "James Kent 1763-1847" in *Great American Lawyers*, ed. by William Lewis, 8 vols. (Philadelphia 1907-09) vol. ii, p. 491-533.

KETTELER, BARON WILHELM EMMANUEL VON (1811-77), German social Catholic leader. Ketteler was descended from a noble Westphalian family. He studied law and entered the government service as referendary at the Superior Court in Münster. In 1838 as protest against the imprisonment of the archbishop of Cologne and because "he did not desire to serve a state which demanded the sacrifice of one's conscience" he resigned and under the influence of Reischach, bishop of Eichstätt, turned definitely to the priesthood. From 1841 to 1843 he studied theology at Munich and in 1844 was ordained. He was a member of the Frankfurt Assembly in 1848, where he worked with the Catholic group of deputies. In 1849 he became provost of St. Hedwig's in Berlin and in 1850 was ordained bishop of Mainz.

Ketteler was always occupied with political

and social matters. He was considered the adviser of the church in social questions and was recognized by Pope Leo XIII as his great predecessor in the formulation of Catholic social doctrine. Because of his rigidity and inflexibility of mind as evidenced in the *Kulturkampf* he was called the "fighting bishop of Mainz." In his speeches and writings he took a decisive stand for the freedom and autonomy of the Catholic church.

In the first period of his activity Ketteler was influenced by Lassalle in several respects. He was convinced that cooperative societies were a means of solving the social question, and he likewise placed much confidence in profit sharing. On the side of the workers the cooperative movement must of course be pursued in the spirit of Christianity; on the other hand, only genuinely Christian capitalists and manufacturers would be inclined to share their profits with the workers. During this period Ketteler looked upon the supremacy of capital and the rule of economic liberalism as the root of the social problem. They were the source of physical, material and moral disadvantages: the iron law of wages; insecurity of existence; impossibility of progress; the intellectual, moral and physical decay of the life of workers. Here the church alone could be of assistance; otherwise there was no hope of a peaceful solution of the social problem.

By 1869 Ketteler's views on the social question had undergone considerable modification. Although he was still convinced that capitalism should be abolished he realized that producers' cooperatives could never accomplish this end, and he came to recognize the possibility that either the state or the entrepreneur would initiate a policy of social regulation of industry which would mitigate the evils of capitalism and industrialism and result in the improvement of the workers' living conditions. The immediate cause of Ketteler's change in socio-political thought was the publication in 1867 by Alfred Le Roux of a catalogue of social regulations of industry. It was this later position of Ketteler's that determined the direction of Catholic social thought in Germany and which still dominates the Center party. In southern Germany and in Austria, however, there are certain Catholic groups which remain attached to Ketteler's first position; namely, that capitalism as a whole should be discarded.

G. BRIEFS

*Important works:* *Freiheit, Autorität und Kirche* (Mainz 1862); *Die Arbeiterfrage und das Christentum* (Mainz 1864, 4th ed. 1890); *Deutschland nach dem Kriege von*

1866 (Mainz 1867); *Das allgemeine Konzil und seine Bedeutung für unsere Zeit* (Mainz 1869); *Liberalismus, Sozialismus und Christentum* (Mainz 1871); *Predigten*, ed. by J. M. Raich, 2 vols. (Mainz 1878); *Ausgewählte Schriften*, ed. by J. Mumbauer with a biographical introduction, 3 vols. (2nd ed. Munich 1924).

*Consult:* Pfüll, Otto, *Bischof Ketteler*, 3 vols. (Mainz 1899); Vigener, Fritz, *Ketteler, ein deutsches Bischofsleben des 19. Jahrhunderts* (Munich 1924); Brauer, T., *Ketteler der deutsche Bischof und Sozialreformer* (Hamburg 1927); Neufeld, M. M., *Bischof Ketteler und die soziale Frage seiner Zeit* (M.-Gladbach 1927); Metlake, George (Laus, John Joseph), *Christian Social Reform* (Philadelphia 1912).

KEUFER, AUGUSTE (1851-1924), French syndicalist. Keufer was the chief organizer of one of the most powerful labor groups, the Fédération Française des Travailleurs du Livre. During the nineteenth century the typographical workers had made various attempts at organization without great results. The congress of 1881 created the federation, which three years later chose Keufer as its secretary general. He retained the office for thirty-six years, from 1884 to 1920; his emphasis on the practical aspects of union activity assured him an ever increasing influence. He took part in the frequently violent discussions which divided the field of labor between the reformists, who favored legal, progressive action, and the revolutionaries, favoring "direct action," that is, force; he was one of the chief representatives of the reformist tendency in the Confédération Générale du Travail. Keufer developed his reformist labor philosophy in *L'éducation syndicale* (Paris 1910). He played an important role in the rise to power of the reformist elements in the C. G. T. during and after the World War. Through his own efforts Keufer had acquired a wide range of culture; a disciple of Auguste Comte in philosophical and social questions, he was until his death one of the most active members of the Société Positiviste de France. After resigning his office as secretary in 1920 he devoted himself to propaganda on behalf of the League of Nations.

GEORGES WEILL

*Consult:* Fédération du Livre, *Les deux méthodes syndicalistes* (Paris 1905), and *L'imprimerie française* for April 16, 1925; appreciations of Keufer by members of the Société Positiviste de France in *Revue positiviste* for 1924.

KEY, ELLEN (1840-1926), Swedish feminist. Ellen Key, the daughter of a prominent member of the Riksdag, passed her youth in a family environment imbued with cultural interests and

liberal ideas. At the age of thirty-one she began to teach and later to lecture in Stockholm on literature, art and social problems and early in her career became interested in a study of women's rights. Contemporary feminists were laying especial stress on woman's equality with man in all lines of activity and her right to equal rewards. Ellen Key deplored women's indiscriminate competition in what she considered men's work and expressed her creed that women are fitted primarily for motherhood. This apparent retrogression within the ranks brought upon her the bitter antagonism of the feminists. About 1900 she gave up all other work to devote her life to clarifying and spreading her views.

The achievement of equal educational, economic and political opportunities for men and women was a necessary goal in Ellen Key's program but not its ultimate purpose. Woman must have opportunity for complete development both because of herself and because of her mission as mother. Monogamous marriage is the most desirable type of union, but love without marriage is preferable to marriage without love. Ellen Key's judicial, unabashed analysis of sex relationships and her fearless prescriptions for improvement resulted in the usual quota of popular calumny, but her principles were always recognized as idealistic. She was an important influence in modifying the nineteenth century hypocrisy and prudery toward sex, and throughout the western world her idealism was an inspiring stimulant to the cause of feminism. Many of her specific aims, such as motherhood insurance, adequate release from industry before and after childbirth, protection and respect for mother and child, either have already been accomplished or are much more possible of achievement than before her crusade.

Ellen Key was an ardent pacifist and worked in close sympathy with the labor movement. Her *Century of the Child*, in which she expressed her views on early training as a basis for future citizenship, established her also as an important influence in educational theory. She believed education to be a vital force in promoting a synthesis of individualism and solidarism.

FRIDA STRENNHOFF

*Important works:* *Missbrukad kvinnokraft* (Stockholm 1896, 4th ed. 1914), tr. into German by T. Krüger as

*Tankebilder*, 2 vols. (Stockholm 1898, 3rd ed. 1922), tr. into German by F. Maro as *Essays* (7th ed. Berlin 1907); *Barnets århundrade*, 2 vols. (Stockholm 1901, 3rd ed. 1927), tr. as *The Century of the Child* (New York 1909); *Livsinljuf*, 3 vols. (Stockholm 1903-06;

vol. i 3rd ed. 1923, vols. ii-iii 2nd ed. 1924-25), vol. i tr. by A. G. Chater as *Love and Marriage* (New York 1911); *Die Frauenbewegung* (Frankfurt 1909), tr. by M. B. Borthwick as *The Woman Movement* (New York 1912); *En djupare syn på kriget* (A deeper view of the war) (Stockholm 1916).

*Consult:* Hamilton, Louise N., *Ellen Key: en livsbild* (2nd ed. Stockholm 1917), tr. into English by A. E. B. Fries (New York 1913); Landquist, John, *Ellen Key* (Stockholm 1909); *En bok om Ellen Key* (Stockholm 1919); Holmgren, A. M., *Ellen Key människovännen* (Ellen Key philanthropist) (Stockholm 1924); Löfgren, Mia Leche, *Ellen Key* (Stockholm 1930); Zimmern, H., "Ellen Key, Sweden's Foremost Woman and Her Vogue in Germany" in *Putnam's Monthly*, vol. iii (1908) 432-39; Schoonmaker, N. M., "Ellen Key's Ideals of Love and Marriage" in *Current History*, vol. xxiv (1926) 529-32.

KEYSER, RUDOLF JAKOB (1803-64), Norwegian historian. Keyser was the first professor of Norwegian history and the Old Norse language at the University of Christiania (appointed in 1828) and the organizer of the university collection of antiquities, which he established on a truly scientific basis by the introduction of a chronological system. In his lectures he developed the new conception of Norwegian origins that became the shibboleth of the Norwegian historical school: the independent origin of the Norwegian nation and the exclusively Norwegian character of the Old Norse literature. His theory concerning the immigration of the Nordic race from the northeast, which was propounded in his program essay of 1839, and his ideas concerning the strength of popular tradition, which led him to the conclusion that the Eddic poems of the ninth century were an inheritance from far off days of national existence and that the sagas of the twelfth and thirteenth centuries contained accurate reproductions of tales going back to the ninth century, have not been able to stand the test of later criticism. But his main contention that the Eddic poems as well as the Icelandic sagas were composed in a language belonging exclusively to the Norwegian race, having neither common Scandinavian nor even pan-Teutonic origins, has proved a permanent contribution to knowledge and has been effective in strengthening the historical self-assertion of the Norwegian people.

As a historian Keyser was overshadowed by his brilliant pupil P. A. Munch. But it was Keyser who formed the firm historical system within which Munch accomplished his work, and of the two he was by far the greater systematizer. It is by virtue of this quality that his works are still valuable to the student. Although

most of his writings appeared in print only after his death in his *Efterladte skrifter* (3 vols., ed. by O. Rygh, Christiania 1866-67) and his *Samlede afhandlinger* (ed. by O. Rygh, Christiania 1868), when many of his theories were already antiquated, his careful collection and evaluation of material, the accuracy of his statements and his lucid presentation of the facts made his works useful and reliable, particularly with respect to the legal system of mediaeval Norway and daily life in old Norway and Iceland. While the scope of his work never extended beyond the national frontiers of Norway, thus excluding comparison with foreign history, he performed his task in an exemplary way and by his systematical thinking and teaching dominated historical thought in Norway for a full generation.

HALVDAN KOHT

*Consult:* Bugge, Alexander, in Oslo, Universitet, *Det kongelige Frederiks Universitet 1811-1911 festschrift*, 2 vols. (Christiania 1911) vol. ii, p. 224-34; Koht, Halvdan, in *Syn og tegn*, vol. ix (1903) 5-13.

KHAMA (c. 1828-1923), South African native statesman. Khama was the last and most famous of the native chiefs who played an important role in the history of South Africa during the last century. Converted to Christianity in early manhood, he from the first took up an uncompromising stand against those customs of his people, the Bamangwato of Bechuanaland, which were repugnant to Christian ideas. When he became chief Khama enforced reforms with an unswerving resoluteness. His most notable achievement was the rigid prohibition of all liquor traffic within his territory. He abolished the official initiation rites for boys and girls and substituted Christian services for the traditional agricultural ceremonies. In his dealings with the Boer and British governments he proved himself a resourceful statesman. He successfully preserved his country at a difficult time from absorption into the South African Republic. Later by means of a visit to England he prevented the passing of Bechuanaland into the hands of the British South Africa Company, which he distrusted, and it became instead a protectorate directly under the British crown. He was able to secure the demarcation of his territory as a permanent native reserve and to keep certain rights of self-government; he also secured the maintenance of native law and custom in administration.

I. SCHAPERA

*Consult:* Mockford, J., *Khama, King of the Bamangwato* (London 1931).

**KHMELNITSKY, BOHDAN** (c. 1590–1657), Ukrainian national leader. Khmelnitsky was the son of a country gentleman in the Ukraine. He studied in the Jesuit college at Yaroslav and spent several years as a war prisoner in Turkey. Upon his return to the Ukraine he served in the Cossack army then under the control of the Polish Republic. In 1646 he came in conflict with the new administration of the domain of Chihirin, his native town. His property was confiscated and his life endangered. Toward the end of 1647 he fled to the Niz (steppes along the lower Dnieper) and there with other persons out of sympathy with the Polish Republic he conceived the idea of an insurrection (*see* COSACKS). He was proclaimed hetman, gained the support of the khan of the Crimea and in the spring of 1648 the Cossack and Tartar troops fought the Polish army sent against Khmelnitsky. At the same time all the Ukraine rose against the Polish nobles; those of the latter who had not time to flee perished and with them great numbers of the Jewish population, many of whom as the fiscal agents of the Polish landowners had aroused the hatred of the Ukrainian people. Khmelnitsky was soon master of the Ukraine. At the outset of the revolution he had no other plans than to insure the rights and privileges of the Cossack army, and he sought to come to an agreement with the Polish government; it was not until 1649 that, under the influence of a group of clergy and savants at Kiev, he conceived the idea of setting up an independent Ukrainian state. The treason of the khan, who withdrew from the war, induced him to seek the protection of the czar in the treaty of 1654. Later, seeing that the czar aspired to the domination of the Ukraine, while the Ukrainian government sought only a military alliance, preserving the sovereignty of the Ukrainian state, Khmelnitsky conceived the project of an alliance with Sweden and with the league of Protestant states headed by Cromwell. Sweden declared war on Poland in 1655 and the alliance of Sweden, Prussia, Transylvania and the Ukraine was formed in 1656. For Khmelnitsky the goal of this war was the partition of Poland among the allies. All Ukrainian territory and the adjacent White Russian territory would be united under the aegis of the Cossack army and its hetman. The king of Sweden, however, abandoned the campaign; the projects of the allies were interrupted; and an opposition to the war against Poland made itself felt among the Cossack troops inspired by Muscovite emissaries

under the pretext that the czar had not given his consent to the projects of the league. The defeat of the campaign had completely disheartened Khmelnitsky. Before his death he had chosen as hetman his son Yurko (George).

M. HRUŠEVSKY

*Consult:* Kostomarov, Nikolay, *Bogdan Khmelnitsky*, 3 vols. (4th ed. St. Petersburg 1884); Hrushevski, M., *Istoriya Ukraini-Rusi*, vol. viii (2nd ed. Kiev 1922) pts. ii–iii, and vol. ix (Kiev 1928–31) pts. i–ii.

**KHOMYAKOV, ALEXEY STEPANOVICH** (1804–60), Russian Slavophile. Khomyakov, a wealthy landowner, was one of the most erudite and versatile men of his time. He dabbled in poetry and drama, studied and practised rational agronomy and agricultural management and engaged in endless polemics on philosophical, social and historical questions, in which he displayed amazing dialectic skill. His claim to historical significance rests upon his elaboration of the theological aspects of Slavophile doctrine. He postulated religion as the prime motive force in historical development and found accordingly two important types of religion: Cushitism based on the deification of natural necessity and Iranism worshipping the spirit as a free creative will. The purest form of Iranism is Christianity, of which the most genuine expression is the Eastern Orthodoxy free from the rationalism and materialism of the western churches. Khomyakov shared Kireyevsky's faith in the spiritual and historical mission of Russia because he considered its culture to be the least distorted outgrowth of Eastern Orthodoxy; he was critical, however, of many institutions both in pre-Petrine and post-Petrine Russia. Although he was a partisan of autocratic monarchy Khomyakov pleaded for the elimination of restrictions hampering free spiritual development and for the abolition of serfdom, which he regarded as unchristian. Together with Kireyevsky and Samarin he claimed for the peasants a right to the land they worked, basing it upon their original coownership with the landlords; he advocated therefore emancipation with moderate land allotments. In 1842 before Haxthausen discovered the Russian village community for the west Khomyakov developed the idea that the communal land regime was peculiar to the Slavs and particularly to the Russians, and he proposed to retain it even after emancipation as a safeguard against the extremes of concentration and parcellation of landed property. He accepted the peculiar Slavophile concept of *bit*—a complex of

freely developing normative customs as distinct from prescriptions enforced from the outside—but found the elements of *bit* predominant also in English civilization, whose essential conservatism he admired. He believed also that Anglicanism is nearer to Eastern Orthodoxy than either Roman Catholicism or Protestantism and strove for the union of the two churches.

#### SOLOMON KUZNETS

*Works:* The last collected edition in Russian is in 8 volumes (Moscow 1900-04); *L'Eglise latine et le protestantisme au point de vue de l'Eglise d'Orient* (Lausanne 1872).

*Consult:* Zavitsevich, V. Z., *Aleksey Stepanovich Khomyakov*, 2 vols. (Kiev 1902-13); Berdyayev, N. A., *Aleksey Stepanovich Khomyakov* (Moscow 1912); Masaryk, T. G., *Zur russischen Geschichts- und Religionsphilosophie*, 2 vols. (Jena 1913), tr. by E. and C. Paul as *The Spirit of Russia* (London 1919) vol. i, ch. ix.

KHRIMIAN, MUGURDICH (1820-1907), Armenian national leader. Educated in his native town of Ván, Khrimian took orders as a monastic priest in 1854. Later he was appointed bishop and from 1869 to 1873 held office as patriarch at Constantinople. In 1878 he headed the delegation sent by Patriarch Nerses Varjabedian to the Congress of Berlin to plead for administrative reforms and was instrumental in obtaining the inclusion in the resulting treaty of the clause which pledged Europe to supervise reforms in Turkish Armenia. Armenian demonstrations upon Turkey's failure to fulfil its promises were answered by massacres. Khrimian was forced by Abdul-Hamid II to retire to Jerusalem in 1890 but in 1893 went to Echmiadzin in Russia as catholicos, or supreme head of the Armenian church, a position he occupied until his death.

Khrimian was one of the outstanding figures in the Armenian intellectual renaissance and was constantly active as teacher, writer and preacher. His main concern was for the welfare of the masses and their emancipation from their oppressors. In religion he was practical, tolerant and undogmatic. He foresaw an era of national activity, and in order that the Armenians might be educated and prepared for their responsibilities he established schools and introduced printing presses. In 1856 he began the publication of *Ardavi* (Eagle) of Vasburagan, a periodical which sounded a distinct note of national awakening. Around this enterprise Khrimian gathered a group of disciples and collaborators who later took their places as leaders in the nationalist movement. His writings, which are all in Armenian and which include poetry, sermons

and essays, are, unlike other works of the period, entirely free from foreign influences and constitute a notable contribution to the national literature of Armenia.

#### V. M. KURKJIAN

*Consult:* Tchobanian, A., "L'apôtre de l'Arménie contemporaine: S. S. Mgrditch Khrimian" in *Mercur de France*, vol. lxiv (1906) 181-201; Macler, F., *Autour de l'Arménie* (Paris 1917) p. 240-47; "Khrimian and His Prophecy" in Khrimian, Metertich, *The Meeting of the Kings*, Armenian text and English translation by P. Tonapetean and L. Binyon (London 1915) p. 3-9.

KIDD, BENJAMIN (1858-1916), English social philosopher. Kidd, who spent many years in British civil service as a clerk in the inland revenue office, later traveled widely investigating social and economic conditions. In 1898 he visited the United States and Canada and in 1902 South Africa. His social philosophy was a mixture of the antirationalistic strains of romanticist philosophy with the teachings of evolutionary biology. Human initiative and individual reason he believed to be disintegrative forces endangering the very existence of society. He envisaged group restraint, which he regarded as the main condition of social progress, in a mystical manner, discussing the subject with little insight into group or crowd psychology. He contended that since rationalism is individualistic and destructive the governing force in human and social development must be super-rational. This super-rational factor Kidd found to reside in religion, which furnishes the "ultra-rational sanction" for those modes of conduct most conducive to progress. In *The Science of Power* (posthumously published, New York 1918) Kidd further identified religion with the search for the ideal. In his *Social Evolution* (New York 1894, rev. ed. 1920) and his *Principles of Western Civilization* (New York 1902) he appealed to history to justify his conception of social causation and of progress; the result was a manhandling and juggling of historical facts.

Kidd's social theories had a considerable vogue at the turn of the century notwithstanding their meager value as science and logic, because they appealed to the large body of laymen who wished to reconcile religion and evolution. They were not well received by biologists, however, who resented his emphasis on religion and his denial of the value of reason, or by the pious, who were shocked by his characterization of religion as irrational. His *Control of the Tropics* (New York 1898), which realistically emphasized the importance of the tropics and of imperialism

for the future of western civilization, had a considerable effect on the imperialistic policies of Joseph Chamberlain and others.

HARRY E. BARNES

*Consult:* Barnes, H. E., "Benjamin Kidd and the Super-rational Basis of Social and Political Processes" in *American Journal of Sociology*, vol. xxvii (1921-22) 581-87; Giddings, F. H., Introduction to Kidd's *The Science of Power* (New York 1918); Mackintosh, R., *From Comte to Benjamin Kidd* (New York 1899); Kovalevsky, M., *Sovremennye sotsiologi* (Contemporary sociologists) (St. Petersburg 1905) p. 210-22; Sprague, F. M., *The Laves of Social Evolution* (Boston 1895); Bristol, L. M., *Social Adaptation* (Cambridge, Mass. 1915) p. 85-92.

KIDERLEN-WÄCHTER, ALFRED VON (1852-1912), German diplomat and statesman. At the outset of his diplomatic career Kiderlen-Wächter enjoyed the favor of Bismarck and of William II; but because of his tendencies to unguarded criticism he was removed for a time to minor posts, until under the pressure of diplomatic crisis his services became indispensable. Bülow appointed him acting ambassador to Constantinople during the Young Turk Revolution in 1908 and shortly afterward acting secretary of state of the Foreign Office during the Austro-Russian crisis provoked by Austria's annexation of Bosnia. By urging on Vienna a policy of moderation he succeeded in preventing a diplomatic rupture between Germany's ally and Turkey. In 1910, at the insistence of Bethmann-Hollweg, Kiderlen-Wächter was appointed by the kaiser secretary of state of the Foreign Office. During his two years as trusted adviser to the chancellor he set out to reverse Bülow's policy of subservience to Austria and by emphasizing the independence of German interests and the peculiarity of German needs to make his country the dominant force in the Austro-German alliance. Pursuing a policy similar to that which he had followed in 1908 he met the Austro-Serbian crisis of 1912 with a strong recommendation to Bethmann-Hollweg that the Austro-Hungarian government be made aware, amicably but unequivocally, that Germany was no longer disposed to rubber stamp her ally's actions in the Balkans or the Orient. If Austria wished to insure the continuance of the alliance she must accustom herself to submitting in advance her intended course of action so as to allow Germany opportunity to review it objectively in the light of the particular elements involved. In his efforts to bring about an agreement between Austria and Russia he not only cooperated with Poincaré with a view to French mediation but

conceived the idea, for which Grey was allowed to receive the credit, of establishing the permanent London Conference of the Ambassadors of the Great Powers. Nor did he hesitate, in his eagerness to bring to an end what he considered the aberrations of Vienna's foreign policy, to issue a semi-official statement so direct and outspoken that it brought a protest from Franz Ferdinand, heir to the Austrian throne. This unwavering directness of Kiderlen-Wächter in dealing with the Balkan crisis of 1908 and 1912 has led a number of historians to insist that the "Swabian Bismarck" would have been equally successful in the not dissimilar situation of July, 1914. He was likewise eager to halt Germany's growing isolation by forwarding in opposition to Tirpitz an Anglo-German understanding and by renouncing, as an initial pledge of good will to France, Germany's ambitions in Morocco.

ERNST JÄCKH

*Consult:* Kiderlen-Wächter, *der Staatsmann und Mensch: Briefwechsel und Nachlass*, ed. by Ernst Jäckh, 2 vols. (Stuttgart 1924), tr. into French by Henri Simonet with introduction, 1 vol. (Paris 1926); Andreas, Willy, "Kiderlen-Wächter, Randglossen zu seinem Nachlass," in *Historische Zeitschrift*, vol. cxxiii (1925) 247-76.

KIDO, TAKAYOSHI (1834-77), Japanese statesman. Kido is known as one of the Ishin-Sanketsu, or "three great men," of the restoration, the other two being Toshimichi Okubo and Takamori Saigo. Kido was the son of a physician in the feudal fief of Choshu and he distinguished himself at an early age as a scholar of the Chinese and Japanese classics. The national upheaval caused by the arrival of Commodore Perry and other foreign emissaries demanding trade and intercourse convinced Kido that the shogunate, the military magistracy which had held sway for seven centuries, must be abolished and that the nation must unite under the emperor. This view was heartily endorsed by his feudal chief, the lord of Choshu. As the first step toward accomplishing the task of restoring the imperial regime Kido brought about an entente between the Choshu fief and Satsuma, or Sassin, another powerful fief in the south of Japan. The restoration of 1868 was largely the work of these two fiefs and thus the new government was for many years dominated by the Sassin-Choshu combination. In the new imperial government Kido as well as Saigo and Okubo, both of Sassin, was appointed adviser to the *sosaiikioku*, the prototype of the later cabinet. Kido's most important work is connected with the abolition

of feudalism. He persuaded the lord of Choshu to surrender his fief to the emperor and this example was immediately followed by Sassi, Tosa and Hiizen, resulting in 1871 in the replacement of feudal provinces by prefectures under direct control of the central government. In September of the same year, while he was minister of home affairs, Kido, as a member of the mission headed by Prince Iwakura and including Okubo and Ito, went abroad to find out whether the western powers would agree to the revision of the unequal treaties. The mission returned home in the autumn of 1873 just in time to frustrate the plan to send a punitive expedition against Korea, an action which had been vigorously urged by a powerful group of high officials led by Saigo and Itagaki. After his return from abroad Kido served as home minister and minister of education. He founded the first regular newspaper in the country and was in many ways active in the introduction of western culture into Japan.

KIYOSHI K. KAWAKAMI

*Consult:* *Dai Nihon Jinnai Jisho* (Dictionary of Japanese biographies), 3 vols. (2nd rev. ed. Tokyo 1926) vol. 4, p. 839-43; Takekoshi, Yosaburo, *Shin Nihon Shi* (History of New Japan) (Tokyo 1895); Morris, J., *Makers of Modern Japan* (London 1906) ch. xvii.

KINDERGARTEN. *See* PRESCHOOL. EDUCATION.

KING, GREGORY (1648-1712), English statistician. King was clerk to Sir William Dugdale, the famous antiquary, under whose instruction he laid the foundations of his extensive knowledge of heraldry and genealogy. Later he assisted John Ogilby, the printer, in the production of the well known *Itinerarium Angliae; or, a Book of the Roads* (1675). He was appointed registrar of the College of Arms in 1684 and subsequently Lancaster herald. His work on local genealogy and topography together with his bent toward mathematics suggested to him the possibility of expressing social data statistically. In *Natural and Political Observations and Conclusions upon the State and Condition of England 1696* he set out his deductions. This treatise was known to his contemporaries and throughout the eighteenth century (to Adam Smith among others) from the sections printed by Charles Davenant in his *Essay upon the Probable Methods of Making a People Gainers in the Ballance of Trade* (London 1699, 2nd ed. 1700). George Chalmers added it to the 1802 edition of his *Estimate of the Comparative Strength of Great Britain* and later published it separately prefaced

by a life of King (London 1804, new ed. 1810).

In estimating the population for the year 1696 King took as a basis the returns from the hearth tax in 1690. After making certain corrections and allowing for an increase of houses at the corrected rate of a thousand a year he arrived at a total of approximately 1,300,000 inhabited houses. He then proceeded to work out a multiplier which would give the average number in a house—a number which he apparently identified with the number in the average family. From the recent assessments levied on births, marriages and burials he calculated that the average varied between 5.5 in London and 4 in villages and hamlets. His ultimate result was a total population of 5,500,000. This is a considerably lower total than that arrived at by Petty, Davenant and Barbon; but statistical estimates made after the introduction of the decennial census in 1801, for example that of Rickman, tend to confirm King's more conservative figure. He estimated the proportion of males to females, the number in each social class and their average income. His calculation of the effect of a decrease in the harvest of corn on the price of corn attracted considerable attention. His figures for the proportion of cultivated to waste land, for the annual amount and value of cereal production and of the wool clip and woolen manufacture, although necessarily based on meager information, are generally accepted as a rough approximation to the facts. King often made pure guesses, but he did so as a careful and disinterested observer. His work is therefore crude from a modern point of view, but it represents an advance over that of his predecessors, for example Sir William Petty, and compares favorably with that of the eighteenth century writers on population, whose work was usually inspired by a polemical purpose.

King's manuscript autobiography (in the Rawlinson collection in the Bodleian library, Oxford) has been printed in James Dallaway's *Inquiries into the Origin . . . of the Science of Heraldry in England* (Gloucester 1793) as appendix ix.

J. F. REES

KING, LEONARD WILLIAM (1869-1919), British Assyriologist. King, who was born in London and educated at Rugby and King's College, Cambridge, spent the remainder of his life as assistant and assistant keeper in the Department of Egyptian and Assyrian Antiquities at the British Museum. He is best known for his *History of Sumer and Akkad* (London 1910) and



his *History of Babylon* (London 1915), of which Rogers gave a fair estimate when he said: "They are immensely learned, rich in citations from the original sources, a storehouse of acute, ingenious, and suggestive observations," but "something less than history as Gibbon would have written it." His importance to the student of the social sciences, however, is to be sought in his other works. In 1896 he began the publication of the *Cuneiform Texts from Babylonian Tablets . . . in the British Museum*, sixteen volumes of which were his own work. The texts published covered every department of knowledge—historical annals, building inscriptions, grammatical texts, hymns, prayers, omens, incantations, epics, myths and above all huge numbers of economic documents. Many of these were published also with translation and commentary. With E. A. W. Budge he edited *Annals of the Kings of Assyria* (London 1902), long the fundamental source for earlier Assyrian history, and with R. C. Thompson *The Sculptures and Inscriptions of Darius the Great on the Rock of Behistun in Persia* (London 1907), a similar work in the field of Persian history. In *The Seven Tablets of Creation* (2 vols., London 1902) was contained the important creation story which is believed to have influenced the Hebrew account of the creation in Genesis. The *Letters and Inscriptions of Hammurabi* (3 vols., London 1898–1900) showed the Babylonian administrative machine actually at work and illuminated the culture. For the student of the social sciences perhaps the most important of King's editions was his *Babylonian Boundary-stones and Memorial-tablets in the British Museum* (London 1912). The documents in this volume are in reality charters by which weakening kings granted to nobles growing in power exemptions from the usual dues and services; they portray in a striking manner a situation parallel to that in mediaeval Europe—a recent feudal system imposed upon an age old manorial system. Although King himself did little to synthesize the results of his researches, his publications were of service to subsequent social scientists.

A. T. OLMSTEAD

Consult: Rogers, Robert William, in *American Journal of Semitic Languages and Literatures*, vol. xxxvi (1919–20) 89–94; Olmstead, A. T., "A History of Babylon" in *American Journal of Theology*, vol. xx (1916) 277–86.

KING, WILLIAM (1786–1865), English co-operator. King, the son of a clergyman, became a physician with a strong interest in the social

reform movements of his day. In 1822 he settled in Brighton, where he became distinguished as an assistant of Mrs. Elizabeth Fry, the philanthropist and prison reformer, and as a supporter of infant schools and mechanics' institutes, at which he frequently lectured.

From 1827 to 1830 King was active in the co-operative movement. He encouraged the Brighton workers to experiment in cooperation and in 1828 issued the *Co-operator*, a monthly magazine financed and written mainly by himself, which was the first to advocate cooperation in language understood by the working class. During the two years of the *Co-operator* King not only stimulated immensely the formation of cooperative societies (three hundred according to his own estimate) but developed a theory of cooperation which has earned him recognition as the first great theorist of modern cooperation. He rejected the philanthropic cooperation of Robert Owen, whose proposals required large capital, which could be secured only from the rich and powerful, and appealed directly to workers to organize cooperatives by utilizing their own economic power and accumulating their own capital. Cooperatives were to pay no individual dividends but to place all profits in a reserve fund for the common good and for purposes of expansion. He advocated producers' cooperatives as a means by which the workers could secure the full product of their labor. While King had no objection to self-sustaining cooperative communities providing they were organized with the cooperators' own accumulated capital he stressed the formation of consumers' and producers' cooperatives within the old society to serve not only the members but the general public as well. The workers could thus gradually dispossess the capitalist class. King ceased publication of the *Co-operator* in August, 1830, owing to dissensions in the cooperative movement over forms and purposes and devoted his later life to philanthropy and reform. His ideas influenced the Rochdale Pioneers and the subsequent development of the cooperative movement; many cooperators feel that King deserves to be called the father of modern cooperation.

R. W. POSTGATE

Consult: Dent, J. J., *The Co-operative Ideals of Dr William King* (Manchester 1921); Mercer, T. W., *Dr William King and "The Co-operator," 1828–1830* (Manchester 1922); Müller, Hans, "Zweck und Wesen der Genossenschaft, nach Dr. W. King" in *Anthologie des Genossenschaftswesens*, compiled by V. Totumianz (Berlin 1922) p. 18–26.

**KING, WILLIAM ALEXANDER** (1855–1906), American vital statistician. King first became associated with census work in 1880 and after 1900 was the first chief statistician for vital statistics of the federal Census Bureau. His pioneering activities in this field of government reporting were of particular significance with regard to the collection and treatment of mortality figures, and the lines of development which he laid out are being followed closely today. King made an important contribution in drawing up the standard death certificate, the general use of which in the registration area permitted the collection of uniform basic data on the age, nativity, parentage, marital status and cause of death of decedents. Under his direction the division of vital statistics also adopted the International Classification of Causes of Death. This made possible the statistical presentation under a comparatively small group of clearly defined titles of what had been a vast number of unsatisfactory medical terms and allowed for the comparison of American with foreign mortality experience. At his urging Congress passed in February, 1903, a joint resolution calling on state authorities to cooperate with the Census Bureau in securing a uniform system of birth and death registrations. This was the first important federal recognition of the value of vital statistics as essential to the progress of medicine and sanitary science. King played an important part also in drafting the model law for vital statistics, which a state or municipality was required to adopt before it could be admitted to the federal death registration area. His labors in perfecting the methodology of the vital statistics division, particularly in devising a remarkable system of checks and cross checks, paved the way for the excellent annual mortality reports published since 1900 by the Census Bureau.

GEORGE H. VAN BUREN

*Consult:* Van Buren, G. H., "William Alexander King and the Federal Registration Service 1900–1906" in American Statistical Association, *Journal*, vol. xxi (1926) 267–72.

**KINGSHIP.** See **MONARCHY.**

**KINGSLEY, CHARLES** (1819–75), English clergyman and social reformer. Kingsley played an active part in the brief life of the Christian Socialist movement in the years following 1848. He was greatly inspired by F. D. Maurice and, like the rest of the group surrounding Maurice, he was deeply excited by the Chartist movement

in Great Britain and the Revolution of 1848 in France. Chartism, however, seemed to him to be on the wrong lines because it was not based on religion and because it was mainly political; he felt that social reform should come through individual regeneration and group cooperation. The attempt of Louis Blanc and others in Paris to create self-governing workshops roused the enthusiasm of Maurice's circle, and the result was the founding of the Christian Socialist movement with the object of establishing cooperative workshops in Great Britain. To the first organ of the Christian Socialists, *Politics for the People* (published from May to July, 1848), Kingsley contributed trenchant articles under the signature "Parson Lot"; in the years 1850 and 1851 he also wrote many articles for the *Christian Socialist*. During the same period he published two novels, *Yeast* (1848) and *Alton Locke* (1850), describing the evil conditions of working class life. His pamphlet *Cheap Clothes and Nasty* (1850), exposing the sweating system, had a wide influence. After the failure of the Christian Socialist movement, however, he dropped out of politics and his views gradually came to be far less radical, although he retained to the end a keen interest in popular education and the development of public health and sanitation.

From 1860 to 1869 Kingsley was professor of modern history at Cambridge, but he was a graphic lecturer rather than an exact scholar and was not regarded as a success. Most of his time was spent at Eversley, where he was rector from 1844 to the end of his life. Besides his political and social works he wrote several novels, notably *Hypatia* (2 vols., 1853) and *Westward Ho!* (3 vols., 1855), children's books and some poetry; and he published many volumes of sermons and essays. He was a vigorous but unskilful controversialist and got much the worst of a tussle with Cardinal Newman. Kingsley's political and economic views were less the result of thought than of strong reaction against evil conditions and of enthusiasm generated by his friendship with Ludlow and Maurice. He was always a social reformer rather than a socialist and had in many respects stronger affinities to Toryism than to the radicalism of his day. His contact with the working class movement through Christian Socialism was indeed only an episode in his energetic and varied life as clergyman, novelist, poet, historian, naturalist, educator and "muscular Christian."

G. D. H. COLE

*Works:* *Works*, 28 vols. (London 1884–85).

*Consult:* Charles Kingsley: *Letters and Memories of His*

*Life*, ed. by his wife, 2 vols. (London 1877-80); Brown, W. Henry, *Charles Kingsley, the Work and Influence of Parson Lot* (Manchester, Eng. 1924); Stubbs, C. W., *Charles Kingsley and the Christian Social Movement* (London 1899); Kaufmann, Moritz, *Charles Kingsley: Christian Socialist and Social Reformer* (London 1892); Vulliamy, C. E., *Charles Kingsley and Christian Socialism*, Fabian Tracts, no. 174 (London 1914); Brunner, Karl, "Charles Kingsley als christlich sozialer Dichter" in *Anglia*, vol. xlvii (1922) 289-322, and vol. xlviii (1922) 1-33; Raven, C. E., *Christian Socialism 1848-1854* (London 1920) p. 93-101, 166-81; Seligman, E. R. A., "Owen and the Christian Socialists" in his *Essays in Economics* (New York 1925) p. 33-62.

KINGSTON, CHARLES CAMERON (1850-1908), Australian statesman. Kingston began his political career in the South Australian parliament in 1881 as a believer in comprehensive state intervention for social betterment. He was largely responsible for the introduction of woman suffrage, payment of members of parliament, a state bank, progressive land and income taxes, factory regulation, employer's liability and restriction of Chinese immigration. He also fathered the principles of compulsory conciliation and arbitration in labor disputes. The disastrous maritime strike of 1890 convinced him that such "barbarous expedients" should be forbidden, for from them right does not necessarily emerge triumphant. The state must protect non-combatants, who suffer severely, and must attempt to explore what Judge Higgins later called a "new province for law and order." His bill of 1890, by which employers' and employees' organizations could if they wished consent to submit all future disputes to conciliation or arbitration, while the state was to have power of compulsion if necessary, was not passed until 1894 and was never used; but it inspired W. Pember Reeves to similar action in New Zealand, where the first compulsory arbitration act in any country was enacted in 1894. Kingston was a strong advocate of Australian federation. He played a leading part in the drafting of the federal constitution: he was prominent among those who worked out the first draft of a constitution in 1891; he presided over the convention of 1897-98, the work of which was influenced by the preliminary draft; and he participated in the premiers' conference which gave final shape to the constitution. The grant of federal jurisdiction over industrial disputes of an interstate character was originally proposed by him. From 1901 to 1903, when he was the first federal minister of trade and customs, Kingston prepared the first tariff. He also inaugurated a system of

bounties, which, however, was restricted to sugar until 1907.

HERBERT HEATON

*Consult:* Coghlan, T. A., *Labour and Industry in Australia*, 4 vols. (London 1918) vol. iv, p. 1916-29, 2090-91, 2100-03, 2272-2305; Hunt, E. M., *American Precedents in Australian Federation* (New York 1930); Turner, Henry Gyles, *The First Decade of the Australian Commonwealth* (Melbourne 1911).

KINSHIP. English terms of relationship show diverse principles of nomenclature as to both form and meaning. Formally father and mother are irreducible parts of speech. But such terms as father-in-law and mother-in-law are compounds derived from the rules of canon law as to prohibited degrees, while grandfather and great uncle are formed by adjectival modification of the primary noun. Although in English denotative terms are either primary or derivative, Scandinavian tongues use descriptive as well as denotative terms by describing certain relationships by juxtaposition of the primary relationship terms. Thus the uncle relationship is expressed in the Swedish language by two terms, *farbror*, meaning father's brother, and *morbror*, meaning mother's brother.

English terms also differ in range of application. Father and mother unequivocally designate single persons; but brother or sister may apply to a number of individuals, and cousin has a still wider range. In other words, some terms individualize, other terms embrace a smaller or larger class of persons and they are thus classificatory.

Systems of kinship nomenclature differ in the principles of classification employed and in the relative frequency of principles common to them. Kroeber's investigation in 1909 resulted in a list of categories discoverable from North American data. Kroeber found that kindred are grouped, for example, according to generation or age level as well as to differences between direct and collateral lines of descent. Lexical distinctions might depend on the speaker's sex or on the sex of the relative intermediary between interlocutors. Kroeber argued that such changes and groupings did not reflect social usage but were molded by the psychological factors operative in language generally. This was in avowed revolt against the current view that kinship systems were correlates of social institutions, a principle which was introduced by Lewis Henry Morgan in 1868.

The sociological interpretation of kinship terms antedated the linguistic because anthro-

pologists have been interested primarily in cultural phenomena rather than in linguistic history. Terms of relationship are first of all vocables and what holds for language must ipso facto hold for them; their linguistic history does not differ from that of other words. In Dickens and Thackeray a mother-in-law is sometimes a stepmother, not a spouse's mother; the subsequent restriction in meaning has nothing to do with a change in the social position of stepmothers or spouses' mothers. The change is comparable to the modern restriction in the meaning of the word monogamy as compared with the eighteenth century usage as revealed in *The Vicar of Wakefield*. The French word *tante* was substituted for *Muhme* in the German language and assimilated to native phonetics; the process of borrowing with modification was in no sense distinctive of kinship terms and bore no relation to changes in the German attitude toward aunts. The indifference of the anthropologists to these patent facts of linguistic history has not been due to caprice or perversity. Except in so far as he is avowedly a linguist the social scientist has nothing to do with phenomena of this order, which do not interest him professionally and which he has no special technique for interpreting. As well might an ethnographer try to explain why in some languages nouns for long objects require certain definite articles, nouns for round objects others; or why in color vocabularies dark blue is sometimes classed with black and light blue with green. Anthropological field workers and armchair theorists have grappled with kinship systems solely because these were felt to be correlated with social facts. Sociological interpretations leave a residuum of facts unexplained, however, which are data for philological and psychological scrutiny.

Unhindered by the need for considering all the vagaries of linguistic growth, ethnologists have been able to develop a relatively simple classification of systems. In most European languages individualizing terms for parents occur; and, correlatively, parents apply the term for child only to their own offspring, while siblings differentiate themselves from cousins. The immediate family group is thus sharply differentiated from remote kinsfolk, an emphasis which warrants the term lineal as defining systems that segregate the lineal kin from collateral relatives, who are lumped together as uncles and aunts or cousins. Collateral systems, on the other hand, distinguish not only the collateral from lineal kindred but, at least partly, the maternal from

the paternal collaterals. The Eskimo, the Mono of California and to some extent the Scandinavian languages illustrate these features. A great many peoples, among them the Australians, the Ojibwa and the Iroquois, not only bifurcate collaterals but identify with a parent his sibling of the same sex. Thus there is one term for father and father's brother and another for mother's brother; there is one term for mother and mother's sister and a distinct term for father's sister. By logical correlation tribes using such nomenclatures, which may be designated as collateral merging systems, recognize as siblings the offspring of the paternal uncle or maternal aunt while putting other cousins into a separate category. Generation systems such as those of Polynesia and Micronesia merge all members of the same generation and the same sex under one term.

Morgan and his disciples ignored the existence of all primitive kinship systems except those of the generation and the collateral merging type and thus came to postulate a sharp contrast between primitive and civilized nomenclature and social institutions. Specifically Morgan regarded the generation system of the Polynesians as the simplest of all and accordingly the most ancient. He could conceive only one reason for classing together the father and uncles of both types; namely, that when the terminology originated a man mated with his brother's wife and with his own sister, so that from the children's point of view an uncle was a potential father. Restrictions on the mating of siblings, Morgan contended, crystallized in what is here called a collateral merging system, where the merging of paternal uncle and father meant that a brother still had access to his brother's wife although no longer to his own sister. Monogamy, he believed, evolved ultimately together with the individualizing parent terms of modern terminology. Some of the rudest peoples, however, are monogamous and their kinship terminologies approximate modern European kinship terms. On the other hand, the Polynesians are far from the nascent stages of human society, and their generation system is almost certainly the result of secondary simplification. Similar simplification of terminology has also been noted in Siberia by Sternberg and in America by Lowie. The collateral merging type is evidently consonant with a clan organization, since it links persons of the same clan and separates persons separated by the exogamous rule. If a clan system weakened, the differentiation, for example, between mother's

brother and father's brother might cease to be significant and in extreme cases a generation system might develop, as was shown by Rivers. Morgan was wrong, however, in assuming that the term father in the aboriginal languages necessarily implied procreation. The term merely denotes similarity of status with one's father; many peoples in fact are indifferent to biological paternity. Morgan's specific sociological interpretations were therefore at fault; nevertheless, his intuition that some sort of sociological correlation is involved remains unscathed.

This is in a measure a matter of direct observation. In Australia the studies of Radcliffe-Brown and of Warner have shown that every member of a group stands to every other in a fixed relationship expressed by a pair of kinship terms and correlated with fixed behavior patterns. If a man calls a woman by a certain cousin term, it means that she is a potential wife. The fact that Australians have no terms of affinity is a consequence of their marriage rules, by which every individual must marry a blood relative of some specific class. Apart from such overt instances the moot problem of sociological correlation can be settled by crucial tests based on the logic of varying concomitants. The linguist's challenge is that "the infinitely variable play of the variable factors forbids any true determinations of causality of a sweeping character." If this held true, tribes with or without clans, with maternal or paternal descent, practising or forbidding cross cousin marriage, would have on the average similar systems.

The evidence, however, demonstrates a functional relationship in a mathematical sense between clan organization and collateral merging systems. Collateral merging systems are conspicuously distributed in North America throughout the area of clan organization, with occasional extensions into contiguous tribes. On the other hand, among the Eskimo, around Puget Sound and the Columbia River, in northern California and the Great Basin, that is, among the clanless aborigines, the lineal and collateral nomenclatures hold sway. It cannot be mere chance that those tribes recognizing the family as the foremost social unit are also the ones that stress the immediate kin and segregate them from more remote relatives. On the northwest coast the Kwakiutl have no clear cut clan organization, while other tribes of the same culture area—the Tlinkit, Haida and Tsimshian—have clans; the latter have the collateral merging terminology and the Kwakiutl lack it. Of all the Shoshoneans

the Hopi have the best developed clan organization, and they alone have a typical collateral merging nomenclature. Outside of America the Andamanese, Chukchi and Koryak are clanless and their kinship terms show no trace of collateral merging systems, which are regularly linked with the clan organizations of Australians and African Negroes.

But the phenomena are too complex to warrant the establishment of a simple causal nexus. The alignment characteristic of collateral merging would also result from the combined effect of two widespread forms of marriage, the levirate and sororal polygyny. When a man regularly inherits his brother's widow and takes to wife his first spouse's younger sisters, father's brothers are equated with the father and the mother's sisters with the mother. Since as a rule the tribes with clans also practise these marriage forms, one can merely indicate that an empirical multiple correlation exists without inferring a cause and effect relationship with either the marriage forms or the clan organization.

A special case is presented by that form of clan organization known as the exogamous moiety system. Primitive peoples frequently dichotomize cousins: only cross cousins or the children of a brother and of a sister are distinguished by a cousin term, while parallel cousins, the children of two brothers or of two sisters, fall into the category of siblings. This phenomenon is often linked with the custom of prescribing marriage with cross cousins and tabuing unions of parallel cousins. Tylor showed that this grouping follows from a division into exogamous moieties, where, whether descent is paternal or maternal, cross cousins always are in complementary moieties. On the other hand, the addition of a third exogamous clan no longer inevitably groups cousins in this fashion. The theory fits the cousin classification but is not yet borne out by the empirical data, since the terminology also appears in many tribes lacking exogamous moieties.

Cross cousin marriage, as Rivers showed for Melanesia, is correlated with specific modifications of collateral merging nomenclatures. In cases where the man's maternal uncle and his father-in-law, his mother-in-law and his mother's brother's wife are identified, where he calls wife and female cross cousin by a single word and classes brothers-in-law with male cross cousins, a study of the nomenclature seems sufficient to prove a correlation. Moreover the totality of these equations does not seem to occur

except in regions where the marriage form occurs.

Among the Omaha of Nebraska the generation lines are overridden—a mother's brother's son is called by the same term as a maternal uncle. This feature is not shared by such fellow Siouans as the Crow or Dakota, but occurs among several Central Algonquian tribes. Since, however, these tribes are neighbors, the peculiarity might be explained through diffusion without recourse to social phenomena. But when the same terminological feature crops up two thousand miles to the west among the Miwok of California as well as in Africa and Asia, one must either fall back on the caprices of language, that is, abandon explanation, or look for a common determinant. The latter is found in the common stressing of the paternal line, for all the tribes in question have paternal clans and by paternal descent a maternal uncle and his son will always be in the same clan. For the Miwok and Omaha parallels a perfect answer can be given; both permit a man to marry his wife's brother's daughter—the niece is thus elevated in status, becoming a mother to the offspring of her husband's first marriage, whence her brother becomes a mother's brother. Yet the theory is not adequate; there are tribes like the Ojibwa which are also patrilineal but fail to disregard generation lines.

The reverse occurs in Melanesia, in southern Alaska, among the Crow of Montana, the Pawnee of Nebraska, the Hopi of Arizona and in southeastern United States, where the paternal aunt's son is reckoned a father and her daughter a paternal aunt. All these tribes are matrilineal, so that the father's sister and her children are always in the same group as herself and her brother. But here too a supplementary hypothesis is required, for there are matrilineal tribes, such as the Iroquois, that do not override generations. For the Melanesian and Tlinkit tribes, at least, nepotic inheritance of widows provides the key: a man inherits his mother's brother's widow, hence her children by the first husband call their cousin father. In Dobu, Melanesia, as Fortune has shown, the father's sister's son is verbally identified with the father only after the latter's death; Malinowski found that in the nearby Trobriands the classification obtains from birth. The steps of the development are therefore clear in this area.

Lesser is correct in conceiving such marriage forms as extensions of the sororate and levirate respectively. Where the simple sororate and levirate hold, collateral merging systems adhere

to the generation principle tempered with merging; in cases of extended sororate and levirate the generation principle is correspondingly suspended. The extensions are themselves in consonance with rules of descent; it is not the matrilineal Dobu but the patrilineal Omaha who permit the supplementary wife to come from her predecessor's paternal lineage. In other words, the nomenclature is linked by multiple correlation with a rule of marriage and a rule of descent, which are functions of each other. Furthermore it cannot be inferred that nepotic inheritance of the widow accounts for all the matrilineal cases, since other social factors might yield similar results. Thus if, as in some tribes, a man may marry his wife's daughter by a previous union, a son by the older woman will through the common father be a brother to a son by the younger wife. He is, however, the latter boy's mother's mother's son; that is, a mother's brother. Hence the brother is equated with the mother's brother, so that brother's son becomes the mother's brother's son. Since in collateral merging systems a man's brother's son is designated by the same terms as a son, the son is equated with the mother's brother's son; whence by inversion of the relationship the father becomes the father's sister's son. There is danger therefore of inferring that a particular social factor is the determining principle when some other factor is able to produce like terminological effects, but this does not militate against the theory of sociological determinism.

The empirical correlations found in Australia are convincing. Radcliffe-Brown discovered that wherever the designations of the mother's mother's brother and the father's father coincided, the tribes practised cross cousin marriage and were segmented into four sections; where these relatives were distinguished, marriage was with a cousin of more remote degree—the mother's mother's brother's daughter's daughter—and there were eight sections.

In summary, kinship terminologies cannot be wholly interpreted along sociological principles because of the whimsicalities of linguistic usage. Diffusion may likewise prove a distorting agency; it is conceivable that special features may sometimes be borrowed independently of existing social phenomena, even if one admits that frequently traits of nomenclature are borrowed that are congruous with the existing social scheme, as Thurnwald contends. Apart from phenomena which are at present inexplicable, it must be recognized that coexisting social factors may

compete in the shaping of a given system and that generally insight into the relative importance and chronology of these factors is lacking. Notwithstanding such difficulties clear cut empirical correlations between kinship terms and social organization appear; in fact no other branch of culture so definitely illustrates two principles of major theoretical significance: the occurrence of regularities and the possibility of convergence.

ROBERT H. LOWIE

See: SOCIAL ORGANIZATION; FAMILY; MARRIAGE; INTERMARRIAGE; INCEST; ADOPTION; ANTHROPOLOGY; CULTURE; EVOLUTION, SOCIAL.

Consult: Morgan, Lewis Henry, "A Conjectural Solution of the Origin of the Classificatory System of Relationship" in *American Academy of Arts and Sciences, Proceedings*, vol. vii (1865-68) 436-77, and *Systems of Consanguinity and Affinity of the Human Family*, Smithsonian Contributions to Knowledge, vol. xvii (Washington 1870) no. 2, and *Ancient Society; or Researches in the Lines of Human Progress from Savagery through Barbarism to Civilization* (New York 1877); Kroeber, A. L., "Classificatory Systems of Relationship" in *Royal Anthropological Institute of Great Britain and Ireland, Journal*, vol. xxxix (1909) 77-84; Sternberg, Leo, "The Turano-Cano-wanian System and the Nations of North-east Asia" in *International Congress of Americanists, Proceedings*, vol. xviii (London 1913) p. 319 33; Lowie, Robert H., "Historical and Sociological Interpretation of Kinship Terminologies" in *Holmes Anniversary Volume* (Washington 1916) p. 203-300, "A Note on Relationship 'Terminologies' in *American Anthropologist*, n.s., vol. xxx (1928) 263-67, and *Primitive Society* (New York 1920); Rivers, W. H. R., "On the Origin of the Classificatory System of Relationships" in *Anthropological Essays Presented to E. B. Tylor* (Oxford 1907) p. 300-23, *Kinship and Social Organisation*, London School of Economics, Studies in Economics and Political Science, no. xxxvi (London 1914), and *Social Organisation*, ed. by W. J. Perry, History of Civilization series (London 1924); Tylor, E. B., "On a Method of Investigating the Development of Institutions" in *Royal Anthropological Institute of Great Britain and Ireland, Journal*, vol. xviii (1889) 245-72; Gifford, E. W., *Californian Kinship Terminologies*, University of California, Publication in American Archaeology and Ethnology, vol. xviii (Berkeley 1922); Spier, Leslie, "The Distribution of Kinship Systems in North America" in *University of Washington, Publications in Anthropology*, vol. i (Seattle 1925) p. 71-88; Radcliffe-Brown, A. R., "The Social Organization of Australian Tribes" in *Oceania*, vol. i (1930-31) 34-63, 206-46, 322-41 and 426-56; Warner, W. L., "Morphology and Functions of the Australian Murngin Type of Kinship" in *American Anthropologist*, n.s., vol. xxxii (1930) 207-56; Durlach, T. M., "The Relationship Systems of the Tlingit, Haida and Tsimshian," *American Ethnological Society, Publications*, vol. xi (New York 1928); Fortune, R. F., *Sorcerers of Dobu* (London 1932) ch. i; Malinowski, Bronislaw, *The Sexual Life of Savages in North-west-*

*ern Melanesia* (London 1929) p. 2-7, 416-51; Lesser, Alexander, "Kinship Origins in the Light of Some Distributions" in *American Anthropologist*, n.s., vol. xxxi (1929) 710-30; Thurnwald, R., "Banaro Society" in *American Anthropological Association, Memoirs*, vol. iii (1916) 251-391.

KIRBY, JOHN, JR. (1850-1925), American industrialist. A manufacturer and director in many small corporations, Kirby was one of the conspicuous advocates of the open shop and an organizer of anti-union employers' associations. He was instrumental in evolving a new and effective type of employers' association consisting of employers in different industries in the same city. The Dayton Employers' Association formed in 1901 under Kirby's leadership actively promoted similar associations in a number of middle western cities, the general object being to resist or to eliminate strong unions. Through these associations a number of defeats were inflicted upon unions, notably in Chicago and Indianapolis. At the meetings of the National Association of Manufacturers in 1902 and 1903, when that association for the first time adopted a belligerent anti-union program, Kirby was one of the principal orators on behalf of such a course. Indeed he wanted to alter and enlarge the association, to make it a general federation including not only manufacturers but all types of employers, for the purpose of spreading the open shop. This move was defeated and instead Kirby helped to organize the Citizens' Industrial Association of North America, which for several years was prominent in the open shop movement. In 1909 he was elected president of the National Association of Manufacturers and followed closely in the footsteps of his belligerent predecessors, Parry and Van Cleave. He served until 1913. During Kirby's administration anti-union feeling ran high in connection with the trial of the union ironworkers for dynamiting the Los Angeles Times building, and he used these events to "prove" that the American Federation of Labor was "a cold, merciless and murderous labor trust." Under his administration the lobbying activities of the National Association of Manufacturers, organized by his predecessors, continued until exposed by a congressional investigation in 1913. Kirby was also active in the National Metal Trades Association and in 1916 became a charter member of what is now the National Industrial Conference Board.

Kirby's presidential addresses are remarkable for their emotional fanaticism and for a picturesque use of Biblical metaphor. A more re-

strained statement of his ideas is to be found in an article on industrial combinations (American Academy of Political and Social Science, *Annals*, vol. xliii, 1912, p. 119-24). He concedes the theoretical desirability of labor combinations for improving the moral, intellectual and pecuniary condition of members if they confine themselves to "fair" methods, by which he means methods other than violence, strikes and boycotts.

JEAN ATHERTON FLEXNER

*Consult:* Bonnett, C. E., *Employers' Associations in the United States* (New York 1922) ch. x; Mitchell, John, "Hostility of the Manufacturers' Association" in *American Federationist*, vol. xvi (1909) 668-71.

KIRCHMANN, JULIUS HERMANN VON (1802-84), Prussian philosopher and sociologist. After attending the universities of Leipzig and Halle Kirchmann entered the civil service. He was prosecuting officer of the Berlin criminal court and later vice president of an appeal court; he was removed from the latter post in 1867 for advocating birth control as the solution of the social problem. In 1848-49 he was member of the Prussian Diet for Berlin, sitting in the left center led by Rodbertus, and from 1871 to 1876 a member of the Progressive party in the Reichstag. Championing "common sense" in politics Kirchmann first stigmatized the Prussian and Imperial Diet systems, which through a cunning arrangement of franchise and constituencies reduced parliament to a tool of the crown, as *Schein-Constitutionalismus* (sham constitutionalism). He opposed republican ideas in 1848 and advocated a combination of authority and democracy by means of a parliamentary government assisted by a well developed civil service; the standing army was to be replaced by militia. His pamphlets on economics provoked the famous *Sociale Briefe an von Kirchmann* (3 vols., Berlin 1850-51) of his friend Rodbertus. He rejected Hegel's dialectic, accepted Kant's critique of knowledge and inclined to positivism; in his later years he was much interested in Comte and tried to introduce sociology as a systematic science into Germany. As the author of several works on criminal and procedural law he startled the legal world as early as 1847 by proposing to free legal science from obsolete logical and verbal methods, which he characterized as unscientific. He proposed to make of the law a real science by adopting what he called political method. His position in this respect was very close to that of the modern sociological school of jurisprudence.

He wrote many philosophical works, edited *Kirchmanns philosophische Bibliothek* and was for many years president of the Berlin Philosophical Society and a frequent contributor to its publications. A sensualistic realist, Kirchmann regarded sentiment or respect for authority—parents, teachers, state officials, priests, the monarch, the sovereign people—as the basis of morals; the highest authority being God, who exists as a feeling if not as a reality. Religion is a great power for good and evil among the masses; evil—oppression rather than superstition—may be avoided through religious freedom. Morality is a personal not a public matter; political science is concerned only with determining the reasonableness of government.

THEODOR STERNBERG

*Important works:* *Die Werthlosigkeit der Jurisprudenz als Wissenschaft* (Berlin 1848); *Philosophie des Wissens* (Berlin 1864); *Über die Unsterblichkeit* (Berlin 1865); *Über den Communismus der Natur* (1866; 2nd ed. Leipzig 1872); *Die Lehre vom Wissen* (Berlin 1868); *Asthetik*, 2 vols. (Berlin 1868); *Die Grundbegriffe des Rechts und der Moral* (Berlin 1869); *Katechismus der Philosophie* (Leipzig 1877, 2nd ed. 1881).

*Consult:* Lasson, A., and Meineke, J. H. *von Kirchmann als Philosoph*, *Philosophische Vorträge*, n.s., vol. ix (Halle 1885); Hartmann, E. von, *J. H. v. Kirchmanns erkenntnistheoretischer Realismus* (Berlin 1875); Sternberg, Theodor, *J. H. v. Kirchmann und seine Kritik der Rechtswissenschaft* (Berlin 1908), and in *Allgemeine deutsche Biographie*, vol. li (Leipzig 1906) p. 167-77; Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880-1910) vol. iii, pt. ii, p. 737-43; Valentin, Veit, *Geschichte der deutschen Revolution von 1848-49*, 2 vols. (Berlin 1930-31) vol. ii.

KIREYEVSKY, IVAN VASILYEVICH (1806-56), Russian Slavophile. As a young man Kireyevsky was strongly indoctrinated with German idealistic philosophy. In 1827 together with his younger brother Petr, who later gained prominence as a collector of folk songs and who exerted a profound influence on Ivan's development, he joined a discussion circle led by the poet Venevitinov and the novelist prince Odoevsky; the members of this group were young Schellingians who repudiated the revolutionary legacy and viewpoint of the Decembrists. Kireyevsky's first important work was a penetrating appraisal of Pushkin's poetry, which was followed by a brilliant article on Russian literature in 1829. After a short sojourn abroad he founded in 1832 the *Evropeyets*, a review which enjoyed the cooperation of the best Russian writers but was suppressed after the second issue. In this review he objected to the cultural isola-



tion of Russia and advocated the adoption of western education. Shortly thereafter his outlook changed radically: he became a devout follower of the Russian church and plunged into a study of patristic literature. Thus arose the peculiar fusion of Hegel and Schelling with Eastern Orthodox theology which is embodied in the philosophy of Slavophilism, formulated for the first time by Kireyevsky. The main outlines of this philosophy were sketched by Kireyevsky not later than 1839, but its amplified presentation appeared in print only in 1852 in the columns of *Moskovsky sbornik*, a magazine which he edited.

The focal point of Kireyevsky's Slavophilism is the conception of *bit*—a system of spiritual values and social relations shaping themselves independently of human calculations. Russian *bit* escaped the influence of the three most important institutions of western Europe: the Roman Catholic church with its extreme emphasis on logic, which inhibits the living understanding of inner spiritual life and the unbiased contemplation of outward nature; the juridical legacy of ancient Rome, which reduces the individual to a bundle of absolute property rights; and the political organization born of conquest. Underlying Russian *bit* is the living spiritual philosophy of eastern church fathers, which sublimates the rational-mechanical reason to a morally free speculation and is responsible for the characteristic features of Russian social organization, of which the primary foundation is the living individual. The land in Russia belongs to the community, because the latter consists of families composed of individuals who can till it, while the landlord's right is conditioned by his relation to the state. The principal cause of all evils and shortcomings in Russian life is the conflict between the true Russian civilization, which is not to be identified with petrified Byzantinism, and the cultural elements borrowed from the west. The remedy lies not in wholesale repudiation of western rationalism and science; Kireyevsky and other Slavophiles advocated instead a rather mystical synthesis of western culture with eastern Christianity.

SOLOMON KUZNETS

*Works:* The most complete edition in Russian is that by M. O. Gershenzon, 2 vols. (Moscow 1911), with materials for Kireyevsky's biography; N. Bubnoff's translation of some of Kireyevsky's essays appeared as *Russlands Kritik an Europa* (Stuttgart 1923).

*Consult:* Gershenzon, M. O., *Istoricheskaya zapiski* (Historical memoranda) (Moscow 1910) p. 3-40; Masuryk, T. G., *Zur russischen Geschichts- und Religions-*

*philosophie*, 2 vols. (Jena 1913), tr. by E. and C. Paul as *The Spirit of Russia* (London 1919) vol. 1, ch. ix; Koyré, A., *La philosophie et le problème nationale en Russie au début du XIX<sup>e</sup> siècle* (Paris 1920).

KIRK, SIR JOHN (1832-1922), British colonial agent. Kirk studied botany and medicine at Edinburgh University and was selected to accompany David Livingstone on his official Zambesi expedition from 1858 to 1863. From 1866 to 1887, in the service of the Foreign Office and the government of India, he represented British commercial, philanthropic and political interests at Zanzibar, where he acquired a dominant position as the trusted friend of the Arab sultan Barghash. In this capacity and later as a director of the Imperial British East Africa Company he helped to lay the foundations of British rule in Uganda and Kenya. At this time the slave trade was flourishing on the east coast of Africa, mainly in the hands of the Arabs, who devastated central Africa from their base at Zanzibar. Like Livingstone, Kirk was deeply impressed by the evils of the traffic and next to him was the chief means of ending the scourge; he became the chief agent of the British government in pressing for outlawry of the trade. Largely through his influence Barghash was persuaded in 1873 to prohibit all export of slaves and to close all public slave markets throughout his dominions. Kirk headed the British delegation at the Brussels Conference of 1889-90 which outlined the system for exterminating the interior slave trade, and it was he who suggested the method adopted by the British in various parts of Africa for the abolition of slavery itself. This method deprived the institution of legal status but avoided the dangers of compulsory emancipation. The younger generation of African administrators long regarded Kirk as the wisest exponent of British traditions in colonial policy.

R. COUPLAND

*Consult:* Coupland, Reginald, *Kirk on the Zambesi* (Oxford 1928); P. D., in Royal Society of London, *Proceedings*, ser. B, vol. xciv (1922-23) p. xi-xxx; Johnston, H. H., in *Geographical Journal*, vol. lix (1922) 225-28; Lyne, R. N., *Zanzibar in Contemporary Times* (London 1905) p. 60-71, 120; McDermott, P. L., *British East Africa or Ibea* (London 1893) p. 219-20, 252-60.

KISELEV, PAVEL DMITRIYEVICH, COUNT (1788-1872), Russian statesman. After a brilliant military career Kiselev was appointed head of the provisional government of Moldavia and Wallachia, territories which were temporarily occupied by Russia after the Russo-Turkish War

of 1828–29. While there he enacted important administrative and social reforms and was largely instrumental in liberating the peasants from the feudal power of the landowners. Upon his return to Russia in 1834 he was appointed member of the Council of State and in 1838 was entrusted with the administration of peasant serfs on the state domains. Kiselev introduced self-government in the villages, augmented the size of land parcels, improved the methods of agriculture and increased the number of schools. Although the peasants rebelled against the excessive bureaucratic regulation, their condition was generally improved. Along with these reforms Kiselev applied himself to the task of preparing the emancipation of all Russian peasants. Russia at the time was already entering upon a period of capitalistic development and the continuance of feudal relations was a retarding factor in the tempo of industrial expansion. Nicholas I recognized the necessity of freeing the peasants and lent a willing ear to emancipation projects. The majority of landowners were opposed to emancipation, and others approved the freeing of the peasants without giving them any land. Kiselev evolved a plan according to which the peasants would be given personal freedom and the landowners would remain in legal possession of the land, subject, however, to the obligation of granting the peasants an inalienable lease on a definite parcel of land in return for definite dues, the size of the parcel and the amount of payment to be fixed by law. Under the pressure of the opposing landowners, however, the plan was deprived of its compulsory features and when finally enacted in the ukase of 1842 it remained practically a dead letter. With the liberation of the peasants in 1861 the plan became obsolete. Kiselev was appointed ambassador to Paris in 1856 and retired from public life in 1862.

A. A. KISEWETTER

*Consult:* Zablotsky-Desyatovsky, A. P., *Graf P. D. Kiselev i ego vremya* (Count Kiselev and his times), 4 vols. (St. Petersburg 1882).

KISTYAKOVSKY, ALEXANDER FEDOROVICH (1833–85), Russian criminologist. After studying at the University of Kiev, where he was later professor of criminal law from 1864 until his death, Kistyakovsky complemented his university studies abroad and investigated the leading penal institutions of Europe. His approach to the problems of criminal law was from the point of view of the positivism of Auguste Comte; with a broad humanitarian outlook he

emphasized the environmental determinants of crime and society's responsibility for the criminal. He believed that laws must be studied historically in relation to the social conditions prevailing at the place and time of their origin and that criminal law, first motivated by revenge and then by a desire to intimidate the criminal, should be directed toward social reform and prevention. Opposed to capital punishment he urged more humane treatment of juvenile delinquents through such methods as that adopted in Rubeshevsky's colony for young offenders, attacked the severe administrative penalties which at that time were in wide use in Russia and defended the interests of accused persons in the spirit of modern criminal procedure. He wrote on the legal history of the Ukraine and brought the theories of foreign criminologists to Russian audiences. For many years he was president of the Legal Society of Kiev, which he founded and for which he prepared a program advocating measures of legal reform.

M. CIUBINSKY

*Important works:* *Izsledovanie o smertnoy kazni* (Inquiry into capital punishment) (Kiev 1867, 2nd ed. 1896); *Elementarny uchebnik obshchago ugolovnago prava* (Elementary textbook of criminal law) (Kiev 1875, 3rd ed. 1891); *Molodie prestupniki i uchrezhdeniya dlya ikh ispravleniya s obozreniem russkikh uchrezhdeniy* (Juvenile delinquents and institutions for their reform, with a survey of Russian institutions) (Kiev 1878); "O zadachakh i tselyakh nashikh uridicheskikh obshchestv i otnoshenie ikh k sudebnoy reforme" in *Zhurnal grazhdanskogo i ugolovnago prava*, vol. xi (1881) no. i.

*Consult:* Articles by B. Naumenko, I. I. Luchitsky and I. Foyntsky in *Kievskaya starina*, vol. xlviii (1895) no. i, p. 1–38, 64–102.

KISTYAKOVSKY, BOGDAN ALEXANDROVICH (1868–1920), Russian sociologist and jurist. Kistyakovsky lectured at the College of Law at Yaroslavl from 1907 to 1916 and from 1916 to 1920 was professor at the University of Kiev. He was editor of the *Uridichesky vestnik* from 1911 to 1917. A disciple of Simmel, Windelband and Rickert, Kistyakovsky was one of the most able representatives of the neo-Kantian movement in Russia. From the naturalistic and organic point of view his sociological criticism, particularly of Spencer's system, had considerable repercussion not only in Russia but also in Germany. Likewise his analysis of the method of the Russian subjective school of sociology (Lavrov, Mikhaylovsky and Kareyev) must be regarded as a classic. In the theory of law Kistyakovsky developed a consistent methodological

pluralism. He insisted on the necessity of distinguishing four different conceptions of law, each of them corresponding to one of the aspects of objective juridical reality: the dogmatic and statist conception of law, which is based on a procedure of formal classification; the sociological conception; the psychological conception; and the normative philosophical conception. He maintained that these four conceptions, each of which is upheld by some jurists as the only correct one, represent abstractions of single aspects of law, the fundamental unity of which can be best seen when it is regarded as a *Kulturgut*, an element of culture spiritualized and imbued with values. Thus Kistiyakovsky as distinguished from the German neo-Kantians was able to break completely through the confines of juridical positivism, to appreciate in its entirety the importance of the movement toward the "living law" and "free law" and to emphasize the role of the dynamic and irrational in juridical reality.

GEORGES GURVITCH

*Works:* *Gesellschaft und Einzelwesen* (Berlin 1899); *Sotsialnaya nauka i pravo* (Social sciences and the law) (Moscow 1916).

*Consult:* Starosolskiy, V., "Bohdan Kistiakovskiy und das russische soziologische Denken" in *Ukrainischer wissenschaftlicher Institut in Berlin, Abhandlungen*, vol. ii (1929) 17-26.

KIUPRILI FAMILY. See KÖPRÜLÜ FAMILY.

KJELLÉN, RUDOLF (1864-1922), Swedish political scientist. Kjellén was professor of political science at the University of Göteborg from 1890 and at the University of Uppsala from 1916. He began his career with a series of papers and books on constitutional law which show the conservative and orthodox influence of his master, Oscar Alin. But the great political events of the last two decades of the nineteenth century, the beginning of the era of imperialism and the study of Ratzel's *Politische Geographie* (1897), which impressed him deeply, revealed to him the inadequacy of the purely juridical view in political science. He therefore made it his life work to achieve a fuller comprehension of states as powers in action in the theater of world politics. Such a conception involved an empirical study of the resources material and spiritual possessed by each of the powers. In his first great work, *Stormakterna* (1905), he made a realistic analysis of the participants in the game of great powers that led to the World War.

After collecting this material Kjellén set about the task of constructing a new biological system

of political science, the principles of which are most fully expounded in *Staten som livsform* (1916), and *Grundriss zu einem System der Politik* (1920). In designating his study *Politik* he uses the term not in the sense of practical political action but in the Aristotelian sense of a science of the state, which for Kjellén is a science of the state considered as an organism whose principal attribute is power. There are five aspects of this study. *Demopolitik* is an investigation of the population and of its physical and mental characteristics as a race and nation. *Sociopolitik* analyzes various classes, professional groups and other elements which comprise the social structure of the population. *Kratopolitik* deals genetically and realistically with the governmental organization and constitutional forms through which the state expresses its active will. While these three categories represent the endogenous elements in the state's power, it is the exogenous elements which constitute the subject of the two final categories, *Geopolitik* and *Oekopolitik*. *Geopolitik*, manifesting in its conception the direct influence of Ratzel, aims to analyze those problems and conditions of life in the state which arise from geographical factors and natural environment. *Oekopolitik* studies the economic exploitation of the nation's resources, in so far as such activity directly or indirectly affects the power of the state. In his monograph, *Sverige* (1917), Kjellén illustrated his system by applying its principles and method to a study of Sweden. Nearly all of the individual components of his theory had appeared in some form or other in the doctrines of previous political scientists, economists or geographers, but the system as a whole is one of great originality. Its influence in Germany has been even greater than in Sweden, although it has affected political scientists of the juridical type less than historians and geographers. In pursuing Kjellén's method the Germans have somewhat neglected the other aspects of his system in favor of his *Geopolitik*, which has developed into a kind of popular catchword.

WALTHER VOGEL

*Important works:* *Stormakterna*, 2 vols. (Stockholm 1905; 2nd ed., 4 vols., 1911-13); *Samtidens stormakter* (abr. ed. of *Stormakterna*, Stockholm 1914), German translation by C. Koch as *Die Grossmächte der Gegenwart* (Leipzig 1914; 22nd rev. ed. by Karl Haushofer as *Die Grossmächte vor und nach dem Weltkrieg*, 1930); *Stormakterna och världskrisen* (new rev. ed. of *Samtidens stormakter*, Stockholm 1920), German translation by W. A. Berendssohn as *Die Grossmächte und die Weltkriege* (2nd ed. Leipzig 1921); *Staten som livsform*

(Stockholm 1916), German translation by J. Sandmeier as *Der Staat als Lebensform* (4th ed. Berlin 1924); *Grundriss zu einem System der Politik* (Leipzig 1920); *Sverige* (Sweden) (Stockholm 1917); *Politiska essayer*, 3 vols. (Stockholm 1914-15); *Världspolitikern 1911-19* (Uppsala 1920).

*Consult:* Vogel, W., "Rudolf Kjellén und seine Bedeutung für die deutsche Staatslehre" in *Zeitschrift für die gesamte Staatswissenschaft*, vol. lxxxi (1926) 193-241; Haussleiter, O., "Rudolf Kjelléns empirische Staatslehre und ihre Wurzeln in politischer Geographie und Staatenkunde" in *Archiv für Sozialwissenschaft und Sozialpolitik*, vol. liv (1925) 157-98.

KLEIN, FRANZ (1854-1926), Austrian jurist. Klein gave up his practise as a barrister in 1885 to lecture on the Austrian law of civil procedure at the University of Vienna. He soon became prominent as a jurist and literary spokesman of the reform movement in this field. Called to the ministry of justice, he drafted the Austrian code of civil procedure of August 1, 1895, which came into force January 1, 1898. It is acknowledged to be one of the best in the world. Its outstanding ideas are publicity, directness and, above all, the oral method of procedure. The administration of justice is adapted to social needs. It is made possible to manage a legal action expeditiously and with little expense. The law of May 27, 1896, relating to the execution of judgments, which is also Klein's work for the most part and which went into effect at the same time as the code of civil procedure, aims to spare the debtor as much as possible and endeavors to prevent the destruction of values. After he had instituted his procedural reforms Klein became minister of justice for several years. The profound social reference which guided Klein in all his scientific and reformatory activity is evident also in his work for the protection of youth, which takes account of social factors; in his solicitude for proper housing, which he greatly advanced by his law of 1912 regarding building rights; and in his writings. Among the last should be mentioned *Pro futuro* (Vienna 1891), *Mündlichkeitsstypen* (Vienna 1894), *Die psychologischen Quellen des Rechtsgelohrsams und der Rechtsgeltung* (Berlin 1912), *Das Organisationswesen der Gegenwart* (Berlin 1913), *Der Zivilprozess Oesterreichs* (ed by Friedrich Engel, Mannheim 1927). After the World War Klein, who was an unswerving champion of the larger German unity, concerned himself with juristic problems growing out of the peace treaties. He was undoubtedly one of the greatest jurists of Austria.

KARL GOTTFRIED HUGELMANN

*Consult:* Sperl, Franz, in *Jherings Jahrbücher für die*

*Dogmatik des bürgerlichen Rechts*, vol. lxxviii (1927-28) v-xxvii; Benedikt, Edmund, in *Neue österreichische Biographie*, ed. by Anton Bettelheim, 7 vols. (Vienna 1923-31) vol. iv, p. 9-30, and further bibliography there cited.

KLUCHEVSKY, VASILYI OSSIPOVICH (1841-1911), Russian historian. Kluchevsky, the son of a poor village priest, was born in the province of Penza. He prepared himself for the clergy in the local schools but under the influence of the growing radical movement renounced his clerical career and entered the University of Moscow in 1861, the year of the emancipation of the serfs under Alexander II. The impression of this event, which he retained throughout his life, was responsible for his decision to study the history of the social classes in Russia in the light of Russian economic development. Although, as Kluchevsky himself declared, he owed his general view of Russian history to his teacher Soloviev, to whom he was indebted also for much of the material he used, Kluchevsky's work represents a distinct advance over that of his teacher. He studied historical processes from a sociological point of view; general schemes and interpretation were to him more important than the mere accumulation of factual material, and he emphasized especially the modifying influences of geographical factors. Above all he represents the synthesis of the two previous schools of history: the westernists, who saw in Russian history a development parallel to that of western Europe; and the Slavophiles, who emphasized the peculiarities of Russian development.

Kluchevsky's first important work was his doctoral dissertation, *Boyarskaya дума drevney Rusi* (Duma of boyars in ancient Russia, Moscow 1882, 4th ed. 1909), in which he traced the causal connection of this institution with the economic and social processes. Following this came monographs on the history of Russian serfdom and especially on the origin and composition of Russia's earliest representative assemblies. In the latter study Kluchevsky disproved the existing theory of the *sobor* as an elected assembly of the people and showed that it was recruited by official selection of the ruling power. His most important work was his *Kurs russkoy istorii* (Course of Russian history, 5 vols., Moscow-St. Petersburg 1904-21; tr. into German by R. von Walter, 4 vols., Stuttgart 1925-26, and an abridged translation into English by C. J. Hogarth, London 1911-31), which was prepared from his course of lectures at the

University of Moscow and which extended to the reign of Nicholas I. His talent for microscopic analysis of the evolutionary processes in history is successfully blended with one for vivid synthesis and an intuitive grasp of the psychology of the past. He considered colonization to be the distinctive feature of Russian development and looked upon the stages of colonization as marking the divisions of Russian history. As he reached the more modern period his sympathetic approach weakened and he became critical of the borrowings from western Europe. He drew attention to the mechanical and external side of the Europeanization of Russia by Peter the Great and turned his wrath especially against the nobles and serf owners whose unconsidered imitation of the west destroyed the unity of Russian cultural evolution.

Kluchevsky was in full sympathy with the constitutional movement in Russia and as early as January, 1905, soon after the "red Sunday" predicted the fall of the Romanov dynasty. He was a member of the Constitutional Democratic party (Cadet) and foresaw the victory of the revolutionary movement as a consequence of the government's breach with the moderate majority in the Duma.

#### PAUL MILIUKOV

*Consult:* Kiesewetter, A., "Kluchevsky and His 'Course of Russian History'" in *Slavonic Review*, vol. i (1923) 504-22; Bogoslovsky, M. M., in *Zeitschrift für osteuropäische Geschichte*, vol. iii (1913) 309-18; V. O. Kluchevsky: *Charakteristiki i vospominaniya* (Moscow 1912), a memorial volume with essays by Miliukov, A. S. Lappo-Danilevsky, Platonov, and others; Moscow University, Imperatorskoe Obshchestvo Istorii i Drevnostey Rossiyskikh, *Gleteniya* for 1914, vol. i.

KNAPP, GEORG FRIEDRICH (1842-1926), German economist. Knapp was a student of Helferich at the University of Göttingen and attended Engel's statistical seminar at the University of Berlin. In 1869 he was appointed head of the municipal statistical office of Leipsic. After teaching at the University of Leipsic for many years he was appointed professor of economics at the University of Strassbourg, where he remained until the closing of the German schools in 1918.

Knapp started his scientific career as a statistician. He investigated the methodological principles of population statistics and was the first to formulate a systematic theory of mortality measurement. Opposing the viewpoints of Quételet and his followers, who claimed that man's behavior is governed by statistical "laws," he viewed statistics simply as a tool in the

realistic study of the manifold social phenomena and fully realized the limitations of statistical observations.

In the *Bauernbefreiung und der Ursprung der Landarbeiter* (2 vols., Leipsic 1887), a product of the second period of his scientific activity, Knapp displayed excellent workmanship in elucidating the development of agrarian organization in Prussia. He analyzed the two forms of manorial organization, the *Grundherrschaft* (landlordship) and the *Gutsherrschaft* (estate ownership), and viewed the latter as a capitalistic form of land utilization engaged in production for market. The hereditary vassalage of the peasants represented the labor system peculiar to the large agricultural estates of the time. The abolition of feudal relations, which Knapp described in detail, did not eliminate the large estates but rather strengthened their position. The introduction of the new system of free wage labor, however, necessitated a wide readjustment in agricultural organization and provided the background for the subsequent measures of rural reform.

Knapp's last major work, *Staatliche Theorie des Geldes* (Leipsic 1905, 4th ed. Munich 1923; tr. by H. M. Lucas and J. Bonar, London 1924), aroused a storm of controversy, in the course of which his doctrines were considerably distorted. According to Knapp money derives its validity not from the intrinsic value of the metal out of which it is made or which it represents, but from the function as a means of payment assigned to it by an act of state. His "chartalism," a version of the nominalistic conception of money, considered paper money to be a regular and legitimate form of money. Knapp did not, however, advocate an arbitrary issue of notes or a general abolition of the gold standard. He set strict economic limits to the issue of notes by the state and recognized some of the advantages of a metallic standard, particularly as a stabilizing factor in foreign exchange.

While Knapp deliberately refrained from direct participation in public affairs he exerted a profound influence from his university chair. His contributions to statistical methods were incorporated into official statistics and his seminar at the University of Strassbourg—at times in collaboration with Schmoller and Brentano—became the center of studies in political economy. The work of the seminar is contained in the thirty-four volumes of *Abhandlungen* edited by Knapp.

FRANZ GUTMANN

*Important works:* *Über die Ermittlung der Sterblichkeit*

aus den Aufzeichnungen der Bevölkerungsstatistik (Leipzig 1868); *Die Sterblichkeit in Sachsen nach amtlichen Quellen dargestellt* (Leipzig 1869); *Theorie des Bevölkerungswechsels* (Brunswick 1874); *Einführung in einige Hauptgebiete der Nationalökonomie* (Munich 1925). This work contains, in addition to a number of articles, the papers *Landarbeiter in Knechtschaft und Freiheit* (Leipzig 1891) and *Grundherrschaft und Rittergut* (Leipzig 1897), which had previously been published separately.

Consult: "Georg Friedrich Knapp, ein literarisches Bildnis" in *Wirtschaftsdienst*, vol. vii (1922) supplement to no. ix; Schumpeter, J., in *Economic Journal*, vol. xxxvi (1926) 512-14; Gutmann, Franz, in *Jahrbücher für Nationalökonomie und Statistik*, vol. cxxiv (1926) 193-204; Borkiewicz, L. von, "Die Frage der Reform unserer Währung und die knappsche Geldtheorie" in *Annalen für soziale Politik und Gesetzgebung*, vol. vi (1918-19) 57-102.

KNAPP, MARTIN AUGUSTINE (1843-1923), American interstate commerce commissioner, federal judge and railroad labor mediator. Knapp practised law for many years but the later portion of his life was devoted to the federal public service, primarily in connection with railroad regulation. Appointed a member of the Interstate Commerce Commission by President Harrison in 1891, he served on the commission continuously from 1891 to 1910 and as its chairman from 1898 to 1910. He resigned to accept a circuit judgeship and to serve as presiding judge on the newly created United States Commerce Court, which was abolished in 1913. From the beginning of his chairmanship of the commission he also served as mediator in railroad labor disputes, first ex officio under the Erdman Act of 1898 and later through appointment by President Wilson to the Board of Mediation and Conciliation which was created by the Newlands Act of 1913.

Knapp exerted great influence upon the strengthening of the Act to Regulate Commerce and upon the commission's early exercise of its new powers. By 1898 much of the administrative authority assumed under the original statute had been invalidated by judicial decision; and the commission under his leadership urged repeatedly and forcefully that it be vested with rate making power and that the procedure for the enforcement of its orders be so changed as to recognize the dominance of administrative control. These results were achieved in 1906 by the Hepburn Act as construed by the commission and as sustained by the Supreme Court. The attempt of the Commerce Court, over which Knapp presided during its short history, to exercise broad powers of judicial review appears out

of harmony with his experience and attitude while a member of the commission; but these controversies, which were generally resolved by the Supreme Court in support of the commission, served the important purpose of securing an authoritative definition of the respective spheres of administrative and judicial jurisdiction. As a mediator in railroad labor disputes he participated in numerous settlements and exhibited an informed understanding of the demands of the carriers and their employees; but the inadequacy of the legislation under which he and his colleagues were required to act was disclosed by their helplessness in the nation wide dispute of 1916, as a result of which Congress by the passage of the Adamson Act virtually set itself up as an arbitration tribunal.

While his service in all these spheres was never independent but always in cooperation with others, Knapp unquestionably played an important role in the development of the principles and practises of railroad regulation by the federal government.

I. L. SHARFMAN

KNAPP, SEAMAN ASAHEL (1833-1911), American educator. Knapp was largely responsible for the development of agricultural extension education in the United States. For six years he was associated with the Iowa State Agricultural College and for three years was editor of an agricultural magazine. He studied agricultural problems in Japan, China, the Philippine Islands, India and Porto Rico from 1898 to 1902 under the direction of the United States secretary of agriculture. From 1902 to 1910 he was in charge of the work of the Department of Agriculture in demonstrating the value of cooperative enterprise to southern farmers.

The essence of this work is demonstration carried out by the farmers under the direction of a specialist known as county agent or home demonstration agent. Efforts to educate farmers by laboratory method similar to that used in training physicists or chemists had been tried by several agricultural colleges before Knapp launched his program. It was, however, due to his promotion work, begun in Texas and Louisiana, that the principle became the object of a nation wide organization which has helped greatly to improve conditions of rural life in America.

EDWARD WIEST

Consult: Martin, O. B., *The Demonstration Work* (Boston 1921).

KNIBBS, SIR GEORGE HANDLEY (1858-1929), Australian statistician. Knibbs, who was born in Sydney, began his career as a surveyor; after 1889 he lectured on engineering and in the year 1905-06 he was acting professor of physics at the University of Sydney. In 1902 he was appointed one of the commissioners on education and in 1905 commissioner on technical education for New South Wales. In 1906 he was selected to create the Bureau of Statistics for the Commonwealth of Australia, which he directed until 1921. As commonwealth statistician he coordinated the work of the existing statistical bureaux of the states and organized publications to present material gathered by the states together with data pertaining directly to the commonwealth. Of these publications the most comprehensive is the *Official Year-Book*, of which the first volume, issued in 1908, contains corrected statistics for the period from 1788 to 1900, authoritative statistics for the years 1901 to 1907 and a history of Australian statistics. Knibbs was most attracted to those branches of statistical work which offered the greatest scope for mathematical exposition, particularly the study of population and index numbers. His outstanding work is *The Mathematical Theory of Population* (Melbourne 1917) printed as an appendix to the first volume of the report on the Australian census of 1911, the first to be undertaken by central authority. It deals with general mathematical technique in statistics and its application to special problems of natality, masculinity, nuptiality, fertility, mortality and migration; many new methods are expounded including the extremely flexible curve  $y = Ax^{m_1}e^{m_2x}$  and secular trends of mortality. His work on index numbers is incorporated in the reports of the bureau's Labour and Industrial Branch, of which *Report* no. 1 (1912) and no. 9 (1919) are particularly important. He also devised the mathematical formulae on which the Australian land and income taxes are assessed. From 1921 to 1926 he directed the Institute of Science and Industry, which commenced under his guidance a number of important industrial research projects. Shortly before his death he published *The Shadow of the World's Future* (London 1928), in which he stressed the danger of overpopulation.

E. T. McPHER

KNIES, KARL GUSTAV ADOLF (1821-98), German economist. Knies was professor of economics at the University of Freiburg i. Br. and

from 1861 to 1865 represented the university in the diet of Baden, where he was leader of the liberal party in its struggle with ultramontanism. In 1865 he was appointed professor at the University of Heidelberg, where he remained until his retirement in 1896.

Knies, one of the chief exponents of the historico-ethical school in economics (see ECONOMICS, section on HISTORICAL SCHOOL), was influenced by Hegel's philosophy of history and in his turn exercised a profound influence on Schmoller and other social reformers in Germany. He conceived economics as belonging neither to the natural sciences nor to the mental sciences but to the group of historical disciplines which have for their object the study of man in society in terms of its historical growth. The aim of economics as outlined in his theoretical work *Die politische Ökonomie vom Standpunkt der geschichtlichen Methode* (Brunswick 1853; 2nd ed. as *Die politische Ökonomie vom geschichtlichen Standpunkte*, 1883) is to trace the causal factors underlying economic phenomena with a view to establishing laws of development and formulating generalizations for each successive stage of economic life. As economic phenomena have no independent existence of their own they can be understood only when studied in their interrelation with the other aspects of social life, of which they form an intimate part. Only when this approach is taken does it appear that man is not motivated exclusively by self-interest; other fundamental instincts are the sense of membership in the community and the sense of justice and equity. Consequently abstraction from ethical and social considerations, as exemplified in deductive economics in England, leads to erroneous conclusions which if made the basis for economic conduct may endanger the harmonious development of society. As the state is the embodiment of both the economic and the ethical aspirations of the nation, it is its duty to interfere in economic life in order to counteract an excessive emphasis on self-interest and to secure not only the maximum of production but also the most equitable distribution.

Knies applied his methodological principles to the study of concrete economic phenomena. Thus his *Geld und Kredit* (2 vols., Berlin 1873-79; 2nd ed. of vol. i, 1885; reprinted Berlin 1931) is still unsurpassed for its masterly treatment of the fundamental problems of money, capital, credit and interest and for its emphasis on the close interrelation of economic and legal institutions. In a supplementary volume, *Welt-*

*geld und Weltmünzen* (Berlin 1874), he distinguishes between the domestic and international uses of currency and analyzes the concept and legal status of a currency designed for international use. Noteworthy also are his earlier volumes, *Die Eisenbahnen und ihre Wirkungen* (Brunswick 1853), in which he discusses the economic effects and cultural incidence of railroad transportation, and *Der Telegraph als Verkehrsmittel* (Tübingen 1857), which is an exemplary treatment of the system of communication. Knies possessed a complete mastery of statistics, for which he claimed the dignity of an independent discipline in *Die Statistik als selbständige Wissenschaft* (Cassel 1850).

HANS GEHRIG

*Consult:* Weber, Max, *Gesammelte Aufsätze zur Wissenschaftslehre* (Tübingen 1922) p. 1-145; Gehrig, Hans, *Die Begründung des Prinzips der Sozialreform*, *Sozialwissenschaftliche Studien*, no. ii (Jena 1914) p. 255-68; Schnioller, Gustav, *Zur Literaturgeschichte der Staats- und Sozialwissenschaften* (Leipzig 1888) p. 204-10; Lifschitz, F., *Die historische Schule der Wirtschaftswissenschaft* (Berne 1914) ch. iv.

KNIGHT'S OF LABOR. 'The Noble Order of the Knights of Labor had two apparently irreconcilable aspects. In its program and ideology it embodied many of the older cooperative socialist ideals while at the same time it was permeated with middle class liberalism; it held to a diminishing agrarian radicalism while it tried to adapt itself to the growth of mechanized industry and urbanism. For a time, from 1877 to 1887, the Knights of Labor dominated the American labor movement, aroused the workers to a high pitch of enthusiasm and demonstrated its power in great struggles with employers. Its decline, as sudden as its rise, was due mainly to the conflicting and often vague character of its objectives and to the ascendancy of a craft unionism absorbed in the business problems of its own skilled membership with scant concern for the unskilled or the theory of class solidarity.

In the heat of the second American revolution, before the frontier closed, before business enterprise hardened into a national capitalist system and the mind of laborers into a wage consciousness, while the disposition of the public lands and the natural resources, the determination of the medium of exchange and banking methods, modes of production and levels of distribution, control of agencies of communication and the ownership of transportation, combinations of employers and corresponding rights of employees were still debatable issues, the Knights of

Labor achieved a coast to coast organization and attempted to influence decisions on all such public matters, which they considered bound up with the everyday struggles of labor. The pattern for the total American civilization had not yet been fixed, and they believed that creative action could yet fashion it on dreams of the "good life" for all its inhabitants. It was from the Declaration of Independence with its pronouncements on freedom and the privilege to pursue happiness, enriched by the French Declaration of the Rights of Man and the concept of fraternity, rather than from Marxism or from British trade unionism that they drew their inspiration, although the latter also had some influence.

Uriah S. Stephens, founder of the Knights of Labor in 1869, was trained for the ministry, taught school, traveled extensively, studied history and became a tailor by trade. "Where," he asked, "if not here in this Western World, shall the patriotism and statesmanship be found to preserve the race from destruction? . . . The entire history of the world, in every age and in every country, as unvarying as the laws that govern the universe, demonstrates the fact that the physical, intellectual and moral condition of mankind is governed entirely by the conditions that surround the productive toiler, and marks the progress of a people, or indicates, unerringly, the downfall of a nation. This should be the only criterion of a statesman, the guide of the political economist, and the inspiration of the philanthropist." Terence V. Powderly, leader of the order throughout its active national career from 1879 to 1893, urged upon the United States plans for a rationalized society. According to Powderly, "the failure which really led to the organization of the Knights of Labor was the failure of the trade union to grapple, and satisfactorily deal with the labor question in its broad, far-reaching principle: the right of all to have a say in the affairs of one."

Behind these great ideals was the reality of the emerging labor movement, developing its forms of organization and trying to clarify its objectives. The panic of 1857 and the Civil War had almost completely disrupted the labor movement; it revived after the war and many unions were formed, one of the most important of which was the National Labor Union founded in 1866. This association united a considerable number of local unions with several farmers' societies and mere political groups; it combined middle class radical politics with a more definite labor program covering shorter hours, inclusive unionism



regardless of craft or skill and organization of the Negro. But the National Labor Union was in its decline by 1870.

During the previous year in Philadelphia dissolution of a garment workers' union led nine of the members (Stephens among them) to form a secret labor society, the Noble Order of the Knights of Labor. Its growth was slow, but it received an enormous impetus from the unemployment and mass discontent which prevailed during the hard times following the panic of 1873. In 1877 the order became a factor in the great strikes of the coal miners and railroad workers; its progress thereafter was rapid and it became the leading national labor organization.

For various reasons it is customary to think of the Knights of Labor as a distinctly American phenomenon. Yet its sponsors were not strictly native. While Stephens had a long American ancestry, Powderly was of Irish parentage; and it was J. L. Wright, a clothing cutter born in Ireland, and Frederick Turner, a gold beater born in England, who drew up its ritual and presided over its secrets at its inception. The Englishman injected his Owenite cooperative enthusiasm into the movement and the Irishmen, particularly Powderly, remained zealous for their kind; Powderly's persistent quest for free homesteads on the public domain to be reserved for settlers reflected his loyal concern for the interests of the Irish who were flooding through the seaports. The very name of the order was a symbol of Old World fraternalism, while the signs and passwords of its secret stage were mediæval in quality. It was said that Stephens' sojourn in Europe had made him a Marxian, and in the 1870's the reverberations of the Paris Commune echoed through the order. Its membership included all the races that made up the proletariat and the tillers of the soil. It had many features in common with Chartism. But the optimism within the order's directorate, the catholicity of its membership—which included lawyers and politicians, preachers and feminists, small business men and farmers, the skilled and the unskilled, Negroes and whites—the public questions it confronted and its ways of trying to meet them were markedly American at the time. Although the order proposed to organize the entire world and did set up branches in France, Italy, Belgium, England, New Zealand, Ireland and Australia, the impulses of its leaders sprang from a New World environment and an intellectual atmosphere dominated by a small town and farming economy.

The industrial masses in the swiftly growing cities, however, took possession finally of the leaders. The proud motto of the order, "an injury to one is the concern of all," met a fierce response in the mood of wageworkers burdened with a common suffering. At the start the order was influenced by ideas of pure and simple craft unionism; but at its first general assembly in 1878, when the organization definitely assumed national scope, the program of inclusive unionism was adopted. Membership in the Knights was direct, not through affiliated independent unions. The membership was drawn mainly from the unskilled, the new specialized workers created by machine industry and those deprived of their trades by rapid technical changes—nearly all groups of workers ignored by the existing unions of craftsmen and subsequently also by the American Federation of Labor.

Although the national leaders were mainly interested in political reform, the mood of the masses favored more aggressive action and strikes were carried on among miners, machinists, railroad shopmen and other workers. They were bitterly opposed by the employers, who developed an "iron clad" contract in which workers were forced to agree not to join the Knights of Labor. Both the employers' and the workers' moods resulted inevitably in strikes. But the order's national officers did not believe in strikes; they favored arbitration and conciliation. Since employers, however, usually rejected arbitration, the order introduced the boycott into labor disputes as a substitute for strikes and it was used persistently and on a large scale. Amid these developments the national leaders pursued no definite policy, except possibly the policy of avoiding action; Powderly sided now with the socialists, now with the moderates and again with the anarchists. Thus the leaders drifted. The tragedy of bewildered officers played an important part in the drama of the order.

By 1886 the Knights of Labor was at the height of its power with a membership of 702,000. Much of the increase in membership was due to the workers' enthusiastic response to the eight-hour movement, in which the order participated, although the leaders were lukewarm; thus Powderly issued instructions against eight-hour strikes and demonstrations on May Day, 1886. At the very height of its power, however, it met two disastrous reverses. One was the defeat of a strike on Jay Gould's southwestern railroad system. The other was the Haymarket killing, which was used by employers and the press to discredit

the order, although the order had no connection with the demonstration in Chicago, where an unknown person threw the bomb among the police. The national officers not only abandoned but denounced Albert Parsons and his comrades, who were hanged for a crime of which they were probably innocent; this attitude alienated the socialists, anarchists and the more radical workers without sparing the order from continued efforts on the part of its enemies to hold it responsible for anarchy and violence.

These reverses gave new strength to factional disputes, which finally resulted in splitting the organization. The most important of these disputes was that between craft unionists and the more numerous advocates of inclusive unionism. The miners of the Pittsburgh region had early rebelled against dictation by the original assembly of garment cutters in Philadelphia, and the difficulties arising from the diverse labor problems in workshop and coalpit forced some adjustments. Other segments of labor advanced jurisdictional claims, and concessions were made. Nevertheless, the Knights of Labor remained a centralized body with respect to authority and leadership; it was an intertrade alliance, whereas the craft unions demanded autonomy. These unions increased their efforts to gain supremacy within the Knights and revise its plan of organization. The struggle was aggravated by the hordes of reformers and radicals which the order had attracted. Political actionists of the Greenback, labor and socialist schools bored from within and attacked the order from without in an effort to commit it to independent political action, arguing that this was the logic of the Knights' important legislative program; anarchists worked under cover of its banner for revolution against capitalism by violence; "traders in votes, seekers for office, spoils hunters, shopkeepers with an eye to business" allied themselves with the order for this object or that; the boycott was used as a weapon in factories and at the polls—with employers, with commodities, with politicians; cooperators encouraged by the society opened plants, made headway, lost ground. Through all the turbulence of opinion and endeavor to checkmate capitalism Powderly and other exponents of the Knights' *raison d'être* maintained that its role was primarily educational, that social principles must be established by its agitation and that this was prevented by wage consciousness with its narrow and precise planks. Weakened by its motley groups of reformers and radicals, the

order was now abandoned by them and its disruption was accelerated by the revival of prosperity. It is true that prosperity collapsed again in 1893, but by that time the Knights of Labor was dead; and the organized labor movement, represented by the American Federation of Labor, had another policy and program.

The craft unions, originally submerged in the order, became an independent national organization. Internal resistance on the part of the craft unions to the order's ideas of inclusive unionism was followed by their secession and the founding of the American Federation of Labor. In addition the masses were disappointed in the practical work of the order and disgruntled with its political aspirations. As long as there was a chance to mold the government by arousing general public opinion, leaders of the Knights threw their energies into the enterprise. But when the issues of the banks and the currency, the public domain and the railways and the telegraphs were settled by Congress in its own way; when invention had proceeded so far that minute specialization in manufacture was accomplished; when the national market was attained; when cities with factories and tenements rose on the western plains; when associations of industrial captains were knit into compact units for their own advantage; when the concentration of the craft unionists on wages, hours and the immediate interests of the crafts appeared to be the more convincing labor movement, the Knights gave place to the American Federation of Labor modeled on the plan of the British Trades Union Congress—a wage conscious organization in a monarchy. "Practical" men took charge of the labor movement.

In this development no doubt personality was an element. Gompers and Powderly could never pull in the same harness, although they did make some effort to do so. For instance, in 1889 a division of activities and spheres was debated with a view to eliminating dual assemblies by giving the federation control over trades and leaving the Knights supreme over popular education. But the compromise was unacceptable to the Knights. In 1889-90 they lost their industrial character and became political, for the moment carrying the reluctant Powderly with them. Finally in 1893 the socialist and agrarian factions under the leadership of Daniel De Leon ousted Powderly from office and assumed the management of the order. De Leon's agrarian allies broke with him, and he thereupon laid plans for a new socialist union organization, the Socialist

Trade and Labor Alliance. The remaining rank and file drifted for the most part to the American Federation. The Noble Order of the Knights of Labor was no more.

Still there are fundamental achievements to be accredited to the Knights. It circulated ideas of enduring vigor. The Knights of Labor's conception of an inclusive unionism embracing all wageworkers regardless of craft or skill influenced the American Railway Union in the early 1890's; the conception reappeared without the middle class radical politics in the industrial unionism of the American Labor Union and its successor, the Industrial Workers of the World. Many of the political reforms urged by the order were subsequently enacted into law. It discussed workmen's compensation; the income tax; factory laws; safety in mines; the weekly payment of wages in lawful money; labor exchanges for the distribution of the unemployed; postal savings; housing; social insurance; proper control of immigration; convict competition with law-abiding citizens; the recognition of women in industry and provision for equal pay for equal work; the incorporation of trade unions; legislation fostering the voluntary arbitration of disputes between capital and labor; labor bureaus in the states; a national labor department; adult education by means of libraries, lyceums and study courses; and a general eight-hour day to provide leisure for the improvement of the mind. The order represented a continuous democratic criticism and an effort at economic and political planning which would, it thought, transcend "decisions now made in industry, in the workshops and factories, in the mines and mills, in the commercial establishments, on the railroads and in the counting-rooms."

MARY R. BEARD

See: LABOR MOVEMENT; TRADE UNIONS; AMERICAN FEDERATION OF LABOR; DUAL UNIONISM; INDUSTRIAL WORKERS OF THE WORLD; PRODUCERS' COOPERATION.

Consult: Ware, Norman J., *The Labor Movement in the United States, 1860-1895* (New York 1929) p. 18-373; Commons, J. R., and associates, *History of Labor in the United States*, 2 vols. (New York 1918) vol. ii; Ely, R. T., *The Labor Movement in America* (new ed. New York 1905); Sartorius von Waltershausen, August, *Die nordamerikanischen Gewerkschaften* (Berlin 1886); Crane, R. T., "The Knights of Labor Movement in Baltimore" in Johns Hopkins University, *Circulars*, vol. xii (Baltimore 1903) p. 39; Kirk, William, "The Knights of Labor and the American Federation of Labor" in *Studies in American Trade Unionism*, ed. by J. H. Hollander and G. E. Barnett (New York 1906) ch. xii.

SOURCE MATERIAL: Knights of Labor of America,

*Proceedings*, 30 vols. (Philadelphia 1878-1913), and *Journal*, 39 vols. (Washington 1880-1918), under changing titles, sometimes *The Journal of United Labor*; *Knights of Labor Illustrated*, "Adelphos Kruptos," *The Full, Illustrated Ritual, Including the "Unwritten Work" and an Historical Sketch of the Order* (Chicago 1886); *Decisions of the General Master Workman*, nos. i-ii (Philadelphia 1887-90); Beaumont, Ralph, *A Lecture on the Declaration of Principles of the Knights of Labor* (Cincinnati 1887); Powderly, T. V., *Thirty Years of Labor* (rev. ed. Philadelphia 1890); Buchanan, Joseph Ray, *The Story of a Labor Agitator* (New York 1903); *The Labor Movement; the Problem of To-day*, ed. by G. E. McNeill (New York 1890); *People*, vols. i-vi (New York 1891-96), official organ of the Socialist Labor party.

KNIGHTS OF ST. CRISPIN. See LABOR MOVEMENT; LEATHER INDUSTRY.

KNOW NOTHING PARTY. See PARTIES, POLITICAL, section on UNITED STATES.

KNOWLES, LILIAN CHARLOTTE ANNE (Tomm) (1870-1926), English economic historian. Mrs. Knowles received her training as an economic historian at Cambridge under William Cunningham, whom she assisted with the second part of the third edition of his *Growth of English Industry and Commerce* (2 vols., London 1903). In 1904 she began teaching modern economic history at the London School of Economics and Political Science; in 1907 she was given the title of reader in economic history and in 1921 that of professor of economic history in the University of London. From 1920 to 1924 she was dean of the faculty of economics and political science, the first woman dean in the history of the university.

The study of economic history in England owes much to the pioneer work of Mrs. Knowles. When she began to lecture no other English university offered courses on the nineteenth century economic history of any country except England, and even English economic development after 1850 with the exception of labor history received little attention. She had to build up the subject for herself, and her grasp of original sources and power of combining exact detail with vigorous and significant generalization is shown in her books. But her real *métier* was never that of a writer. It was many years before she began to remodel her lecture courses into textbooks and she lived to finish only two volumes, the others being completed by her husband and a pupil after her death. The fruits of her work are to be sought as much in the books of her

students as in her own, and it was as a teacher that she chiefly advanced her subject and made her mark upon generations of students drawn from all parts of the world. She had a personality of remarkable force and vitality, compact of learning, enthusiasm, prejudice and wit, and she was undoubtedly one of the greatest teachers of her time.

EILEEN POWER

*Works:* *The Industrial and Commercial Revolutions in Great Britain during the Nineteenth Century*, London School of Economics and Political Science, Studies, no. 61 (London 1921); *The Economic Development of the British Overseas Empire*, London School of Economics and Political Science, Studies, nos. 76 and 103, 2 vols. (London 1924-30); *Economic Development in the Nineteenth Century: France, Germany, Russia and the United States* (London 1932).

*Consult:* Knowles, Charles M., "Professor Lilian Knowles" in vol. II of Mrs. Knowles' *Economic Development of the British Overseas Empire*, p. vii-xxii; Gregory, T. E., in *Economic Journal*, vol. xxxvi (1926) 317-20; Beveridge, W. H., and Wallis, G., in *Economica*, vol. vi (1926) 119-22.

KNOWLTON, CHARLES (1800-50), American birth control pioneer. With Robert Dale Owen, Knowlton founded the American birth control movement and influenced American and British social life through the promotion of the institution of voluntary parenthood. Knowlton was a physician and a self-taught freethinker, who came into conflict with the Massachusetts courts for publishing his *Fruits of Philosophy* (New York 1832). Reissued soon afterward in England, the treatise had a limited circulation until it became the center of the prosecution of Charles Bradlaugh and Annie Besant. In 1877 a court decision for the defendants did much to vindicate the legal right to disseminate contraceptive information. The publicity attending the prosecution for publishing Knowlton's book resulted, in subsequent years, in the distribution of several million birth control tracts with a consequent decline in the birth rate. The trial created a market for more effective methods of control and paved the way for specialized clinics under medical supervision.

NORMAN E. HIMES

*Consult:* Himes, Norman E., "Charles Knowlton's Revolutionary Influence on the English Birth Rate" in *New England Journal of Medicine*, vol. cxcix (1928) 461-65.

KNOX, JOHN (1506-72), leader of the Scottish Reformation. As reformer, historian and publicist Knox left a deep impression on the six-

teenth and seventeenth centuries. His intimate association during his early years with the Scottish reformer George Wishart carried him gradually in the direction of Calvinism. Involved in the rebellious movement of protest against Wishart's martyrdom, he was disciplined by the French authorities who controlled his native land. After nineteen months in the galleys he was set free in England, where he preached with distinction as a minister of the Church of England until the accession of Mary in 1554. Years of exile on the continent increased his restless desire to unite Scotland and England in a solid front against the growing Roman Catholic threat of France and Spain, but neither from Calvin in Geneva nor from Bullinger in Zurich was he able to elicit unequivocal advice as to the propriety of rising against the tyranny of Mary Tudor in England and of Marie of Guise, French regent of Scotland. When in 1559 he returned to Scotland, the Reformation there had entered upon a new phase. Based on principles outlined by Knox in epistles forwarded from Dieppe, it was now committed in open repudiation of the prevailing tenets of orthodox Calvinism to a campaign of active resistance against idolatrous rulers in church and state. Under the vehement leadership of Knox Scotland became the crucial salient in the fast culminating struggle between Protestant and Roman Catholic forces in Europe. In answer to Knox' repeated assurances of a revolution in Scottish sentiment in favor of England Lord Cecil sent in July, 1560, an armed body, which drove the French from Scotland. During the remaining ten years of his life Knox devoted himself to inaugurating and consolidating the Calvinistic regime in Scotland; and in his zeal to disseminate the new truths he outlined a comprehensive system of education, which unfortunately was too far in advance of his age.

Throughout his writings, in his tendentious *History of the Reformation* (London 1587) as well as in his occasional pamphlets, Knox is preoccupied almost exclusively with the fortunes of the Calvinistic faith and with the immediate factors determining its progress. Engrossed in blasting idolatry whatever its form, he was not deterred by juristic subtleties from shattering the immunity of kings, which Luther and Calvin had left standing. In his efforts to provide a theoretical justification for his pioneer challenge he formulated, although with no pretensions to a formal system, broader principles of social contract and popular sovereignty. These inci-

dental principles may be interpreted as echoes of familiar mediaeval doctrines which he and Buchanan had absorbed at the feet of their early Catholic teacher, John Major, or possibly as restatements of the principles and procedure outlined by the later Lutherans. Although his writings anticipate more nearly than do the intervening works of the French and Spanish monarchomachs the fully developed rationalism of seventeenth and eighteenth century contract and natural law theories they are essentially occasional and polemic, deriving their importance rather from the accompanying historical movement and from the fact that they constitute with one or two minor exceptions the earliest examples of a type of politico-theological pamphleteering which during the succeeding century blasted in piecemeal fashion the foundations of royal absolutism.

ROBERT H. MURRAY

*Works:* *The Works of John Knox*, collected and ed. by David Laing, 6 vols. (Edinburgh 1846-64).

*Consult:* Cowan, H., *John Knox, the Hero of the Scottish Reformation* (New York 1905); Lindsay, T. M., *A History of the Reformation*, 2 vols. (New York 1928) vol. ii, ch. vi; Allen, J. W., *A History of Political Thought in the Sixteenth Century* (London 1928) ch. vi; Murray, R. H., *The Political Consequences of the Reformation* (London 1926) p. 119-22; Troeltsch, E. D., *Die Soziallehren der christlichen Kirchen und Gruppen*, *Gesammelte Schriften*, vol. i (3rd ed. Tübingen 1923) tr. by Olive Wyon, 2 vols. (London 1931) vol. ii, p. 632-34; Wölzendorff, K., *Staatsrecht und Naturrecht in der Lehre vom Widerstandsrecht des Volkes gegen rechtswidrige Ausübung der Staatsgewalt*, *Untersuchungen zur deutschen Staats- und Rechtsgeschichte*, vol. cxxvi (Breslau 1916) p. 192-94.

KOCH, ROBERT (1843-1910), German medical scientist. Koch came under the influence of Jakob Henle at the University of Göttingen, where in 1866 he was given his degree. In 1872 he became district physician at Wollstein, supplementing his medical practise by microscopic studies. He first sought the cause of anthrax among cattle and in 1876 made his epoch making demonstration of the complete life history and sporulation of the anthrax bacillus. With full mastery of the new microscopic methods, which he did much to perfect, he then worked out the aetiology of traumatic infectious diseases. In 1880 he was appointed to the Reichsgesundheitsamt (imperial health department), which with the further development of his methods of research by means of plate cultures soon became the leading observatory of contagious diseases in the world. When announcing the discovery of

the tubercle bacillus by special culture and staining techniques in 1882 he set forth the methods of establishing the pathogenic character of a microorganism which have come to be known as "Koch's postulates." In 1883, when he went with his pupils on an official German expedition to study cholera in Egypt and India, he discovered the cholera vibrio and the ways in which it is transmitted; he also found the microorganisms of infectious conjunctivitis. In April, 1885, he became professor of hygiene and bacteriology at the University of Berlin; and in the laboratories of this institution in addition to his ceaseless research in tuberculosis he directed attention to the problems of general hygiene. In 1890 he announced tuberculin as a possible remedy for tuberculosis in its early stages; the claim has not been entirely substantiated, but tuberculin has proved a reliable means of diagnosis. The Institut für Infektionskrankheiten was founded for him in Berlin in 1891 and it remained under his direction until 1904, attracting many of the most famous bacteriologists of the period. Koch assisted in the campaign against cholera in Hamburg, showed how water borne epidemics could be prevented by proper filtration, devised a method of preventive inoculation of rinderpest in South Africa and made significant studies of Texas fever, black water fever, tropical malaria, surra, the plague, leprosy, Rhodesian red water fever, horse sickness, trypanosomiasis and recurrent fever in German East Africa. The methods which he established for the control of typhoid have been widely adopted.

By virtue of his original contributions in the campaign against epidemics and his formulation of methods which enabled others to make important medical discoveries Koch must be considered as one of the greatest public benefactors of all times.

KARL SUDHOFF

*Consult:* Fischer, Bernhard, in *Deutsche Rundschau*, vol. cxlv (1910) 42-69; Wezel, Karl, *Robert Koch; eine biographische Studie* (Berlin 1912); Garrison, F. H., *An Introduction to the History of Medicine* (4th ed. Philadelphia 1929) p. 578 80; Sigerist, H. E., *Einführung in die Medizin* (Leipzig 1931), tr. by M. G. Boise as *Man and Medicine* (New York 1932) p. 202-07; Ford, W. W., "The Life and Work of Robert Koch" in Johns Hopkins Hospital, *Bulletin*, vol. xxii (1911) 415-25.

KOGĂLNICEANU, MICHAEL (1817-91), Rumanian statesman, historian and social reformer. Kogălniceanu was born in Moldavia and pursued his studies first at Jassy and later at

Lunéville and at Berlin, where he completed his "Romänische oder wallachische Sprache und Litteratur" in *Magasin für die Literatur des Auslandes*, vol. ii (1837) nos. viii-x, his *Esquisse sur l'histoire, les mœurs et la langue des Tziganes* (Berlin 1837) and his *Histoire de la Dacie, des valaques transdanubiens et de la Valachie*, 1231-1702 (Berlin 1837, 2nd ed. 1854). Upon his return to Moldavia in 1838 he plunged with enthusiastic energy into the political arena. Throughout his entire political career Kogălniceanu strove to bring about a fusion of the two autonomous principalities of Moldavia and Wallachia into a united political state. He took an active part in the election of Alexander Cuza as ruling prince of the united principalities and in the coup d'état of 1864, which put an end to Turkish domination.

As head of Cuza's cabinet Kogălniceanu modified the criminal code by abolishing the death penalty and by reducing considerably the life term imprisonment of the criminal. He changed and consolidated the political administration of the country by creating in each regional district a departmental or county council to advise the prefect on all matters pertaining to administration and social reform, by giving each municipality local autonomy to pursue its economic evolution and by secularizing the Greek monasteries and bringing them under the authority of the Rumanian Greek Orthodox church. His electoral law of July 14, 1864, advocating the right to universal manhood suffrage was defeated by the opposition, but he succeeded in passing his agrarian law of August 26, 1864, which extended the franchise to the property holding peasant class, through his efforts newly liberated from servitude, tithes and feudal privileges of the landowning class. By the law of 1864, which made primary public education compulsory, he aimed also at making the vote an intelligent tool in the hands of the peasantry.

Kogălniceanu served as minister of the interior from 1868 to 1871 in Jean Brătianu's cabinet, from 1877 to 1878 as minister of foreign affairs and again as minister of the interior from 1879 to 1880. With paramount diplomatic skill he brought about the parliamentary adoption of the long disputed equality of civil rights of all citizens irrespective of their religious or racial differences and promulgated the law of naturalization, whereby foreigners were enabled to protect their right to private ownership of land and real estate. From 1880 to 1881 he was minister plenipotentiary at Paris, where he was

influential in effecting the recognition by the Great Powers of the kingdom of the united principalities with Charles I of Hohenzollern-Sigmaringen as ruler.

Kogălniceanu's influence on Rumanian culture was as important as his political achievements. He was professor of history at the Academia Mihaileana at Jassy, editor of numerous literary and scientific periodicals, founder of the National Theater at Bucharest and of the first Rumanian university, established at Jassy in 1860. His greatest literary contribution is undoubtedly his excellently documented three volumes of *Letopiseștile țării Moldovei* (Chronicles of Moldavia, 3 vols., Jassy 1845-52, 2nd ed. Bucharest 1872-74; abridged translation in French as *Fragments tirés des chroniques moldaves et valaques*, 2 vols., Jassy 1845), in which he traces the intricate political history of Rumania in its close relation to the social, economic and cultural evolution of the country; this work constitutes the first important history of Rumania before the works of Xenopol and Jorga.

CHRIISTINE GALITZI

*Consult:* Drăgnea, R., *Mihail Kogălniceanu* (Cluj 1921); Iorga, N., *Mihail Kogălniceanu* (Bucharest 1920); Onciul, D., and Iorga, N., in *Academia Română, Analele*, vol. xli (1920-21) 193-221, 221-31; Xenopol, A. D., *Mihail Kogălniceanu* (Bucharest 1895); Damé, F., *Histoire de la Roumanie contemporaine* (Paris 1900).

KOHLER, JOSEPH (1849-1919), German jurist. Kohler became professor of law at Würzburg in 1878 and in 1888 was appointed to the University of Berlin, where he remained until his death. His versatility was amazing. He left numerous works in almost every branch of the law and was a dilettante in poetry, music and art. As a jurist he concentrated especially upon universal legal history and the philosophy of law but he made considerable contributions in other fields as well. He was a pioneer especially in the law of immaterial rights—the law of patents, copyright and trademarks.

Kohler sought in his philosophy of law an underlying unity for his highly diverse activity. He was the acknowledged leader of the neo-Hegelian school. Like most members of this school he retained only the evolutionary and pantheistic tendencies of Hegelianism and discarded almost completely the Hegelian dialectic. He did not see in the history of humanity the unfolding of the idea of reason or regard the existent as necessarily right, but he satisfied his own fundamental need for idealism by seeking to

learn from experience the law of universal evolution in human "culture," a term which he used in the German sense of the control of nature by science and art. Thus law can be understood only as part of the whole culture of a people. As a social product which changes from age to age it must be studied with the aid of history and ethnology.

Such a philosophy did not represent so much a system as a justification of a Faustian urge to comprehend all knowledge. Although it was valuable in its time as a reaction, on the one hand, against the metaphysical tendencies of the preceding generation, and, on the other, against the barren historicism of the prevailing historical school neo-Hegelianism was vitiated by the high degree of relativity which its tenets encouraged. It is not always clear to what extent the necessity for conscious effort in the adaptation of institutions is recognized by Kohler, and although he perceived a rational purpose in the universe he often seemed to admit the irrationality of particular phenomena. Thus the positions he actually took toward various juristic problems tended to be eclectic. He was opposed to the fundamental theory of the sociological school in criminal law but he accepted nevertheless a great part of its program of prevention. In the World War he saw the debacle of positivism in international law. Indeed toward the end of his life he was preoccupied with the Spanish natural law theorists of the sixteenth century and the philosophy of scholasticism.

During his lifetime Kohler was regarded by some as the greatest of living jurists while others consider him hardly more than an assiduous compiler of an almost endless series of monographs. In the last analysis his reputation must rest upon his achievements as a legal historian and ethnologist. As a legal historian, however, his work often suffers from his great reliance upon intuition. He is accused by Dahm of having treated six centuries of development in mediaeval Italian statutes as a static period of almost changeless culture. In his work in ethnological jurisprudence, in which he carried on the labor of Post, although he was of course dominated by the concept of unilinear evolution, he has been granted praise by anthropologists for his treatment of kinship terminologies.

WILLIAM SEAGLE

*Consult:* Kohler, Arthur, *Josef Kohler—Bibliographie* (Berlin 1931).

KOLLÁR, JAN (1793–1852), Czechoslovakian poet and nationalist. Kollár was born in Slovakia and when still a very young man came under the influence of the Slavic ideas of the Czech national leader, Josef Jungmann. During his studies at the University of Jena he was impassioned partly by the romantic German nationalism, partly by the remains of ancient Slavic settlements in Saxony; later in his gigantic sonnet cycle, *Slávy dcera* (Daughter of Slava, 2 vols., Pest 1824; 2nd ed. 1832), he contrasted pan-Germanism with pan-Slavism. In this work he made an attempt to overcome the wretched condition of the Czechs and Slovaks, who were menaced by the Hapsburgs and Germanization, seeking inspiration in the record of the great geographical extension of the Slavs in the past, the large Slavic population in his own time and the promise of a brilliant Slavic future. In the spirit of Herder he combined enlightened rationalism with historical romanticism and conceived of the nation as an instrument of humanity; moreover he believed that the regeneration of a united Slav nation would inaugurate a new era in the history of mankind. He opposed the lingual separatism of the Slovaks and in his treatise *Über die litterarische Wechselseitigkeit zwischen den verschiedenen Stämmen und Mundarten der slavischen Nation* (Pest 1837, 2nd ed. 1844) he put forward a practical program calling for the absorption of the four leading Slavic tongues, Russian, Polish, Czech and Serbian, into one Slavic language. Kollár's rhetoric exerted a most powerful and lasting influence on the national renaissance of the Czechs and Slovaks, although the high hopes inspired by him were toned down to some extent by the sobering reaction of Palacký and Havlíček.

EMMANUEL CHALUPNÝ

*Consult:* Masaryk, T. G., *Česká otázka* (The Czech problem) (new ed. Prague 1924) p. 48–91; Vlček, Jaroslav, *Nové kapitoly z dějin literatury české* (History of Czech literature) (2nd ed. Prague 1918) p. 12–40; Fischel, Alfred, *Der Panславismus bis zum Weltkrieg* (Stuttgart 1919) p. 102–25; Pražák, Albert, in *Slavonic Review*, vol. vi (1927–28) 336–43, 579–92.

KOLLAŁAJ, HUGO (Kollontay) (1750–1812), Polish reformer and publicist. Kollataj was born in the province of Volhynia and studied theology and philosophy at the University of Cracow and in Rome. Appointed canon of Cracow and member of the Commission for Public Education, he reorganized the antiquated educational system of the University of Cracow. He soon turned his attention to the constitutional problems which

confronted the disintegrating Polish state and became the leading spirit in the work of the Four-Year Sejm (Diet); he is generally regarded as the author of the famous constitution of May 3, 1791. After the fall of Poland Kollątaj was imprisoned first in Austria and, after a brief interval of freedom, in Russia. On his release he returned to Warsaw, where he spent the remainder of his life.

Although Kollątaj was a priest he was a free-thinker and a follower of the principles of Rousseau and the French Revolution; he later became an admirer of Napoleon. For Poland, however, he advocated a constitutional monarchy headed by a hereditary dynasty with a bicameral parliamentary system; this he considered as best suited to the needs of a country weakened by an unruly gentry struggling for power. A physiocrat, he nevertheless regarded the activities of the urban population as productive and favored the creation of a large middle class both as a source of financial strength and as a political balance against the power of the nobility. Besides a single land tax he urged the necessity of other tax measures, primarily for the purpose of strengthening the army as the only bulwark against the encroaching powers of neighboring countries.

ZOFIA DASZYŃSKA-GOLIŃSKA

*Important works:* *Do Stanisława Małachowskiego . . . anonyma listów kilka* ('To St. Małachowski . . . several anonymous letters'), 4 vols. (Warsaw 1788-90); *O ustanowieniu i upadku Konstytucji polskiej 3<sup>go</sup> maja 1791*, in collaboration with I. Potocki and F. K. Dmochowski, 2 vols. (Metz 1793), tr. into German by S. B. Linde as *Vom Entstehen und Untergange der polnischen Konstitution vom 3<sup>ten</sup> Mai 1791* (Leipzig 1793); *Nil desperandum* (in Polish) (Leipzig 1808); *Porządek fizyczny-moralny* ('The physical and moral order') (Cracow 1810; new ed. by Z. Daszyńska-Golińska, Warsaw 1912); *Rozbiór Krytyczny zasad historyi o początkach rodu ludzkiego* (Critical analysis of the principles of history from the beginnings of mankind), 3 vols. (Cracow 1842).

*Consult:* Janik, Michał, *Hugo Kollątaj* (Lwów 1913); Tokarz, Wacław, *Ostatnie lata Hugona Kollątaja (1794-1812)* (The last years of Hugo Kollątaj), 2 vols. (Cracow 1905); Daszyńska-Golińska, Zofia, "Hugo Kollątaj jako filozof społeczny" (Hugo Kollątaj as a social philosopher), introduction to her edition of *Porządek . . .* (Warsaw 1912).

KOLPING, ADOLPH (1813-65), German social worker. Kolping, who was originally a journeyman shoemaker, studied theology at Munich, the center of the Catholic romantic movement, and later at Bonn. Upon the completion of his studies he decided to try to improve

the unhappy social condition of his former fellow craftsmen. He founded in 1847 the first Catholic social organization, the Katholischer Gesellenverein. This Catholic journeymen's guild soon spread from the Rhineland through all German speaking countries and today has branches in nearly all European and several American countries. Its membership at the present time includes more than one hundred thousand skilled workers between seventeen and twenty-five years of age organized in about 1400 locals. The main purpose of this organization is to regenerate family life by establishing its local branches on the family principle (the priest-president being spiritual father of the community) and by providing journeymen with a family home. The guild introduced an early form of adult education of a technical character and endeavored by cultural, moral and physical instruction to develop energetic self-help. Kolping held that social regeneration of a class must be preceded by the moral regeneration of its members based on love, and he consciously opposed the rising influence of scientific socialism which looks for the regeneration of mankind through a thorough reorganization of economic and social conditions only. In politics Kolping shared the views of his friend Bishop Ketteler and put forward no independent program of his own.

THEODOR BRAUER

*Consult:* Brauer, Theodor, *Adolf Kolping*, *Klassiker der katholischen Sozialphilosophie*, vol. ii (Freiburg i.Br. 1923); Zimmerman, Karl, "Der Gesellenvater" in *Süddeutsche Monatshefte*, vol. xxvi (1928-29) 170-73; Nattermann, Johannes, *Adolf Kolping als Sozialpädagoge*, *Forschungen zur Geschichte der Philosophie und der Pädagogik*, vol. i, pt. i (Leipzig 1925).

KONARSKI, STANISŁAW (1700-73), Polish educational and political reformer. Konarski studied in Rome and Paris and was a disciple of Locke and Montesquieu in theory and of Rollin in the practise of education. He was the first to attempt a reform of the schools of his nation, until then almost wholly under the control of the Jesuits. In his Collegium Nobilium, founded in Warsaw in 1740, he aimed to train future statesmen with full regard to the needs alike of body, mind and spirit. Throughout he employed the scientific method—a novelty of great moment. In the face of bitter opposition he held to his course and finally won over even his foes. It was he more than anyone else who made possible the creation after his death of a national educational commission.

At the same time Konarski addressed himself



to the evils of the Polish constitution. His most important work, *O skutecznym rad sposobie* (On effective counsels) (4 vols., Warsaw 1760-63), contains a withering attack on the institution of the *liberum veto*, which enabled any deputy to bring about a dissolution of the Diet and so paralyze all public business, and an elaborate plan to reform the machinery of state. In this work may be found not a few principles later incorporated in the constitution of May, 1791.

By introducing the French language and literature as a cultural factor in Polish education Konarski paved the way for the spread of rationalism in eastern Europe. As a result he was indicted as a freethinker by fellow Catholics, but he was able to refute the charges.

WILLIAM J. ROSE

Consult: Rose, William J., *Stanislas Konarski* (London 1929).

KÖPRÜLÜ FAMILY, Turkish statesmen. By their extraordinary intelligence and ability they interrupted for a time the rapid decline of the Ottoman Empire. The first of the Köprülü viziers, Mahmad (c. 1583-1661), came of a humble family probably of Albanian origin and rose from menial to honorable posts in the sultan's service. He held office as governor of Damascus, Tripoli and Jerusalem successively and in 1656, when both the internal administration and the foreign prestige of Turkey had apparently collapsed, was appointed grand vizier. Mahmad obtained a free hand in carrying out a policy which he had evidently resolved upon long before. He suppressed rebellion, restored discipline in the civil and military administration and reorganized finances so as to enrich the treasury. Inflexible in purpose, he promptly and liberally rewarded the obedient and efficient while he punished corruption and opposition by instant execution. Within five years there was order in the empire and its reputation abroad had been restored.

Mahmad's son Âhmad (1635-76) was twenty-six when he succeeded his father as grand vizier, an office which he held for fifteen years. He had received a thorough training in law and had served as governor of Erzerum and Damascus. More humane than his father, he continued essentially the same policies. In addition he did a great deal to protect the people from the arbitrary exactions and activities of government officials and improved the position of the Christians and the adherents of other tolerated religions. His military and diplomatic achievements

led to a temporary revival of the empire. Defeated in a battle against the Austrians at Szent Gotthard on the Raab, Âhmad nevertheless concluded a treaty of peace at Vasvár without loss of territory. In 1669 he brought to an end the war with Venice over Crete, which had been going on for twenty-four years, by obtaining possession of the island. He won and lost battles in Poland but finally made an advantageous settlement.

Âhmad's brother Mustâfâ (1637-91), an experienced soldier and governor, was appointed to the grand vizierate in 1689. In his short term he regulated taxation, instituted economies, built up the army and revived the navy. He recognized the necessity of lightening the burdens of the Balkan Christian subjects, who were tempted to join the enemies of Turkey, and arranged a fixed poll tax in three grades to replace irregular exactions.

Mahmad's nephew Hüseyin (d. 1702) became grand vizier in 1697 and in that capacity arranged the Peace of Carlowitz (1699), which resulted unavoidably in serious losses of territory. The new vizier followed the policy of his relatives in improving the financial and military system and in his treatment of the Christians, for whom he remitted the poll tax. He was a patron of learning and the arts and built a number of schools. His five years of control repaired considerably the damages of the prolonged war.

Had the Turkish system permitted it, the Köprülü as monarchs of incomparably greater capacity might have displaced the house of Osman and reformed and modernized the country with rapidity. Actually for the most part they revived policies which had been successful but which were fundamentally unsuited to the changed times.

ALBERT H. LYBYER

Consult: Eversley, G. J., and Chirol, V., *The Turkish Empire from 1288 to 1922* (2nd ed. London 1923) ch. xiii; Creasy, E. S., *Turkey*, ed. by A. C. Coolidge and W. H. Clafin, *History of Nations series*, vol. xiv (rev. ed. Philadelphia 1906) p. 232-73; Ranke, L. von, *Die Osmanen und die spanische Monarchie im 16. und 17. Jahrhundert*, *Sämmtliche Werke*, vol. xxxv-xxxvi (4th ed. Leipzig 1877) p. 74-81, tr. by W. K. Kelly (London 1843).

KOPS, JACOB LEONARD DE BRUIJN. See BRUIJN KOPS, JACOB LEONARD DE.

KORAE, ADAMANTIOS (1748-1833), Greek educator and national leader. Korae, the son of a merchant, was born on the island of

Chios but at an early age was taken to Smyrna. He studied in Amsterdam and in Montpellier, where he received his doctorate in medicine. In 1788 he came to Paris, where he lived uninterruptedly until his death. His national consciousness was stimulated by the events of the revolutionary period and he was one of those Greeks who under the influence of the bourgeois revolutionary ideology identified national with bourgeois liberty. His familiarity with the literary achievements of the human mind, systematically cultivated since earliest youth, led him under the influence exercised upon him by the example of the French Enlightenment to the realization that the achievement of Greek national freedom must be preceded by a period of intellectual enlightenment. He also aimed to establish a national cultural continuity between the civilization of ancient Hellas and the Greece of his own day and thus devoted himself to the endeavor to accelerate the intellectual renaissance of his compatriots, who were at that time under Turkish rule. Aided by the financial support of the merchants Zosimades he published a series of modern translations of the ancient classics prefaced with introductions in which he developed his views on education and national regeneration. These works were distributed widely throughout Greece and served as the intellectual basis for the Greek national movement.

Korae's activity as a national educator is closely bound up with his philological views. Since the appearance of the Phanariot scholarship there was evident in Greece a tendency to replace the popular language developed in the course of a long evolution by an artificial scholarly language approximating ancient Greek. Korae opposed this archaistic tendency; he did not endorse the popular speech as such but declared himself in favor of refining it. In his polemic against anti-evolutional archaism democratic motives also played a part; this he explicitly acknowledged in maintaining that although the scholars are the legislators of language they are legislators of a "democratic concern" which belongs to all. This view, which gave the struggle over the popular speech the appearance of a social struggle that it retains even today, invests Korae's vision with special significance and marks him as the forerunner of one of the greatest social movements of the new Greece.

PANAJOTIS KANELLOPOULOS

Consult: Thierhaus, D., *Adamantios Korais* (in Greek), 3 vols. (Trieste 1889-90); Oikonomos, Christos P.,

*Die pädagogischen Anschauungen des Adamantios Korais und ihr Einfluss auf das Schulwesen und das politische Leben Griechenlands* (Leipzig 1908), with a bibliography of works by and about Korae.

KORAN. See SACRED BOOKS.

KORKUNOV, NIKOLAY MIKHAYLOVICH (1853-1904), Russian sociologist and jurist. From 1878 to 1899 Korkunov was professor of constitutional law and theory of law at the University of St. Petersburg. Although he has often been associated with the school of Jhering he was in reality an entirely original thinker; his ideas resemble to a considerable degree those of Duguit, whom he preceded by several decades.

Korkunov firmly and ardently opposed the voluntaristic theory of law and the state introduced by juridical individualism. At the same time he affirmed the impossibility of detaching juridical constructions from the sociological and psychological study of the reality of law. His most original conceptions deal with the structure of public power and of the state. Korkunov held that public power is not a will but an objective product of the collective consciousness of dependence on the part of its subjects. The state moreover is not a juridical person but an objective juridical relationship; it is a complex system of relations between the individuals and officials who in common realize the public power, which serves as object of these relations. Law according to this conception is not a command of the public power but precedes and goes beyond it, since it proceeds from the collective consciousness in a more immediate manner than does the public power itself. One of the most fundamental problems of the theory of law and of the state—here Korkunov profits by the ideas of Krause and Lorenz von Stein—is that of the relationship between the state and society, which is governed by its own extrastate law. The state, however, must predominate over society, for its power is more favorable to individual liberty.

In his definition of law Korkunov sought to unite the conceptions of Kant and Jhering. Law for him is a "delimitation of interests." The idea of a limit is inherent in idealistic individualism as is the idea of interest in positivist sociology. This amalgamation was not the strongest of Korkunov's conceptions, since it was inconsistent: with his own point of view. In fact in opposing juridical voluntarism and individualism it is difficult to consider law as a negative limit, just as it is not easy after having allocated law and power to the spontaneous collective consciousness forth-

with to have recourse to the idea of interest.

Fundamentally Korkunov's ideas, which he himself characterized as an expression of "subjectivist realism," occupied an independent position in the conflict between idealism and positivism. He applied the principle successfully in his very original theory of power and the state but he failed in applying it in his definition of law.

GEORGES GURVITCH

*Important works:* *Lektsii po obshchey teorii prava* (St. Petersburg 1886, 8th ed. 1908), tr. by W. G. Hastings as *General Theory of Law* (2nd ed. New York 1922); *Obshchestvennoye znachenie prava* (The social significance of law) (St. Petersburg 1890); *Sravnitelny ocherk gosudarstvennogo prava inostrannykh derzhav* (Comparative constitutional law of foreign states) (St. Petersburg 1890); *Russkoe gosudarstvennoye pravo* (Russian constitutional law), 2 vols. (St. Petersburg 1892-93, 8th ed. 1913); *Ukaz i zakon* (Ukase and statute) (St. Petersburg 1894).

*Consult:* Hecker, J. F., *Russian Sociology* (New York 1915) p. 257-64.

KOROLENKO, VLADIMIR GALAKTIONOVICH (1853-1921), Russian writer and publicist. During his student years in St. Petersburg and Moscow Korolenko was twice exiled for participation in radical activities; and when in 1881 he refused to take a special oath of allegiance to Alexander III he was sent again into exile, this time for three years in Siberia. He had already been occupying himself with writing, and during his stay in Siberia he wrote *Son Makara*, which on its publication in 1885 (tr. by M. Fell in *Makar's Dream and Other Stories*, New York 1916), when he returned to Russia, made him famous throughout the nation. In 1904 at the death of Mikhaylovsky he became editor in chief of *Russkoy bogatstvo* (Russian fortune), a monthly periodical representing the views of the Populist intelligentsia, and he continued in this position until the magazine was suspended in 1918.

Korolenko was one of the greatest masters of Russian literature in his time but he was a profound humanitarian as well as a literary artist. He called himself "a partisan, defending the rights and dignity of man wherever it is possible to do so with the pen." He wrote many stories and several longer works of fiction but his most effective medium was the short sketch for newspaper or magazine. For decades at times of most acute social crisis in places where events of far reaching significance were taking place the "writer Korolenko" appeared without fail. He was a thoughtful and realistic observer and

in his articles he disclosed and interpreted to the Russian public the "true nature of the event." His power as an artist had a far greater effect in awakening radical sympathies than would have been possible had he expressed himself in purely intellectual terms; and it enabled him to continue his crusade against intolerance and injustice despite a rigid censorship. More specifically, his sketches describing the horrors and exploitation by landlords during the famine of 1891 (*V golodny god*, St. Petersburg 1893), exposing the injustice of a ritual murder accusation against half-Christian tribesmen in north-eastern Russia (*Multanskoye zhertvoprinoshenie*) and protesting against the increasing use of capital punishment after the 1905 revolution (*Bilovoe yavlenie*, St. Petersburg 1910) were of profound significance in shaping a new social consciousness in Russia. A belief in non-violent regeneration and an emphasis on the struggle between the government and society rather than on the class struggle are the important elements in Korolenko's social philosophy. His longest work, *Istoria moego sovremennika* (begun in 1906, complete ed. in 5 vols. Moscow 1922; vol. i and part of vol. ii tr. into German by Rosa Luxemburg as *Die Geschichte meines Zeitgenossen*, 2 vols., 2nd ed. Berlin 1919), presents an invaluable picture of Russian life during the late nineteenth and the early twentieth century and abounds in autobiographical material covering several decades.

VLADIMIR ROSENBERG

*Works:* A collected edition prepared by Korolenko appeared in 1914 (9 vols., St. Petersburg); a definitive posthumous edition is still in the course of publication (vols. i-v, vii, viii, xv-xx, xxiv, Kharkov and Poltava 1923-29). Individual works have been translated into almost every language. In general the French translations are better than the English.

*Consult:* V. G. Korolenko, ed. by E. F. Nikitina (Moscow 1928); *Pamyati V. G. Korolenko* (To the memory of Korolenko), ed. by V. A. Miakotin (Moscow 1922); Batushkov, F. D., *V. G. Korolenko kak chelovek i pisatel* (Korolenko as a human being and writer) (Moscow 1922); Haessler, Eugen, *Vladimir Korolenko und sein Werk* (Königsberg 1930); Umansky, Dmitry, "Vladimir Korolenko" in *Living Age*, vol. cccxiii (1922) 92-99; Savitch, G., "Vladimir Korolenko" in *La revue*, 3rd ser., vol. xlv (1903) 665-76; Calderon, G. L., "Korolenko" in *Monthly Review*, vol. iv (1901) no. 12, p. 115-28.

KÖRÖSY DE SZÁNTÓ, JÓZSEF (1844-1906), Hungarian statistician. Körösy was the founder and first director of the municipal statistical bureau in Budapest and professor of statistics at the University of Budapest. His field

of interest was vital statistics, with particular emphasis on mortality and morbidity rates. In measuring the rates of mortality from specific diseases he devised the method of relative intensity based on the calculation of the proportion of deaths from particular diseases to the total deaths within the respective age group. Using this method to calculate the rates of mortality from smallpox among vaccinated and non-vaccinated people he definitely established the effectiveness of vaccination, which had been hotly contested by antivaccinationists. He also investigated statistical regularities in the propagation of typhoid fever and tuberculosis and studied the effect of housing on morbidity and mortality. In compiling general mortality tables Kőrösy devised the use of the individual register, which enabled him to keep the identity of individuals under observation from birth to death and thus to construct mortality tables for specific groups of people. He compiled the first birth tables after those of Halley and was the first to study the effect of the age of parents on the fertility of marriage and the vitality of offspring. He helped to formulate an international nomenclature of professions and causes of death and worked toward an international unification of the methods of census taking. With Koch and Ogle he constructed an international index of mortality, still in use, based on age distribution with Sweden as a base. Kőrösy was aware of the logical limitations of statistical investigation; although he believed in the existence of statistical regularities in the universe of social phenomena as early as the 1870's he looked upon them as rules of inconstant probabilities rather than as laws of absolute validity.

THEODORE SZÉL

*Important works:* *Mittheilungen über individuelle Mortalitäts-Beobachtungen* (Budapest 1876); *Projet d'un recensement du monde* (Paris 1881); *Demologische Beiträge zur Erweiterung der Natalitäts- und Fruchtbarkeitsstatistik, Mortalitäts-Coefficient und Mortalitäts-Index* (Berlin 1892); *Die statistischen Beweise des Impfschutzes* (Budapest 1896); "An Estimate of the Degrees of Legitimate Natality as Derived from a 'Table of Natality'" in *Royal Society of London, Philosophical Transactions*, ser. A., vol. clxxxvi (1895) 781-875.

*Consult:* Szél (Saile), Tivadar Antal, *Kőrösy József hatása a statisztika fejlődésére* (Influence of Joseph de Kőrösy on the development of statistics) (Budapest 1927), with a summary in French.

KOŚCIUSZKO, TADEUSZ ANDRZEJ (1746-1817), Polish national leader. Kościuszko, a descendant of Polish-Lithuanian gentry, received his early education at Warsaw and later pur-

sued a course of study at Paris, where he came under the influence of the political and social ideas which culminated in the French Revolution. Impelled by his enthusiasm for liberty he participated as a colonel in the American War of Independence and after his return to Poland attained distinction in the Polish-Russian War of 1792 waged in defense of the constitution of May 3. Two years later, when he was offered the leadership in the insurrection against the encroaching control of Russia in Polish affairs, he assumed the dictatorship and freed the peasantry from personal servitude and in part from statutory labor. The crushing defeat of the Polish army at Maciejowice put an end to Polish independence and with it to Kościuszko's social reforms; he himself was taken prisoner by the Russians. But although his reforms were short lived they had a profound influence upon Polish political thought, and the idea of the emancipation of the peasants has been a part of nearly all subsequent movements for Polish independence.

Set at liberty after the death of Catherine II, Kościuszko went abroad, where he assumed the moral leadership of the Polish émigrés and of the legions fighting in Italy and Germany on the side of republican France against the partitioning powers. He held radical views and was opposed to the consulate and the empire. He refused to participate in the partial reconstruction of his country in the form of the Duchy of Warsaw and demanded from Napoleon the restoration of the historical frontiers of Poland and a liberal constitution; because of this attitude his influence among his countrymen suffered a temporary eclipse. After the downfall of the empire he endeavored to gain the support of European opinion and of the victorious Alexander I for his ideal of an independent Poland; and during the Congress of Vienna, which created the kingdom of Poland, he drew attention to the necessity of improving the lot of Polish peasants. Disappointed in his hopes, he spent the remaining years of his life in retirement in Switzerland. Kościuszko remained the symbol of the Polish aspirations to the status of an independent nation, and the Kościuszko legend has been one of the main forces making for the establishment of national independence and democracy in Poland.

A. M. SKALKOWSKI

*Consult:* Gardner, Monica M., *Kościuszko, a Biography* (London 1920); Korzan, T., *Kościuszko* (in Polish) (2nd ed. Cracow 1906); Słowiński, Artur, *Pow-*

*stanie kościuszkowskie* (The Kościuszko insurrection) (2nd ed. Warsaw 1920); Próchnik, Adam, *Demokracja kościuszkowska* (The Kościuszko democracy) (Lwów 1920).

KOSSUTH, LAJOS (1802-94), Hungarian statesman, orator and political writer; chief leader of the Hungarian Revolution of 1848-49. Kossuth through his exceptional oratorical gift, magnetic personality and unique power of organization symbolized more than any other man Magyar nationalism, which was at that time intimately connected with liberalism. He came from the poorer nobility; although of Slovak extraction he embraced whole heartedly Magyar nationalism, which he, like Karl Marx, considered the only real cultural and liberal force in the country. As the delegate of an absent magnate at the Diet he was the founder of Hungarian journalism, editing for the first time a kind of a parliamentary gazette (*Országgyűlési tudósítók*). Embarrassed by his brilliant agitation the Viennese government put him in prison; but his three years' imprisonment, which he devoted to deep studies of English language and literature, contributed still further to his development. After his liberation he became as editor of the *Pesti hírlap* (1841) the strongest publicistic influence of the nation, arousing the distrust and suspicion of the conservatives, who felt in him the spirit of the revolution. Although the Austrian government was successful in breaking his connection with the paper, his influence grew rapidly as a result of his campaign for the abolition of the entail, the elimination of feudal burdens and complete national independence of Hungary. In 1847 he became a member of the Diet and his discourse on March 3, 1848, demanding a constitution not only in Hungary but also in Austria made him a European figure. So overwhelming was his campaign that the court was obliged to cede. A parliamentary government was granted and Count Batthyány gave Kossuth a portfolio in his cabinet. The Viennese reaction, however, did not take these concessions seriously and fomented a general insurrection of the southern Slavs and the Rumanians, who were exasperated by the chauvinistic attitude of Kossuth. War against the imperial forces became inevitable; Batthyány resigned and Kossuth assumed power as president of the Committee of National Defense and later as governor of the country. His success as an army organizer was remarkable, but after notable victories the situation of the Magyar forces became untenable as a result of the intervention of the czar in favor of the de-

posed emperor, Francis Joseph. Kossuth was obliged to flee and was interned by the Turkish government. Liberated in 1851 he made a brilliant campaign for Hungarian independence in England and America. He lived forty-five years in exile, trying to get French, Italian and later Prussian support against the Hapsburgs. But his efforts remained unsuccessful and after the dualist system had been created by Ferencz Deák in 1867 Kossuth realized that his cause was lost, at least for his lifetime. He continued to regard the *Ausgleich* as an impossible system doomed to collapse and set over against it the idea of a Danube confederation, which he championed as the only constitutional framework capable of guaranteeing real independence to Hungary and the other smaller Danubian nations. Although the influence of Kossuth was crushed in Hungary by a pseudo-parliamentarian system, he remained the idol of the peasantry and his moral force is even now a vital factor.

OSCAR JÁSZI

*Works: Iratai* (Works), 13 vols. (Budapest 1880-1911), vols. i-iii tr. into German by J. Helfy as *Meine Schriften aus der Emigration*, 3 vols. (Pressburg 1880-82), vol. i tr. by F. Jausz as *Memories of My Exile* (London 1880).

*Consult: Irányi, D., and Chassin, C. L., Histoire politique de la révolution de Hongrie 1847-49*, 2 vols. (Paris 1859-60); Jászi, O., *A monarchia jövője: A dualizmus bukása s a dinai egyesült államok* (Budapest 1918), tr. into German as *Der Zusammenbruch des Dualismus und die Zukunft der Donestaaten* (2nd ed. Vienna 1918); Szabó, E., *Társadalmi és pártarcok a 48-49-es magyar forradalomban* (Vienna 1921); Szekfü, G., *Három nemzedék* (2nd ed. Budapest 1922); Gracza, G., *Kossuth Lajos élete működése* (3rd ed. Budapest 1902); Steier, L., *Görgey és Kossuth* (Budapest 1924).

KOSTOMAROV, NIKOLAY IVANOVICH (1817-1885), Ukrainian historian, ethnographer and publicist. Kostomarov studied at the University of Kharkov and became professor at the University of Kiev. Arrested in 1847 as a member of a Ukrainian secret political society, the Brotherhood of St. Cyril and of Methodius, he was imprisoned and exiled to Saratov. Beginning in 1859 he taught at the University of St. Petersburg, where he was much loved by the students; but he resigned this post in 1862 for political reasons and was never allowed to resume his academic career, although the University of Kiev and other institutions invited him to occupy their chairs of history.

Kostomarov divided his interest and work between history, especially the history of the Ukraine and phases of Russian history, and eth-

nography. His influence on ethnographical studies of the Slavic world has been great: he insisted on the scientific importance of ethnography and demanded that the historian himself study the life and the customs of the entire people—not only of the ruling classes. He was hostile to the Muscovite autocracy, which he viewed as a degeneration, due to the influence of the Tartar horde, of the original Slavic forms of life of the Great-Russian people; these forms he believed to be preserved in their purest state in the Ukrainian people. Although he was inclined toward a Slavophile romanticism he had, however, a great influence on the democratic and progressive movement not only in the Ukraine but also in Russia. His political ideal was a federation of the Slav republics with a democratic constitution; for each nation he demanded the right to an independent cultural and political development. As a Ukrainian he was especially interested in the defense of the rights of the Ukrainian tongue and in the cultural development of his people; he may be regarded as the leader in Ukrainian life from 1858 to 1880.

M. HRUŠEVSKY

*Works:* *Sobranie sochineny*, 21 vols. (St. Petersburg 1903-06), a collection of historical monographs; *Naukovo-publističeski i polemični pisanja* (Scientific-publicistic and polemical writings) (Kiev 1928); *Antobiografiya*, ed. by V. Kotelnikov (Moscow 1922).

*Consult:* Vseukrainska Akademiya Nauk, Kiev, *Ukraina* (1925) pt. iii, p. 3-87.

KOVÁCS, GÁBOR (1883-1920), Hungarian economist. After serving as *Privatdozent* at the University of Kolozsvár, Kovács became professor at the University of Debreczen and in 1918 was called by the Károlyi government to the University of Budapest. In his writings he followed essentially the classical tradition but attempted to reformulate the orthodox doctrine in the light of new economic problems which have emerged since the formulation of the classical principles. He disagreed with the historico-ethical school because of its inclusion of extra-economic elements in economic theory; and he opposed marginalism, maintaining that it is based predominantly on the psychology of the consumer and neglects the factors on the supply side. The general acceptance of marginalism despite its basic shortcomings he explained on two grounds: first, because it constituted a welcome relief from the vagueness of the historico-ethical approach; and, second, because it provided orthodox economic theory with a new

rallying point in its struggle against the inroads of Marxism. He was the first economist of academic rank to adopt an unprejudiced position in the treatment of socialist doctrine. Of the post-classical economists Kovács was influenced by Marx and Oppenheimer; the former influenced his distribution theory, the latter his population theory. During the World War Kovács advocated a thoroughgoing agrarian reform and, as a preventive measure for the approaching post-war agrarian crisis, the formation of colonization societies.

RUSZTEM VÁMBÉRY

*Works:* *Az orosz műr-szervezet szocialgazdaságtani értéke* (Socio-economic value of the Russian műr) (Budapest 1904); *A népességi elmélet újabb fejlődése* (Population theory) (Debreczen 1906); *Társadalmi gazdaságtan* (Social economy) (Budapest 1914); *A közgazdaságtan elemei* (Elements of social economy) (Debreczen 1915, 2nd ed. 1919); *A közgazdaságtan és a világháború* (Social economy and the World War) (Debreczen 1916); *Vér és kenyér* (Blood and bread) (Budapest 1918); *A szocializmus története* (History of modern socialism), ed. by A. Danos (Budapest 1925).

KOVALEVSKY, MAKSYM MAKSIMOVICH (1851-1916), Russian historian, anthropologist and sociologist. Kovalevsky, the son of a prosperous noble, was graduated from the University of Kharkov and completed his training in Paris at the École des Chartes and in England. His early works dealt with the history of late mediæval and early modern administration in France and England, tracing the limitation of administrative discretion under absolutism by the development of law and judicial institutions. In England he became interested in the origin and history of the village community, a subject much discussed then, and eventually in primitive social organization. After 1877 he was professor of foreign public law and institutional history at the University of Moscow. At this time he made several field trips to study at first hand the Caucasian mountain tribes and published a number of works based on the material he gathered. In 1887, after being dismissed from the university for liberal tendencies, he settled in France. In the following twenty years he published a number of books and articles in French and English, some of them lecture courses delivered at various European and American universities (Stockholm, Oxford, Brussels, Chicago, California) and at the École Supérieure Russe des Sciences Sociales de Paris, which he founded in 1901. During his French residence he completed his two most important works—his study of the origin of modern democracy and his

economic history of Europe. The first traces the development of the doctrines of equality before the law and of popular sovereignty, analyzes the activity of the French Constituent and describes the decay of the aristocratic regime in the Republic of Venice. In this work he maintained that the conception of inalienable individual liberties was of English origin but unlike Jellinek, who saw it fully developed by English dissidents on American soil, Kovalevsky stressed the importance of the pamphlet and tract literature in the mother country, particularly that of the Levellers. The second work stressing agrarian history and, in its German version extending to the eighteenth century, incorporates the results of twenty-five years of effort. In this he held that increase in population density is the principal although not the only factor in economic evolution and corresponding social and cultural change, thus anticipating Coste, Durkheim, Loria and the whole demographic school. Upon his return to Russia during the 1905 revolution, Kovalevsky organized a liberal party of Democratic Reforms (more moderate than the important bourgeois party of Constitutional Democrats), founded a party newspaper and was elected to the first Duma. He resumed teaching, at first at the university and later also in other schools in St. Petersburg, and in 1907 was elected as university representative to the State Council, Russia's second chamber, where he was the leader of the very small liberal minority.

Unlike many Russian scholars who were influenced by German philosophy and jurisprudence Kovalevsky was a positivist in the manner of Comte and Harrison, a Spencerian evolutionist and a staunch adherent of Maine's comparative historical method. His strength lay in synthesis and generalizations, of which his mind was unusually fertile; although he was an industrious student of archive material he has often been criticized for insufficient attention to factual detail. He exercised considerable influence in all of the disciplines in which he worked—history of law, political theory and economic institutions, sociology, anthropology—but he left no school.

#### E. SPEKTORSKI

*Important works:* *Obshchestvennyy stroi Anglii v kontse srednikh vekov* (Social organization of England at the end of the Middle Ages) (Moscow 1880); *Sovremennyy obichay i drevnyy zakon. Obichnye pravo ossetin* (Moscow 1886), tr. into French as *Coutume contemporaine et loi ancienne: droit coutumier ossétien* (Paris 1893); *Tableau des origines et de l'évolution de la*

*famille et de la propriété* (Stockholm 1890); *Modern Customs and Ancient Laws of Russia* (London 1891); *Proiskhozhdeniye sovremennoy demokrati* (Origin of modern democracy), 4 vols. (Moscow 1895-97; 3rd rev. ed. of vol. I, St. Petersburg 1912), vol. I tr. into French as *La France économique et sociale à la veille de la Révolution*, 2 vols. (Paris 1909-11), and vol. IV tr. into French as *La fin d'une aristocratie* (Turin 1901); *Le régime économique de la Russie* (Paris 1898); *Russian Political Institutions* (Chicago 1902); *Ekonomicheskiy rost Evrope do vozniknoveniya kapitalisticheskogo khozyaystva*, 3 vols. (Moscow 1898-1900), enlarged German version as *Die ökonomische Entwicklung Europas bis zum Beginn der kapitalistischen Wirtschaftsform*, 7 vols. (Berlin 1901-14); *Sovremenniy sotsiolog* (Contemporary sociologists) (St. Petersburg 1905); *Ot pryamogo narodopravstva k predstavitelnomu i ot patriarkhal'noy monarkhi k parlamentarizmu* (From direct to representative democracy and from patriarchal monarchy to parliamentarism), 3 vols. (Moscow 1906); *Sotsiologiya* (Sociology), 2 vols. (St. Petersburg 1910).

*Consult:* Ivanovsky, I. A., in Russia, *Ministerstvo Narodnago Prosveshcheniya, Zhurnal* (1916) no. 12, p. 102-24; Penser, S., in *Revue historique*, vol. cxxii (1916) 236-39; Worms, René, in *Revue internationale de sociologie*, vol. xxiv (1916) 257-63; Gurtvich, G., "Übersicht der neueren rechtsphilosophischen Literatur in Russland" in *Philosophie und Recht*, vol. II (1922-23); Sorokin, P., *Contemporary Sociological Theories* (New York 1928) ch. vii.

KRAEMER, ADOLF (1832-1910), German-Swiss agricultural economist. Kraemer is considered the father of agricultural cooperation in Switzerland. After teaching agricultural economics for many years in various German institutions he became secretary general of the Union of Agricultural Societies in the Grand Duchy of Hesse. In 1871 he was appointed director of the newly founded agricultural department of the Federal Polytechnic in Zurich, a position which he held until his resignation in 1905. A few years after his appointment he started a campaign for agricultural cooperation and aided actively in the formation of agricultural cooperatives and of the Union Suisse des Paysans (Schweizerischer Bauernverband) in 1897. He also advocated the development of supply societies into distributive societies. His department at the Polytechnic, the success of which was mainly due to his teaching and administrative work, became a center for the dissemination of agricultural science in a form most beneficial to working farmers and much of his writing had the same end in view. His practical conception of agricultural economics led Kraemer to emphasize farm accounting and animal husbandry (especially cattle raising) as well as to encourage the formation of agricultural research institutes. He took a prominent part in

the framing in 1884 and the revision in 1893 of the Swiss federal law for the encouragement of agriculture. His scientific works on agriculture are most important in their special fields.

ERNST LAUR

KRAEPELIN, EMIL (1856–1926), German psychiatrist. Kraepelin, who studied psychology under Wundt and psychiatry under Rinecker and Gudden, became in 1886 professor of psychiatry in Dorpat; from 1891 to 1903 he held a similar position at Heidelberg and until 1922 in Munich, where he founded the institute for psychiatric research to which he devoted himself until his death. To this institute Kraepelin drew leading men of all the special disciplines bearing on psychiatry and psychopathology and thus furthered the progress of these sciences.

Kraepelin's most significant work was on the classification of the functional psychoses, the symptomatic aspects of which had previously been misunderstood and haphazardly classified. As a result it had been entirely impossible to develop the field of psychopathology, to make general prognoses with reference to course and issue of the diseases, to give general lines of direction of treatment and to collect necessary materials for the study of heredity. Especially through his establishment of the categories of manic depressive insanity and dementia praecox, or schizophrenia, Kraepelin provided a firm groundwork from which research could make and has made further fruitful progress, although his classifications are being modified as evidence accumulates. His experimental work was concerned especially with the psychic effects of toxins. In 1896 he founded the series *Psychologische Arbeiten*, which has been continued by his disciples. His early work on the indeterminate sentence gave him rank among criminologists. He was also prominent in the fight against alcohol in Germany.

EUGEN BLEULER

*Important works:* *Die Abschaffung des Strafmasses* (Stuttgart 1880); *Psychiatrie* (Leipzig 1883; 8th ed., 4 vols., 1909–15; 9th ed. with J. Lange, vols. i–ii, 1927), 7th ed. tr. by A. R. Diefendorf (New York 1907), and vols. iii–iv of 8th ed. tr. by R. M. Barclay as *Manic-depressive Insanity and Paranoia* (Edinburgh 1921). *Consult:* Wirth, W., "Emil Kraepelin zum Gedächtnis" in *Archiv für die gesamte Psychologie*, vol. lviii (1927) i–xxxii.

KRAUS, CHRISTIAN JACOB (1753–1807), German economist. Kraus' intellectual development was decisively influenced by Immanuel

Kant, who was his teacher and later his colleague when after 1781 he served as professor of practical philosophy at the University of Königsberg. His studies embraced philosophy, mathematics, the classical languages, history and politics; it was not until 1790 that he made economic science his chief interest. Kraus had been well grounded in the ideas of the Scottish moralists; he had also made the attempt to connect logically the principle of the categorical imperative with the concepts of sympathy and conscience of the "impartial observer." He discerned the intellectual relationship which existed between the doctrines of Hume, whose essays he translated into German, and Adam Smith's concept of a harmony of interests resting on economic freedom. Out of his admiration for the English constitution, for freedom and for the encouragement of free economic competition arose his efforts for the realization of these ideals in Prussia, which was then governed almost entirely according to the feudal system. Feeble health prevented Kraus from publishing extensively. His writings comprise only a few short treatises advocating the introduction of freedom of industry and the abolition of the guild system; the suppression of monopoly; the abolition of serfdom, of feudal dues and of the privileges of the nobility; the free division, sale and transmission of property; free trade and deliverance from governmental paternalism. He achieved his great success as an academic teacher through his lectures (first published after his death), which were entirely in the spirit of Adam Smith and by means of which he brought hundreds of auditors into contact with the ideas of economic freedom, especially those officials who were later appointed to participate in the execution of the reforms of the ministers Stein and Hardenberg and to make possible the transformation of Prussia from a feudal state to a modern industrial state.

KARI. PRIBRAM

*Works:* *Staatswirtschaft*, ed. by Hans von Auerswald, 5 vols. (Königsberg 1808–11); *Vermischte Schriften*, ed. by Hans von Auerswald and J. F. Herbart, 8 vols. (Königsberg 1808–19).

*Consult:* Voigt, J., "Das Leben des Professors C. J. Kraus" in Kraus' *Vermischte Schriften*, vol. viii; Roscher, Wilhelm, *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) p. 668–15; Krause, G., *Beiträge zum Leben von C. J. Kraus* (Königsberg 1881); Kühn, E., *Der Staatswirtschaftslehrer C. J. Kraus und seine Beziehung zu Adam Smith* (Königsberg 1902); Milkowski, Fritz, "Die Bedeutung von Christian Jakob Kraus für die Geschichte der Volkswirtschaftslehre" in *Schmollers Jahrbuch*, vol. I (1926)



921-61; Hasek, C. W., *The Introduction of Adam Smith's Doctrine into Germany*, Columbia University, Studies in History, Economics and Public Law, no. 261 (New York 1925).

**KRAUS, FRANZ XAVER (1840-1901)**, German Catholic church historian and archaeologist. Kraus was ordained a priest in his native city, Trier, and from 1878 as professor at Freiburg i. Br. was recognized as the leading authority on Christian archaeology. He early approached in France the liberal Catholicism of Lacordaire and Montalembert and later became in Italy a follower of Rosmini. He distinguished between "religious" and "political" Catholicism (ultramontanism); the latter he claimed had been created by the mediaeval popes, had been supported by the Jesuits and had predominated since the Vatican Council of 1870. From this point of view Kraus wrote his *Lehrbuch der Kirchengeschichte* (4 pts., Trier 1872-75; 4th ed. 1896), his *Dante, sein Leben und sein Werk, sein Verhältnis zur Kunst und zur Politik* (Berlin 1897)—in Dante he found the model for his combatant yet orthodox relationship with the church—and his *Cavour, die Erhebung Italiens im neunzehnten Jahrhundert* (Mainz 1902). As a "religious" Catholic Kraus championed freedom of conscience, an independent, purely scientific theology and a modern national state entirely separate from the church. He condemned the aspirations of the Curia for supremacy and the organization of German Catholics into a political party. In the Kulturkampf he sought unsuccessfully to persuade Bismarck to uphold the interests of a purely religious German Catholicism against ultramontanism. In his "Kirchenpolitische Briefe," which he published under the nom de plume of Spectator in the Munich *Allgemeine Zeitung* from 1895 to 1899, he defined as ultramontane those who place the church above religion, confound the pope with the church, attribute worldly laws to the kingdom of God, extort religious conviction by means of physical power and sacrifice the individual conscience to outside authority. A Krausgesellschaft founded after his death for the purpose of promoting a "reform Catholicism" patterned on his ideas soon lost its importance through the antimodernistic measures of Pius x.

WOLFRAM VON DEN STEINEN

*Other important works:* *Geschichte der christlichen Kunst*, 2 vols. (Freiburg i. Br. 1896-1908), completed by Joseph Sauer; *Kunst und Alterthum in Elsass-Lothringen*, 4 vols. (Strasbourg 1876-92); *Real-Encyklopädie der christlichen Alterthümer*, 2 vols. (Frei-

burg i. Br. 1882-86); *Essays*, 2 vols. (Berlin 1896-1901). He also edited *Die christlichen Inschriften der Rheinlande*, 2 vols. (Freiburg i. Br. 1890-94).

*Consult:* Bräig, Karl, *Zur Erinnerung an Franz Xaver Kraus* (Freiburg i. Br. 1902); Hauviller, Ernst, *Franz Xaver Kraus* (2nd ed. Munich 1905); Schrörs, Heinrich, in *Badische Biographien*, vol. v (Heidelberg 1906) p. 424-42.

**KRAUZ-KELLES, BARON KAZIMIERZ (1872-1906)**, Polish sociologist. Krauz-Kelles studied in Paris, where after 1896 he lectured at the Collège Libre des Sciences Sociales; later he taught at the Institut des Hautes Études in Brussels. He early attracted attention by a lecture delivered at the Sociological Congress convoked by the Institut International de Sociologie in 1894 ("La psychiatrie et la science des idées," *Annales*, vol. i, 1895, p. 253-303). From that time his works were regularly published in the *Annales* of that institute and in the *Revue internationale de sociologie*.

Krauz-Kelles was one of the most prominent theorists and leaders of the Polish Socialist party and an energetic worker for the ideal of Polish independence. His more important works and essays in this field were subsequently collected under the title *Wybór pism politycznych* (Selected political works, Cracow 1907). In his journalistic work he employed many pen names, usually that of Michał Łuśnia. His scientific works and essays were posthumously published in incomplete form in two books: *Materializm ekonomiczny* (Economic materialism, Cracow 1908) and *Portrety zmarłych socjologów* (Portraits of deceased sociologists, Warsaw 1900). He was at heart an exponent of the materialistic interpretation of history. His manner of presenting that theory, however, was marked by a specific trend, which justifies the assumption that further development would possibly have led him to adopt an attitude fundamentally different from that of the formal school of historical materialism.

LUDWIK KRZYWICKI

*Consult:* Krzywicki, L., Introduction to *Materializm ekonomiczny* (Cracow 1908) p. vii-xv.

**KREITTMAYR, BARON VON, WIGULÄUS XAVERIUS ALOYSIUS (1705-90)**, Bavarian jurist and statesman. Kreittmayr's fame rests primarily upon his work as lawmaker for the Bavarian state. German legal disunity made clear in Bavaria as in Prussia in the middle of the eighteenth century the desirability of codification. While in Prussia Samuel von Cocceji, primarily a theorist, wished to bring about through codification an

accompanying reform in the spirit of the Enlightenment, Kreittmayr restricted himself to the exposition of the existing Bavarian law.

The result of his work was the adoption in 1751 of the *Codex juris criminalis bavarici* (criminal law and criminal procedure), in 1753 of the *Codex juris judiciarii bavarici* (civil procedure) and in 1765 of the *Codex maximilianeus bavaricus civilis* (civil law, briefly known as *Landrecht*), all of which he drafted. Although scarcely influenced by the spirit of the Enlightenment and of the law of nature and thus including many antiquated provisions Kreittmayr's codes are notable for their great lucidity in the exposition of traditional law, for their originality in the treatment of many individual questions and for their regard for practical requirements. It is especially said in praise of the *Codex judiciarii* that it resulted in an expedition of the course of civil procedure; of the *Landrecht* that it preserved its intrinsic independence in face of the Roman law and displayed an understanding of the indigent German law which was extraordinary for that time.

The interpretation of these codes was undertaken in Kreittmayr's best known literary work, his *Anmerkungen*, or commentaries, of which those on the *Landrecht* (5 vols., Munich 1757-68) should be especially mentioned for their intrinsic merit. Kreittmayr intended them to be used in legal instruction in the higher schools; for the same purpose he wrote a *Grundriss der gemeinen und bayerischen Privatrechtsgelehrsamkeit* (Munich 1768). Another of his well known works is *Grundriss des allgemeinen deutschen und bayerischen Staatsrechts* (3 vols., Munich 1769-70).

Thus Kreittmayr not only codified Bavarian law in its several branches but subjected the complete private and public law to scientific redaction—an achievement which at that time could be displayed by no other German state.

EUGEN WOULJIAUPTER

Consult: Eisenhart, in *Allgemeine deutsche Biographie*, vol. xvii (Leipzig 1883) p. 102-15, earlier literature there cited; Buchmann, A., *Der kurbyerische Kanzler Alois Freiherr von Kreittmayr* (Munich 1896); Stintzing, R. von, and Landsberg, F., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880-1910) vol. iii, pt. i, p. 222-27.

KREK, JANEZ (1865-1917), Slovenian popular leader. His stay at the Vienna Augustineum from 1888 to 1892 was the deciding period of his life, for in the Austrian capital he came under the spell of the doctrine of von Vogelsang, the most

significant theorist of Christian Socialism. Returning to Slovenia as professor of theology at the Ljubljana seminary for priests, he set out to improve the economic and social welfare of the sparse, poverty stricken and oppressed Slovenian people. He was instrumental in the founding of workers' professional unions, workers' consumers societies and workers' building cooperatives; he revived commerce by means of producers' cooperatives and especially furthered the organization of all kinds of agricultural cooperation. His ceaseless effort was one of the chief factors which helped to make Slovenia the classic land of cooperation. With equal zeal and basing his activity always on Catholic doctrine he furthered the cultural advance of the Slovenes, combating alcoholism and illiteracy and organizing youth, workers and farmers for purposes of education.

He engaged also in actual political activity in the predominantly Christian Socialist party, which after 1905 called itself Slovenska Ljudska Stranka (Slovenian People's party). In 1897, 1907 and 1911 he was elected to the Vienna Reichsrat; after 1900 he was a member of the Landtag of Carniola. In parliament he was always a vigorous advocate of absolute democracy. In his book *Socializem* (Socialism, n.p. 1901) as well as in his parliamentary speeches he came very near to socialistic lines of thought. He expressly declared himself in favor of a war against capitalism, "the system in which free men, created in God's image, become the slaves of material wealth."

Krek, who was well versed in most of the Slavic languages, sought to destroy the narrow, restricting national community of the southern Slovenes. He favored an alliance with the Catholic Croats and also looked to the orthodox Serbians and Bulgarians, all of whom he considered as members of the one Yugoslav nation. His first hopes for a Yugoslav union through and under the scepter of the Hapsburgs were frustrated by the annexation crisis and the Balkan Wars with all their attendant circumstances. During the World War he organized the Südslawische Klub (Southern Slav Club), the union of the Slovenian deputies in the Reichsrat with the Croatian and Serbian members from Dalmatia. He was the author of the famous declaration of this group on May 30, 1917, which put forward as a minimum demand on the ground of constitutional law and in the name of self-determination the union of the three peoples; the formal phrase "under the scepter of the Haps-

burgs" was included merely to avoid persecution under the high treason clause.

HERMANN WENDEL

*Works: Izhrani spisi*, ed. by Ivan Dolencec, 3 vols. (Ljubljana 1923-25).

*Consult: Wendel, Hermann, Aus dem südslawischen Risorgimento* (Gotha 1921).

KREMER, BARON ALFRED VON (1828-89), Austrian statesman and historian. After attending the law course at the University of Vienna Kremer devoted himself to the study of Islamic languages. In 1849-50 he traveled in Syria and Egypt and upon his return to Vienna was for a short time professor of vulgar Arabic at the Polytechnic Institute. In 1859 he was appointed Austrian consul at Cairo, in 1870 consul general at Beirut and in 1876 member of the Egyptian National Debt Commission. He was Austrian minister of commerce in 1880-81. On the basis of his historical studies and his experiences as minister Kremer published his much discussed *Die Nationalitätsidee und der Staat* (Vienna 1885), in which he held that a strong political tradition emphasizing the idea of the state must be maintained as a protective measure in states of mixed nationalities; this work was directed especially against the Slavizing and clerical trend in Austrian internal policy.

Kremer was one of the pioneers in the field of Islamic studies and without his invaluable works a realistic, popularized knowledge of Islam would undoubtedly not have been available until much later. His brilliant knowledge of Arabic enabled him to edit Arabic texts and his original writings, which deal for the most part with geography and cultural history, reflect his studies in source material. He was also especially interested in the financial conditions of the Arabs. In his *Geschichte der herrschenden Ideen des Islams* (Leipzig 1868) he traced the development of what he believed to be the leading ideas in Islam: the operative concept of God and the original views of the prophecy in the religious field and also the idea of the state which so deeply influenced political life. This book was the precursor of his *Culturgeschichtliche Streifzüge auf dem Gebiete des Islams* (Leipzig 1873), which in turn forecast his still unrivaled masterpiece, *Culturgeschichte des Orients unter den Chalifen* (2 vols., Vienna 1875-77; tr. by S. Khuda Bukhsh, Calcutta 1920), a synthetic work which fully utilized his intensive reading and research. Here Kremer described not only the habits, customs and mode of thought of the Arabs and their in-

tellectual and material achievements but also the rise and fall of the political organism. Despite its inaccuracies it remains a unique study in its field. The papers which Kremer subsequently issued in the publications of the Vienna Academy of Sciences, of which he became a member in 1876, were intended to develop and extend certain aspects of his fundamental work.

FRANZ BABINGER

*Important works: "Beiträge zur Geographie des nördlichen Syriens" in Kaiserliche Akademie der Wissenschaften, Vienna, Philosophisch-historische Classe, Denkschriften, vol. iii (1852) pt. ii, p. 21-45; "Mittel-syrien und Damascus" (Vienna 1853); "Topographie von Damascus" in Kaiserliche Akademie der Wissenschaften, Vienna, Philosophisch-historische Classe, Denkschriften, vol. v (1854) pt. ii, and vol. vi (1855) pt. ii; "Aegypten, 2 vols. (Leipzig 1863); "Studien zur vergleichenden Culturgeschichte" in Kaiserliche Akademie der Wissenschaften, Vienna, Philosophisch-historische Classe, Sitzungsberichte, vol. cxx (1890) pts. i and viii.*

*Consult: Kaiserliche Akademie der Wissenschaften, Vienna, Almanach, vol. xl (1890) 183-88; Pfannmüller, D. G., Handbuch der Islams-Literatur (Berlin 1923) p. 38-39, 68, 130, 255-56, 266-69.*

KREUGER, IVAR (1880-1932), Swedish financier. After concluding his academic studies Kreuger left Sweden in 1900 and passed the following seven years in the United States, Mexico, South Africa and other countries, where he engaged primarily in engineering. He returned to Sweden in 1907 and founded the construction company of Kreuger and Toll. In 1913 he promoted a combination of Swedish match factories in opposition to another and earlier combination, and four years later he united both in the Swedish Match Company. Within ten years Kreuger had expanded this organization into an international trust, with factories in forty-three countries and control over approximately 80 percent of the world's match supply. The trust consisted of a series of holding companies culminating in the Kreuger and Toll Company, which was converted into a holding and finance company under Kreuger's personal control.

Kreuger was a man of extraordinary organizing and administrative ability. His work resulted in the practical elimination of the competitive struggle in the match industry, first in Sweden and then in the international sphere. In the course of consolidating the world trust he began in 1925 to extend loans to governments (securing the necessary capital mainly in the United States and England) in return for concessions of the public match monopoly—a development

based upon the strained and necessitous character of post-war government finances. In this way he acted as intermediary between countries rich and poor in capital and extended loans of over \$360,000,000 to Poland, Greece, France, Hungary, Yugoslavia, Latvia, Rumania, Germany, Estonia, Turkey, Lithuania, Danzig, Ecuador, Bolivia and Guatemala, mainly to strengthen the match trust but sometimes for other industrial and financial purposes. Thus he constructed a concern of a peculiar type, which has justly been called an economic state, since it negotiated with states as one with equal rights. Although the world match trust was industrially limited in scope—it never employed more than 60,000 workers—Kreuger erected upon its base an extraordinarily intricate and powerful financial structure, which included interests in banks, real estate, timber, pulp, mining, cement and other enterprises many of which had no direct connection with the production and distribution of matches.

At the height of his power Kreuger enjoyed nearly unlimited confidence and credit among financiers impressed by his talents, persuasive manner and "obvious honesty." He was not only considered the most successful and capable of leaders but the creator of a new phase of the capitalistic system. Consequently the disillusionment was all the greater when after his suicide, the result of financial troubles, it came to light that for many years he had falsified accounts, borrowed on the security of fictitious match concessions, forged Italian government bonds, pledged German government bonds twice over as collateral for loans and in general systematically deceived his associates. These manipulations were enveloped in an almost impenetrable secrecy by the complicated array of companies, some of them fictitious, which he organized through the holding company device. As the unusually speculative character of post-war European and American finance had facilitated Kreuger's manipulations, so the financial crisis of 1930-31 strained the resources of an already weakened organization and precipitated its collapse.

WILHELM GROTKOPP

Consult: Sterner, E., *Ivar Kreuger* (Uppsala 1930); Grotkopp, Wilhelm, *Der schwedische Zündholztrust* (Brunswick 1928); Georg, M., *Der Fall Ivar Kreuger* (Berlin 1932); Marcus, Alfred, *Kreuger & Toll als Wirtschaftsstaat und Weltmacht* (Zürich 1932); Deck, J. F., "The Match Stick Colossus" in *Foreign Affairs*, vol. ix (1930-31) 149-56; Mennevé, R., "Monsieur Yvar Kreuger, le trust suédois des allumettes et

Kreuger and Toll" in *Documents politiques, diplomatiques et financiers*, vol. xii (1931) 77-84, 121-33, 250-60, 353-67, 422-39, 747-53, 791-805, 875-87, 932-41; Flynn, J. T., "Kreuger, Another Holding Company Debacle" in *New Republic*, vol. lxxi (1932) 35-38; Winkler, M., "Playing with Matches: the Rise and Fall of Ivar Kreuger" in *Nation*, vol. cxxxiv (1932) 589-91; Barman, T. G., "Ivar Kreuger: His Life and Work" in *Atlantic Monthly*, vol. cl (1932) 238-50; Ehrenburg, Ilja, *Die heiligsten Güter* (Berlin 1931).

KRIŽANIĆ, JURIJ (1617-83), Croatian theologian and political writer. Križanić was one of the first to recognize the feasibility of fusing all Slavs into a single powerful nation based on community of ideas and interests. He looked to Russia as the only Slav power capable of securing to the Slavs an independent and honorable place in the family of great nations. He believed, however, that a cultural and spiritual union must precede political combination. With that in view he attempted to effect a reconciliation between the Russian and the Roman churches in order to remove the most powerful obstacle in the way of political cooperation between the two divisions of the Slav race. After spending many years in Rome he came to Moscow to appeal to the Slav consciousness of the Russians. His mission, however, failed; he was met with suspicion bordering on hostility and exiled to Tobolsk. Križanić's ideas were in advance of his times, for in the seventeenth century religion and nationality were still conceived as inseparable. In Moscow he aroused suspicion because he lent the national idea a religious color; in Rome he did not receive favorable attention because his religious ideal was tinged with nationalistic tendencies. Križanić was a political writer of note. His *Politica* (published as *Russkoe gosudarstvo vo vtoroy polovine XVII veka*, Moscow 1860) contains in addition to illuminating and objective observations on the life of Muscovy in the seventeenth century one of the first formulations of the theory of enlightened absolutism: the sovereign is responsible not only to God but to public opinion as well, and his rule must conform to the fundamental laws of the country. Križanić's economic views were those of contemporary mercantilism. He stressed the positive role of the state in developing the productive forces of the nation and urged state control of foreign trade. He departed from the mercantilists in emphasizing the importance of agriculture, thus anticipating the doctrine of the physiocrats.

E. ŠMURLO

Consult: Jagić, V., *Život i rad Jurja Križanića* (Life and work of J. Križanić) (Zagreb 1917); Valdenberg, V. E.,

*Gosudarstvenniya idei Križhanica* (Political theories of Križanić) (St. Petersburg 1912); Šmurlo, E., "From Križanić to the Slavophiles" in *Slavonic Review*, vol. vi (1927-28) 321-35, and *Jurij Križanić (1618-1683): Panslavista o missionario?*, tr. from Russian ms. by E. Lo Gatto (Rome 1926), and *Le Saint-Siège et l'Orient orthodoxe russe (1609-1654)* (Prague 1928).

**KROCHMAL, NACHMAN** (1785-1840), leader in the movement of the Jewish *haskalah* (enlightenment) and one of the founders of modern Jewish scholarship. Born in Galicia and brought up in the orthodox Jewish tradition, he nevertheless acquired a deep and extensive knowledge of ancient and modern languages, natural and moral sciences and metaphysics. He steeped himself in mediaeval Jewish religious philosophy and in western philosophy from the period of Spinoza to the close of German idealism, with special interest in the philosophy of history. His doctrines were transmitted largely by oral tradition among a host of disciples and not until his last years did he commit his life's work to writing in his *More nevu'uchi ha-zeman* (Guide to the perplexed of our age), which was first published by Zunz in 1851. Krochmal's starting point was the problem of faith and knowledge, particularly as it concerned Judaism. Religion and philosophy were to him identical, and the God of Jewish monotheism coincided with the mediaeval Aristotelian *causa prima*. In the philosophy of history, where his thought attained its greatest maturity, he distinguished four principles: the impulse to sociability as a formative element of society and state, the idea of natural development, the spirit and the absolute spirit. He accepted the idea of a *Volksgeist*, or spirit of a people, which was derived from Montesquieu; and he held that the individual mind was the product of human society, which expressed this *Volksgeist*. The absolute spirit, on the other hand, was the creator of all history. In his treatment of Jewish history he analyzed the process of development through the scheme of three stages occasionally employed by earlier historians: youth, maturity and decline. He believed, however, that Judaism, as a result of its alliance with the absolute spirit was at present enjoying a new youth after having passed through its stage of decline.

Krochmal, the first secular Jewish historian, is especially noteworthy for his historical understanding and for his ability to relive the periods of the past. He employed his genetical critical method in a masterly fashion as a critic of the

Bible, the *halacha* and the *aggada*. Besides his great influence in these fields of scholarship he affected the thought of various Jewish poets and thinkers in Galicia and Russia.

S. RAWIDOWICZ

*Works:* *Kitbe Rabbi Nachman Krochmal*, in Hebrew, ed. by S. Rawidowicz (Berlin 1924).

*Consult:* Zunz, L., in *Gesammelte Schriften*, vol. ii (Berlin 1876) p. 150-59; Schechter, S., *Studies in Judaism, First Series* (Philadelphia 1896) p. 46-72; Rawidowicz, S., "War Nachman Krochmal Hegelianer?" in Hebrew Union College, *Annual*, vol. v (1928) 535-82, and "Nachman Krochmal als Historiker," in *Festschrift zu Simon Dubnow's siebzigsten Geburtstag* (Berlin 1930) p. 57-75, and introduction to his edition of Krochmal's works, with additional bibliography.

**KRONVALDS, ATTIS** (1837-75), Lettish publicist, educator and nationalist leader. Kronvalds came of a peasant family and studied in Berlin, where he followed the German national movement and studied carefully the conditions of the German peasant class. On his return to Latvia he became active in the young Lettish national movement, which directed its efforts primarily against the supremacy of the privileged Baltic Germans who were allied with the landed aristocracy and the clergy. The movement found its chief support among academicians, teachers, farmers and tradesmen, who organized newspapers, schools and various nationalist societies; of these the most important was the Lettish Society of Riga established in 1868. In 1866 they founded the newspaper called *Baltijas vēstnesis* (Baltic courier). Through his writings in nationalist publications Kronvalds aroused the Letts to an appreciation of the need for national education and a revival of national consciousness, urging the establishment of Lettish high schools and demanding that the Lettish language be taught in all schools. His most important work, *Nationale Bestrebungen* (Dorpat 1872), which discussed all these questions, obtained a wide circulation and placed him among the leaders of the Lettish national renaissance.

M. VALTERS

*Consult:* Kundsinsch, K., *Kronvalds Attis* (Riga 1905); Blanks, Ernst, *Latviešu tautas atmoda* (Riga 1927) p. 127-40; Valters (Valters), M. *Lettland* (Rome 1923).

**KROPOTKIN, PRINCE PETR ALEXEYEVICH** (1842-1921), Russian scientist, sociologist and anarchist. As an official in Siberia in 1862 Kropotkin made important geographical and anthropological investigations, which led him to conclude that state action was ineffective

while mutual aid was of great importance in the struggle for existence. He thus affirmed solidarity as a factor of progressive evolution in contradiction to the Hobbesian thesis of eminent Darwinists, and opposed to the historians' theory of the constructive value of legal compulsion and state power the idea that the work of ignorant masses through spontaneous cooperation was chiefly responsible for production, construction and progress. From these beginnings he went on to develop his theory of anarchist federalism, which in 1872 brought him into the First International in Switzerland; with the split in that organization he went with the Bakuninist Jura Federation against the Marxist current.

Imprisoned in Russia in 1874 for revolutionary propaganda, he escaped to western Europe in 1876 and thereafter devoted himself to writing on natural sciences and to propaganda which he contributed to various anarchist journals. His writings, translated into many languages, were a main source of the ideology of the anarchist-communist movement. Expelled from Switzerland in 1881, he went to France, where he was imprisoned in 1883 and served a three-year term. After 1886 he lived chiefly in London. He urged French anarchists not to oppose the extension of the military service period, on the grounds that France must defend democracy against German imperialism; and he championed the Allied cause during the World War. He returned to Russia after the February revolution, supported Kerensky and urged a renewed military offensive. After the Bolshevik revolution because of his opposition to proletarian dictatorship he devoted himself only to writing.

Kropotkin sought a scientific foundation for anarchist theory. Modern science, he argued, recognizes in final results the cooperation of the minutest individualities and substitutes for the metaphysical concept of law that of spontaneous equilibrium varying with the variation of factors. To explain historical facts and to solve problems in the social sciences it is necessary to see masses as composed of anonymous individuals and to study the life, conditions and needs of the latter. Prejudice in favor of law, which education fosters, breaks down when we recognize that law is not intrinsic but that society was originally governed by custom and spontaneous solidarity. Law arises when the oppressing tendency triumphs through violence and superstition. Adroitly confusing spontaneously respected moral norms with the sanctification of inequalities law protects privileged usurpers rather than

the rights and liberty of all; the latter are respected only to such degree as the populace can compel respect. Law and the state correspond to a regime of economic exploitation; a regime of equality is incompatible with any government, even delegates and representatives being subject to laws and domination. Capitalism cannot achieve that universal well being which the progressive technical power of production should, despite Malthus, insure. Aiming only at private gain capitalism measures production not by the needs but by the acquisitive capacity of the population.

Kropotkin disapproved of Tolstoyan non-resistance and asceticism as well as of the individualist anarchism of Stirner. Instead of the class struggle Kropotkin urged going "to the people." Revolution should abolish private property and the state. Having destroyed society it should rebuild on the basis of autonomous groups and federations from the simple to the complex, following the tendency already dominant in every field of life and production. All persons, including intellectuals, from twenty to forty-five years old are to perform manual labor, which will become pleasing and voluntary because unrestrained initiative and invention will suppress repugnant and unwholesome work and enable four to five hours daily labor to assure universal bountiful well being. For the principle of wages Kropotkin wished to substitute the principle of needs, of the right to existence and well being for all who cooperate in producing. Each will be the judge of his own needs; the obligation to work will be absolutely spontaneous, not forced.

While his system is often ingenious, Kropotkin leaves many philosophical and practical questions unanswered and frequently contradicts himself. Characterizing courts and prisons as "universities of crime" he held that criminals must be cared for as unfortunates; on the other hand, the rebellious and the drones are to be expelled from the group. Kropotkin never explained how the rise of the oppressive tendency, which along with cooperation he saw as the offspring of social life, could be avoided in an anarchist regime; how the multitude, which, he held, has no clear program and consequently tends to follow a party of action and to be governed by it, could avoid this fate under anarchism; how everything would be organized without organs of government; how communal, regional, national and international groups and federations of production and consumption

would function without delegated and representative authority. The incompleteness of the anarchist program became especially clear after the fall of the czar, when Kropotkin had no plan for "the people" to follow except that of supporting the Kerensky government. The nobility of Kropotkin's inspiration, his honesty in discussion and the sincerity of his conviction evidenced by his whole life are, however, beyond question.

RODOLFO MONDOLFO

*Important works:* *Mutual Aid, a Factor of Evolution* (London 1902, rev. ed. 1904); *La grande révolution, 1789-1793* (Paris 1909), tr. by N. F. Dryhurst (London 1909); *Fields, Factories and Workshops* (Boston 1899, rev. ed. New York 1913); *Russian Literature* (New York 1905), reprinted as *Ideals and Realities in Russian Literature* (New York 1915); *Paroles d'un révolté* (Paris 1885); *In Russian and French Prisons* (London 1887); *La conquête du pain* (Paris 1892, 12th ed. 1913), English translation (London 1913); *The State, Its Part in History* (London 1898); *Memoirs of a Revolutionist* (Boston 1899); *Modern Science and Anarchism* (Philadelphia 1903).

*Consult:* Plekhanov, G. V., *Anarchismus und Sozialismus* (Berlin 1894), tr. by E. A. Aveling (London 1895) ch. vii; Zenker, E. V., *Der Anarchismus* (Jena 1895), English translation (New York 1897); Laurentius, Guido, *Kropotkins Morallehre und deren Beziehungen zu Nietzsche* (Dresden 1896); Zoccoli, E., *L'anarchia* (Turin 1907); Loriot, André, *Les théories anarchistes* (Paris 1913); Diehl, Karl, *Über Sozialismus, Kommunismus und Anarchismus* (4th-5th eds. Jena 1922-23); *Kropotkin's Revolutionary Pamphlets*, ed. by Roger N. Baldwin (New York 1927), with biographical sketch and partial bibliography.

KRUEGER, PAUL (1840-1926), German jurist. Krueger was a pupil of Keller, the celebrated Romanist and proceduralist, and later became one of the closest collaborators of Theodor Mommsen. He participated in the preparation of Mommsen's great critical edition of the *Corpus juris*, editing the Institutes and the *Codex*. He also collaborated on Mommsen's edition of the Digest and after the latter's death superintended the later impressions; in this work he distinguished himself by evaluating the new interpolation research at its true worth.

Krueger's special field of work was the writings of the jurists. His edition of Gaius, which he prepared in collaboration with the philologist Studemund in 1877, remained the best until 1925, when it was surpassed in part by the edition of Kübler. This background admirably fitted him to write the *Geschichte der Quellen und Literatur des römischen Rechts* (Leipzig 1888, 2nd rev. ed. 1912). Like all his writings it is rather a literary historical survey than an actual history of problems. The problem of interpola-

tion was at that time still unrecognized and thus received no consideration.

His critical edition of the *Codex theodosianus* was pursued by a strange misfortune. After working on it for twenty years, Krueger had almost completed it in 1898; Mommsen persuaded him, however, to transfer his material to the larger work. Krueger undertook another edition of his own in 1923 but it was never completed. Although it does not entirely reach the level of his other work it surpasses Mommsen's edition in many ways.

FRANZ SOMMER

*Consult:* *Die Rechtswissenschaft der Gegenwart in Selbstdarstellungen*, ed. by Hans Planitz, 3 vols. (Leipzig 1924-29) vol. ii, p. 153-69; Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880-1910) vol. iii, pt. ii, p. 880-82, and notes p. 369-70; Schulz, Fritz, "Paul Krueger" in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung*, vol. xlvii (1927) ix-xxxix.

KRUGER, STEPHANUS JOHANNES PAULUS (1825-1904), South African statesman. As a boy Kruger participated in the great trek from Cape Colony—a movement to escape the Anglicization and the native and land policies of British rule—which resulted in the establishment of the Boer republics. In the course of the turbulent history of the early Transvaal he gained recognition as a natural leader of his people, personifying their characteristics of dogged determination, impatience of restraint and devotion to the ideal of a wide, free land. His successful resistance to the British annexation of the Transvaal from 1877 to 1881 led to his election as president of the republic and crystallized his policy. He held that unless South Africa could be united as a Boer nation the Transvaal must be developed on distinctive lines, separated from the British colonies politically and economically and with its social structure based on the traditions of the pioneers of the trek. The doom of this policy was sealed in 1886 by the discovery of gold on the Witwatersrand, which brought into the republic an *uitlander* population, mainly British, outnumbering the Boer burghers. Kruger vigorously resisted the swamping of his state by the alien element. The result, the South African War of 1899 to 1902, marked his failure, but his ideal of South African nationalism survived and has done much to inspire the present day Nationalist party, which, although its leaders have disavowed the republicanism of its earlier years, emphasizes the

political and cultural distinctiveness of the Dutch South African.

JAN H. HOFMEYR

*Consult:* Krüger, Paul, *Lebenserinnerungen*, ed. by A. Schowalter (Munich 1902), tr. by A. Teixeira de Mattos as *The Memoirs of P. Krüger . . . Told by Himself*, 2 vols. (London 1902); Botha, P. R., *Die staatkundige ontwikkeling van die Suid-Afrikaanse Republiek onder Kruger en Leyds* (Amsterdam 1926); Walker, E. A., *A History of South Africa* (London 1928); Hofmeyr, J. H., *South Africa* (London 1931) p. 96-117.

KRUMBACHER, KARL (1856-1909), German Byzantologist. Krumbacher was early attracted to the study of Byzantine civilization by his interest in the phil-Hellenic movement. He studied at Munich and Leipzig and was professor at the University of Munich from 1891 until his death. Although Du Cange had laid the foundations of Byzantine studies in the seventeenth century, it was Krumbacher who revived the interest in this field and created in Europe a center for their advancement. His *Geschichte der byzantinischen Literatur* (Munich 1891, 2nd ed. Munich 1897), an encyclopaedia of Byzantine culture, opened a new world of research by showing that Byzantine civilization was related not only to classical antiquity but also to the mediaeval East and West as well as to the vast Slavic world. In 1892 Krumbacher founded the *Byzantinische Zeitschrift*, the first special organ devoted to Byzantine studies. This periodical, which published articles in all European languages, treated not only political and ecclesiastical history but also various social, economic and intellectual problems. The section devoted to critical bibliography was particularly well presented. Krumbacher was also influential as a teacher; his seminar on mediaeval and modern Greek at the University of Munich attracted students from all over the world.

A. VASILJEV

*Consult:* *Byzantinische Zeitschrift*, vol. xix (1910) 700-08, for a complete list of Krumbacher's works; Dietrich, Karl, in *Biographisches Jahrbuch und deutscher Nekrolog*, vol. xiv (1912) 136-42, with further bibliography.

KRUPP, ALFRED (1812-87), German industrialist. Krupp inherited from his father a small ironworks in Essen, which he developed into the largest metallurgical enterprise in Germany. Although he improved the quality of cast steel to a point where it was superior to the English product, the growth of the Krupp works was exceedingly slow for over twenty years. The Zollverein stimulated industry and commerce in Germany,

especially the building of railroads; Krupp developed improved rails, which brought him considerable business, and for a time railroad material was the main produce of his plant. Krupp early began to manufacture cast steel cannon, but it was not until 1857 that large orders for the new cannon were secured from Prussia and a few foreign countries. He secured a practical monopoly of ordnance supply for the Prussian army, both through the superiority of his product and by the use of personal and political influence. For a time he used inferior material in his cannon while maintaining the same prices; but when some of the cannon split during firing and the Prussian government threatened to withdraw its orders, Krupp used his personal and political connections to maintain his monopoly, now his most profitable business. He developed a new, much improved field artillery. The Krupp artillery was an important factor in the Prussian defeat of France in 1870. After the war Krupp exploited the danger of an invasion by several of the powers to maintain a large demand for ordnance, a policy continued by his successors; the growth of the German army greatly increased Krupp's business, while the fame of Krupp ordnance resulted in many orders by foreign governments.

In addition to ordnance the Krupp works had an extremely diversified output of metal products. The works grew to vast size, constituting an integrated enterprise which utilized principles of both vertical and horizontal combination; this development was accelerated by the enormous industrial expansion of Germany after 1870. Unsatisfactory experiences with his supply of raw materials led Krupp to acquire direct ownership of coal and iron mines; he had a large interest in Spanish iron mines and developed his own fleet of steamers to import the ore. Primarily a technician and industrialist, Krupp underestimated the importance of financial connections; he believed in the self-financing of industry and fought control by the banks. The crisis of 1874 so strained his credit that he almost lost control of his works to the banks, which he opposed; he was compelled to borrow money on oppressive terms—30,000,000 marks at 90 with repayment at 110 and with interest at 5 percent. His situation was, however, relieved by large foreign orders for ordnance and by orders for rails from the United States, where the railroad boom had revived. After Krupp's death the works continued to expand and to dominate the German iron and steel industry.



Krupp was an opponent of both liberalism and socialism. He considered socialism the great enemy and repeatedly warned his workers against agitators. An authoritarian insistent on being "master of his own house," he ruthlessly opposed trade unions and ordered strikes suppressed under all circumstances. "We want only loyal workers," he said, "who are grateful in soul and body that we offer them bread." He created elaborate benefit institutions, including company houses, for a small group of trusted workers, who enjoyed almost the status of officials.

ECKART KEHR

*Consult:* Berdrow, W., *Alfred Krupp*, 2 vols. (2nd ed. Berlin 1927); *Alfred Krupps Briefe, 1826-87*, ed. by W. Berdrow (Berlin 1928), tr. by E. W. Dickes (New York 1930); Raphael, Gaston, *Krupp et Thyssen* (Paris 1925); Krupp'sche Gussstahlfabrik, *Zum 100jährigen Bestehen der Firma Krupp* (Jena 1912), English translation (Essen 1912); Murray, H. R., *Krupp's and the International Armaments Ring* (London 1915).

KRUTTSCHNITT, JULIUS (1854-1925), American railroad executive. Kruttschnitt graduated from Washington and Lee University in 1873 with the degree of civil engineer; during the following five years he taught mathematics and in 1878 entered railroad service. By 1895 he had become general manager of the Southern Pacific lines. In 1901, when the Union Pacific Railroad acquired the Southern Pacific, Kruttschnitt became assistant to E. H. Harriman; he was in effect in executive charge of the Southern Pacific and was the mainstay of Harriman's constructive plans. In 1904 he was made director of maintenance and operation of all the Harriman lines and in 1913, when the Union Pacific relinquished control of the Southern Pacific, he became executive head of the latter. In 1917 he served as a member of the Railroads' War Board.

Kruttschnitt was an outstanding builder and administrator of railroad properties, one of the few engineers to rise to high executive position. He took an active part in the rebuilding of two major systems and acquired a well deserved reputation because of the high standard of maintenance and the low cost of operation of the properties under his direction. He contributed greatly to the development of operating statistics, fuel economy and accident prevention. Such was his success in promoting safety of operation that during a period of eight years, within which the Southern Pacific carried 320,000,000 passengers, only one passenger lost his life in a train accident. He recognized the importance of cultivating public opinion, appeared

frequently before Congressional committees and the Interstate Commerce Commission and made many addresses and wrote many articles dealing with railroad problems. He was an earnest advocate of private operation and often protested against the invasion by the government of the field of management, although he had an advanced concept of the public responsibility of the railroads which demonstrated his ability to adapt his views to changing conditions.

ELIOT JONES

*Consult:* "The Career of Julius Kruttschnitt" in *Railway Age*, vol. lxxviii (1925) 1459-62.

KU KLUX KLAN. The original Ku Klux Klan was a secret organization which flourished in the southern states of America in the days of the reconstruction after the Civil War, particularly in the period from 1867 to 1870. Its purpose was to protest against the conquering attitude which the administration was taking in its dealings with the South. The white population was impoverished by the war, the Negro population while technically freed was guided by leaders, largely political appointees, from the North (carpetbaggers) and their southern assistants (scalawags), and the readjustment of the two groups to the new situation created by the conflict made for a welter of loosened passions which pushed both sides into all manner of lawless and vindictive actions. The evidence seems to indicate that the aggressors were the northern politicians, who used the Negroes, organized into secret organizations such as the Union League, to terrorize the southern white into submission to the politicians' exploitation of political power. The behavior of Negro politicians and rowdies was considered not only a political and economic danger but also an offense against southern ideals of racial purity and social superiority. The atmosphere was rife for some sort of guerilla protest. It came about through the utilization of a harmless social club organized in Pulaski, Tennessee, by a group of young confederate officers. Finding time hanging heavy on their hands, they organized in 1866 a secret society which they called by the Greek name "Kuklos," the circle. The transition from Kuklos to Ku Klux Klan was easy enough, and the power of intimidation which lies in mystery, particularly in dealings with ignorant and superstitious folk, was readily apparent. The Ku Klux Klan was not the only organization of its kind but it has managed to attract the greatest attention. Of other similar

organizations the Knights of the White Camelia was the largest. During its most flourishing period the Klan is said to have had a membership of around 550,000, which would include nearly the entire adult male white population of the South. It was effective in terrorizing the Negro into retreating to his former state of political subservience to the white man or at any rate into giving up most of his political activities. Klan terrorism against carpetbagger and scalawag resulted in a Congressional investigation, which ultimately brought a moderation of previous political methods and a realization of the unwisdom of continuing to treat the South as a conquered territory. It was fortunate that affairs took this turn because the Klan like all secret organizations was beginning to be dominated by the more irresponsible members of the community, who used the motives and the disguise and the mystery of the organization to wreak private vengeance or serve private purposes. After 1872 it was no longer necessary for the white man to don a disguise in order to fight for white supremacy and the Klan disappeared, leaving in its stead a number of organizations, such as the White League of Louisiana, which were able to accomplish their purpose without resort to secrecy. The original Ku Klux Klan was not only influential in the political and social life of the South, but it has added to southern folklore one of its most picturesque and colorful chapters.

The modern Ku Klux Klan has very little in common with the original Klan except the name. The problems which faced the men of the reconstruction period were not present for the founders and adherents of the group which created such a sensation in the years from 1920 to 1925. The psychological motivation behind the new movement will always remain a more or less puzzling phenomenon. It was originated in Atlanta, Georgia, in 1915, by William J. Simmons, but it was of slight importance until 1920, when Simmons associated with himself two professional publicity agents, Edward Young Clarke and Mrs. Elizabeth Tyler. The ranks of the organization soon began to show the effect of this campaign of promotion. The professed motives for its activities varied with the region in which it operated. In the south the Klan appealed primarily to the fundamentalist beliefs in morals and religion; in the north it took on more of an anti-alien and anti-Bolshevik character. Its tactics at first consisted in meeting under the blaze of a fiery cross in the open country, where

its members, masked and hooded in white robes in the traditional Ku Klux manner, listened to fiery addresses of a high moral or patriotic character. Soon after there appeared the other Klan tactics: anonymous threats and occasionally whipping, tarring and feathering and other acts of violence including killing. The *New York World* tabulated the violent actions occurring from October, 1920, to October, 1921, as follows: "four killings, one mutilation, one branding with acid, forty-one floggings, twenty-seven tar and feather parties, five kidnappings, forty-three persons warned to leave town or otherwise threatened, fourteen communities threatened by warning posters, and sixteen parades by masked men with warning placards."

Although these acts of violence were comparatively unimportant the effect was to spread considerable dread and consternation throughout the land, particularly in the south. The secrecy and mystery surrounding the Klan gave it an appearance of great power and enabled it to make a bid for political control. Some leading politicians courted it and the Klan began to play a very important role in the politics of several southern states. On September 6, 1921, however, the *New York World* began the publication of a series of twenty-one articles in which it gave an account of the origin, organization and activities of the Klan, emphasizing particularly its money making aspects. On September 18 the *World* carried a story concerning moral turpitude of both Clarke and Mrs. Tyler which its correspondent had unearthed in the records of the police court in Atlanta as far back as October 31, 1919. On November 11, 1921, Congress began a preliminary examination into the activities of the Klan which brought out much more information concerning its financial activities. The total effect of all of these disclosures and investigations was to cause a break in the ranks of the Klan, leading inevitably to a reorganization of its management. Control passed from Simmons, Clarke and Tyler to a new group headed by Hiram Wesley Evans, a dentist from Dallas, Texas, who was made Imperial Wizard, or chief officer.

The Simmons period was characterized by the aftermath of the war hysteria and by the uneasiness which followed the emotional tenseness of that struggle, and which was accentuated by the economic distress consequent upon the demobilization and the panic of 1920. With so many irritating provocations it was easy for sections dominated by "fundamentalist" moral and

religious attitudes, like the south and portions of the middle west, to seize upon the explanation given by the Klan as to the source of the evil: personal deviations from the moral code or the machinations of Catholics and aliens. The remedy was as simple as the cause: admonition and punishment of the offender. Around this fundamentalist nucleus there gathered other compulsions: personal animosities; distrust of the efficiency of the instruments of law and order; the scapegoat attitude toward the Catholics where the Catholics possessed political power, as in New York and Connecticut, and toward the alien and the Negro; and, finally, the sense of power and importance which came to a person who felt himself one of a group whose very name inspired uneasiness and terror.

The Evans regime in the Klan's history coincides with its greatest numerical strength. Estimates of its membership ran as high as 6,000,000 in 1924. Politically it reached out for a wider territory and it became an effective issue in the political campaigns in many states. The tactics were changed and the former acts of violence discontinued to a very large extent. Interest seemed to center now in the acquisition of political power and the means to this end was the boycott of those considered as undesirable in politics and business or inimical to the Klan, the names of those to be elected or defeated being passed around at the meetings of the local bodies. In Texas the Klan succeeded in electing a senator and was an issue in the gubernatorial elections of 1924 and 1926. The Klan played an important political role also in Arkansas, Connecticut, Indiana, Oklahoma, Alabama, Georgia and Oregon. In Oregon it succeeded in passing legislation against parochial schools. Whether it has played any important role in recent years in national or state politics is difficult to state; in Texas, where its influence was greatest, it has apparently ceased to exercise any political influence and very little is heard of its doings in any other field. Whatever economic basis there was in the Klan motivation, such as jealousy of the Negro in the south and of the successful Jew and alien in both north and south, was wiped out by the shower of gold and stock dividends which fell upon the United States after 1924, and in this period most of the remaining war hysteria seems also to have disappeared. The feeling against Catholicism was a factor, however, in the Democratic convention of 1924 and also in the election of 1928, in which the presence of a Catholic

candidate and his identification with the forces opposed to prohibition caused something of a flare up of Klan activities.

Both the anti-alien and the anti-Catholic aspects of the Klan's platform have had their counterpart in earlier periods of American history. The American Party of the 1850's, generally known as Know Nothings, and the American Protective Association (A. P. A.), organized in 1887, were also primarily nativistic manifestations. Like the Klan they flourished at times of disturbance and transition. The Know Nothings arose at a time when immigration was particularly heavy, and the period of the activities of the A. P. A. corresponded with the great economic unrest which followed the close of the frontier, with the definite industrialization of America and with the wave of political protest at the end of the nineteenth century.

Whether psychologically the Klan has any fundamental resemblance to the Fascist movements and to the attendant wave of dictatorships which came over Europe in the decade between 1920 and 1930, it is difficult to say. A severe economic and moral crisis, like that which usually precedes the coming of a dictatorship, is likely to leave the existing instruments of social control utterly incapable of meeting the situation. The result is a rising to the surface of the most violently articulate elements in the community, who seek to take the place of the legitimate and ineffective instruments of law and order and who partially succeed for the same reason which brought them into existence. Having no legitimate and legal means of coercion at their disposal they resort to illegal means and undercover tactics, which give them greater power than their numbers entitle them to claim and which in time result in a great accretion in their numbers. The organization grows by cumulation until a crisis either makes it succeed or breaks it up. Fascism succeeded, but Ku Kluxism has apparently ceased to exist as a menace or a power.

MAX SYLVIVS HANDMAN

See: RACE CONFLICT; NEGRO PROBLEM; ALIEN; ANTI-RADICALISM; ANTISEMITISM; FUNDAMENTALISM; RECONSTRUCTION; INTIMIDATION; INTOLERANCE; FANATICISM.

Consult: Fleming, Walter L., *Documentary History of the Reconstruction*, 2 vols. (Cleveland 1906-07) vol. ii, p. 327-77; Lester, J. C., and Wilson, D. L., *The Ku Klux Klan* (rev. ed. by W. L. Fleming, New York 1905); Davis, Susan L., *Authentic History, Ku Klux Klan, 1865-77* (New York 1924); Frost, Stanley, *The Challenge of the Klan* (Indianapolis 1924); Fry, Henry P., *The Modern Ku Klux Klan* (Boston 1922);

Mecklin, John M., *The Ku Klux Klan; A Study of the American Mind* (New York 1924); Kallen, Horace M., *Culture and Democracy in the United States* (New York 1924) p. 9-43.

KU YEN-WU (Ku T'inglin, originally Ku Chiang) (1613-82), Chinese historian. Ku Yen-wu was the founder of the seventeenth and eighteenth century "school of Han learning," a scientific movement emphasizing a cautious skepticism in the use of ancient documents, the value of hypothesis and the necessity of induction from wide evidence for the achievement of a new originality and a new practicality. This movement coincided in method and in time with the scientific awakening in the West but operated almost exclusively in the fields of etymology, phonetics, epigraphy, textual criticism and geography. Discarding the subjective methods of the so-called Sung learning, which had dominated Chinese thinking for five centuries, it aimed at an objective reexamination of the supposedly most ancient texts—those of the Han period (206 B.C.—220 A.D.).

During the trying period of the Manchu conquest of China in 1644 Ku Yen-wu like many of his intellectual contemporaries declined to co-operate with the ruling dynasty, preferring to spend his life in a study of the underlying causes of the national decadence and the rehabilitation of sound scholarship. At the age of fifty-four he left permanently his home in K'unshan, Kiangsu province, devoting the remainder of his life to travel, study and writing, reaching conclusions only on the basis of wide reading and personal observation of every part of north China. The results of these studies are incorporated in his most famous work, *Jih Chih Lu* (Daily jottings, 32 bks., 1676), comprising carefully formulated notes written over a period of thirty years. His special treatises on phonetics and epigraphy laid the foundation for all later Chinese studies in these fields, while his great work on geography, *T'ien Hsia Chün Kuo Li Ping Shu* (A historical geography of the empire, 120 bks., 1662), gave to this subject a practical as well as a historical importance.

ARTHUR W. HUMMEL

KUENEN, ABRAHAM (1828-91), Dutch Biblical scholar and historian of religion. In 1846 Kuenen entered the University of Leyden, where he passed his entire academic life; he became full professor in 1855 and from 1877 until his death was professor of the Old Testament. With Wellhausen he was cofounder of the still

prevailing historico-critical school of Old Testament scholarship. After 1860 he accepted the view of Graf, also maintained by Wellhausen, that the so-called Priestly Code of the Pentateuch was the latest of the pentateuchal documents. Together with Wellhausen he defended the posteriority of the entire Priestly Code, not merely of its laws. Thanks to his careful and penetrating scholarship combined with a remarkable capacity for synthesis he was able to apply the Hegelian theory of historical evolution to the religion and literature of Israel more completely than was Wellhausen. Both Kuenen and Wellhausen were indebted to Vatke for their inspiration. By far the ablest of the scholars who adopted the new theory, they have left their names indelibly stamped on it. Like Wellhausen, Kuenen held that before they became monotheists the people of Israel passed successively through a nomadic stage, in which they were animists; an early agricultural stage, in which they were henotheistic devotees of a nature cult; and a later agricultural stage. The later agricultural stage was the age of the prophets, who were followed by the legalists just before the Babylonian Exile.

W. F. ALBRIGHT

*Important works: Historisch-kritisch onderzoek naar het ontstaan en de verzameling van de boeken des Ouden Testaments*, 3 vols. (Leyden 1861-65, 2nd ed., 1885-93), tr. by P. H. Wicksteed as *Historico-critical Inquiry into the Origin of the Hexateuch* (London 1886); *De godsdienst van Israël*, 2 vols. (Haarlem 1869-70), tr. by A. H. May, 3 vols. (London 1874-75); *De profeten en de profetie onder Israël*, 2 vols. (Leyden 1875), tr. by A. Milroy (London 1877); *National Religions and Universal Religions* (London 1882); *Gesammelte Abhandlungen zur biblischen Wissenschaft*, tr. by K. Budde from Dutch ms. (Freiburg 1894).

*Consult:* Munen, W. C. van, in *Protestantische Kirchenzeitung*, vol. xxxix (1892) 255-60, 283-89, 307-12; Budde, K., Introduction to his edition of Kuenen's *Gesammelte Abhandlungen*, p. iii-xii; Eissfeldt, Otto, "Zwei Leidener Darstellungen der israelitischen Religionsgeschichte (A. Kuenen and B. D. Erdmanns)" in *Zeitschrift der deutschen morgenländischen Gesellschaft*, n.s., vol. x (1931) 172-95; Toy, E. H., in *New World*, vol. i (1892) 64-88; Wicksteed, P. H., in *Jewish Quarterly Review*, vol. iv (1891-92) 571-605.

KULIZHNY, ANDREY EVMENEVICH (1878-1919), Russian cooperative worker. Kulizhny studied at the Institute of Forestry in St. Petersburg but was soon expelled for participating in "illegal" student activity. Ordered to leave St. Petersburg he returned to Poltava, where he worked as an agronomist of the zemstvo and attained some distinction in teaching

the peasants improved methods of cultivation. In 1906 he was again imprisoned for political activity among the peasants. On his release from prison he entered the Commercial Institute in Moscow, acting at the same time as secretary of the Moscow committee on rural industrial and credit associations. In 1913 he was elected member of the executive board of the Moscow People's Bank in charge of the commodity department which served as the center of the buying and selling operations of the agricultural cooperatives. In 1917 under the Provisional Government he was assistant minister in the Department of Food Supply. He edited the *Vestnik kooperativnykh soyuzov* (Bulletin of the cooperative unions) from 1915 to 1917.

Engrossed in practical work in the field of cooperation, he wrote little and his few publications were devoted primarily to practical ends. He believed that the liquidation of a natural economy which was a survival of serfdom and the consequent development of production for the market would increase the economic opportunities of peasant farming, and advocated the formation of cooperative societies to aid the peasant in securing the necessary means of production, to familiarize him with rational methods of cultivation and finally to organize the marketing of his products.

S. PROCOPOVICH

*Important works:* *Derevenskaya kooperatsiya* (Rural cooperation) (Moscow 1911, 5th ed. 1920), with a biographical essay on Kulizhny by E. I. Gurevich; *Kooperativnyi sbit produktov selskogo khozyaistva* (Co-operative marketing of agricultural products) (Moscow 1913, 3rd ed. 1918); *Organizatsionnaya skhema kooperativnogo stroitelstva v oblasti selskogo khozyaistva* (Plan for the cooperative organization in agriculture) (Moscow 1918).

KUL'FURKREIS. See DIFFUSIONISM.

KUNFI, ZSIGMOND (1879-1929), Hungarian socialist and educator. Kunfi was a teacher of literature in a provincial high school but resigned his position after a conflict with Count Albert Apponyi, then minister of public instruction. He went to Budapest and soon became the most influential journalist and orator of the Social Democratic party and editor of some of its most important organs. Although an orthodox Marxist he was an admirer of the French spirit. During the World War he opposed the Central Powers and expressed the conviction that the Hapsburg monarchy would be dismembered. After the collapse of the empire he became min-

ister of public instruction in the Hungarian republican government of Count Károlyi. Influenced by the Russian Revolution although he did not accept Bolshevism he became the leader of the left socialists and the moderate leader in the Soviet government of Béla Kún. He felt, however, that this experiment would lead to disaster and subsequently reproached himself for his share in it. Under the White terror of Admiral Horthy he was the last to flee. In Vienna he was an influential teacher in the Workers' College, and as an editor of the *Arbeiter-Zeitung* he led a strenuous fight against the reactionary regime in Hungary and against Fascism in general. In the Second International he was an authority on Danubian problems. Kunfi was primarily interested in a radical educational and political reform in Hungary, the indispensable condition for which, he insisted, was the democratic alliance of workers and peasants against the feudal regime of the landed proprietors.

OSCAR JÁSZI

*Consult:* *Kunfi Zsigmond* (Vienna 1930), a memorial volume containing a biography of Kunfi by I. Fényes; Rónai, Zoltán, biographical introduction to Kunfi's *Die Neugestaltung der Welt*, ed. by J. Braunschweig (Vienna 1930) p. 5-12.

KUOMINTANG. The Kuomintang, or Nationalist party, is the revolutionary and nationalist party of China, which since 1924 has become the most vigorous political element in the country. Its success has by no means resulted merely from a sudden expression of nationalism but represents the growth of a revolutionary movement which dates from the closing period of the Manchu dynasty. The empire of the alien Manchus had become enfeebled in the late nineteenth century through its inability to cope with the problems created by foreign commerce and by the impact of modern ideas from the West and from Japan; and it was further endangered by the growing power of the great Chinese viceroys, by the opposition of the secret societies and by the extensive Taiping Rebellion. Tardy and timid reform movements proved of no avail; there were, however, conscious efforts at revolution in the activity of a small propagandist organization, the Hsing Chung Hui (Association for the Regeneration of China, 1894-1905) and in the larger T'ung Meng Hui (Revolutionary Alliance, 1905-11), which developed from it and which later became the Kuomintang. Loose in organization, these societies owed much to the attractive personality of Sun Yat-sen. Although they had no stable base in China they worked

successfully among the large bodies of Chinese students in Japan; among the prosperous and awakened emigrants around the Pacific; among the Chinese population of foreign possessions and settlements, such as Hongkong and Shanghai; and among scattered groups in China proper. By 1911 the T'ung Meng Hui had won 300,000 adherents.

The ideology of these societies had as its factual basis the needs of China and as its intellectual basis modern political and economic achievement and theory, the latter as adapted from the West by Sun Yat-sen, Wang Ching-wei and their associates. They urged a Chinese national regeneration in opposition to the rule of the Manchus and foreign imperialism and demanded democracy in government, "equalization of land-ownership" in a form of single tax and a collectivist economic advance to relieve poverty. After several fruitless uprisings the T'ung Meng Hui succeeded in affecting the army with its propaganda and in 1911 was able to stimulate and organize local military risings into a movement which resulted in a superficial combination of all China south of the Yangtze in a revolutionary republic. Sun was its provisional president and Nanking its headquarters. The conspirators now became an open political party, the Kuomintang, which absorbed smaller reform groups. The victory was, however, far from complete, for the principles of the Kuomintang had not as yet obtained a firm hold upon the Chinese masses; and the period from the revolution until the reorganization of the party in 1924 was marked by a continuous struggle against the forces of reaction.

In order to devote himself to the economic reconstruction of China, which he regarded as the necessary concomitant of political progress, and in order to unite the north and south Sun resigned in 1912 in favor of Yuan Shih-k'ai, the strong man of the imperial regime, who had furthered the constitutional movement in Peking and secured the abdication of the Manchus in 1912. Although he agreed to observe the provisional constitution Yuan proved an arbitrary executive and was continually challenged by the Kuomintang majority in the legislative bodies. The "second revolution" of 1913, fostered by Sun Yat-sen as a protest against the unbridled actions of Yuan, was a diffuse military revolt in the south, which resulted in the destruction of the only troops upon which the Kuomintang could depend. Yuan became president and expelled Kuomintang members from the parliament, whereupon Sun established among his

followers an opposition group known as the Revolutionary party, which helped to counter Yuan's dynastic ambitions with new revolts. When Yuan died in 1916 and the provisional constitution was restored, the old Kuomintang members returned to struggle in the parliament against various cliques of military chiefs; but after a series of inglorious disputes the entire parliament was dissolved in 1917. In the next year old Kuomintang leaders and allied generals set up in Canton a Southern Constitutionalist Government, which was constantly interrupted by military dissensions.

The party was at a low point when in 1919 it received a new impetus from the independent student movement, from national agitations against Japanese policies in China and from the weakness and complicity of the Peking government. By military shifts the Constitutional Government was again set up in Canton in 1921 with Sun as "president of the Chinese republic," only to be crushed a year later by Sun's former mainstay, General Ch'en Ch'ung-ming. The failure of the Kuomintang even at its southern base seemed complete, although its propaganda for a modern centralized government as opposed to the decadent military feudalism of the north had spread widely.

In the year 1922-23 Sun sought help for the Kuomintang in the form of western military organizers and technical aids; only Russia found it politic to assist him. Russian diplomatic representatives had already spread Communist party propaganda among students in the north of China and among the laborers of Chinese ports; now they expected to profit by strengthening the Kuomintang in its attacks upon the capitalistic powers and to gain favor for Communist work in China on the rising tide of organized nationalism. The Kuomintang sought an effective co-operation against the privileged powers and above all a revolutionary technique for the achievement of the long desired control of China. In January, 1923, the Soviet ambassador Joffe and Sun published their basis of understanding, which recognized that the Kuomintang still maintained its own principles as goals. Late in that year Sun and his followers made a fresh start in Canton, while Borodin with the backing of the new Soviet ambassador Karakhan began his effective efforts as high adviser to the Kuomintang. The first party congress in January, 1924, was a fairly representative body, which formulated for the party an impressive manifesto of policy and a constitution. Communists who

accepted nationalist principles were admitted to the Kuomintang, although the latter did not include Communist principles in their program. The reorganization of the party was aimed at correcting its serious deficiencies, its lack of solidarity in organization, program and propaganda and its dearth of military resources.

The new program, which was strongly influenced by Borodin's ideas, called for strict discipline and unity with great emphasis upon energetic, popularized propaganda. Sun's lectures on the *San Min Chu I* (tr. by F. W. Price as *The Three Principles of the People*, Shanghai 1927) were a part of this phase. These principles, which were accepted as the goals of the Kuomintang, were nationalism, democracy and the people's livelihood. Nationalism signified for Sun a cultural and spiritual as well as a political union of the Chinese, which should be able to maintain its independence against foreign states. A governmental system was to be established in which four popular controls—suffrage, recall, initiative and referendum—guaranteed democracy, while the government was to work through five separate administrative powers—legislature, judiciary, executive, examination (civil service) and control (impeachment and audit). Although in Sun's *Fundamentals of National Reconstruction* emphasis was laid upon self-government in the *hsien* (local district) and province, in practise the struggle to gain power and to check enemies has furthered centralism. To insure the people's livelihood economic equality was to be sought through equalization of landholding, prevention of monopolies in land and encouragement of co-operation. Sun felt that capitalism, while necessary, should be under strict regulation in the public interest. He considered that even foreign capital is desirable to speed economic progress, but that it must be firmly directed by a sovereign government. Sun also proposed in his *Fundamentals* that the process of reconstruction be divided into three stages: the first, directed toward the establishment of order, would be under the control of a military government; the next was to be a period of political tutelage, during which the revolutionary leaders were to rule; while the final stage was to witness the establishment of popular sovereignty. These ideas were embodied in a brief popular form in the party manifesto of 1924.

After the reorganization the Kuomintang was rebuilt on the lines of the Russian Communist party with local units leading up through indirect elections to an annual party conference (actually

held in 1924, 1926, 1929 and 1931), which in turn was to select central committees as ad interim directing bodies. In practise the Standing Committee of the Central Executive Committee has tended to be the effective organ of the party oligarchy, while the local units have been agencies for carrying out its will rather than the truly constituent sources of its authority. A political training school for party organizers and propagandists and Whampoa Military Academy, a military school for the training of nationalist officers, were established. Laborers and peasants were organized for "popular movements" and special attention was given to women and young people. Separate bureaux were set up for the organization of these groups as well as of the oversea Chinese and the army and navy men; nationalist armies were trained. In general a tremendous burst of activity characterized the Kuomintang immediately after its reception of Russian aid.

Certain elements continued to resent the rise of the Communists and their supporters, but the new policy was dominant in November, 1924, when Sun accepted the invitation of the northern government to attend a rehabilitation conference. He died amid the contentions of would be leaders in his party. Borodin now became exceedingly influential. He utilized the skillfully stimulated public sentiment over the Shanghai and Shameen clashes with foreign interests in May and June, 1925, the large body of radical and partly armed laborers maintained as "strike pickets" in Canton and the "political officers" assigned to supervise each military unit. The Central Executive Committee expelled from the party the important conservatives, who then organized the Western Hills Conference near Peking. They hoped to secure the adoption of their anti-Communist program at the Second National Congress but were unsuccessful: in fact the Communists continually strengthened their hold upon the party. Chiang Kai-shek stood out among the radicals, and in the Whampoa Military Academy he produced revolutionary officers of a new quality. But he showed an independent will, and preparations for military and political advance to the north were interrupted in March, 1926, by his anti-Communist coup. He and Borodin were forced to cooperate, however, in an endeavor to secure control of the north, the goal of both the Nationalist armies and the political organizations. By March, 1927, Russian methods of propaganda and Chiang's military activities profiting by the division of opponents

had won their way well into the Yangtze valley. Borodin and the radicals used Hankow as the center of a government increasingly like that of Soviet Russia. Meanwhile Chiang tried to set up a new base under moderate Chinese control and in April succeeded in doing so at Nanking with the support of Shanghai bankers; his success marked the victory of the military element in the Kuomintang and the end of the Communist-Nationalist alliance.

The Nanking regime claimed to be a restoration of the true Kuomintang through the elimination of the Russian and Communist elements. Control by the military and the suppression of radical "popular movements" were scarcely disguised. The Hankow faction, surrounded by opportunist military leaders and discredited by the revelation of orders from Moscow, melted away when Borodin's Chinese group expelled him in July, 1927. The union of almost all the center and right groups in and with the Nanking party and the military was finally achieved after laborious efforts. This union made possible in 1928 the advance to the north of the Kuomintang armies and their allies. The Kuomintang was thus in control of a large part of the country, and although the party was sadly diluted and dependent upon regional military leaders, there existed an opportunity for a real Nationalist government of China.

In October, 1928, the Central Executive Committee adopted the "organic law" which set up the "five-power government" following Sun's political system. In Kuomintang terms, the "military period" of war upon the old regime had been completed and the period of "political tutelage," in which the party was to teach the people how to exercise political rights, had begun. This period would end, it was announced, in 1935. During the period of tutelage the party is to act in the place of a representative organ and sovereignty is to be vested in the party congress. Wholly or largely from their own membership the Central Executive Committee and the Central Supervisory Committee named a Central Political Council which appointed and instructed the chief officers of the national government. The "five powers" were organized into five administrative departments or councils, *yuan*. In form the national government is an agent of the party with no status of its own. Actually there is much repetition of personnel in the highest units of party and government and the leaders of the Nationalist movement have turned somewhat from the party as a means of revolution to the

government as a means of control. Nationalism, anxiety for reform, the tradition of officialism and self-interest, all support bureaucratic tendencies in a land which is divided and confused. Armies and revenues are in the hands of the national or regional governments, upon whom the party depends for protection and funds. The new political experiments have gained a limited success, continually endangered by civil wars and by regional, factional and personal rivalries. The modifications of December, 1931, emphasized party control and the separation of powers by making each of the five *yuan* directly responsible to the Central Executive Committee. In actual administration the government and military leaders are semi-independent, particularly in the regions which are distant from the capital.

The significance of the role of the Kuomintang in Chinese national regeneration is difficult to gauge. It has achieved general success in arousing the more alert of the Chinese people against the Manchus, military feudalism and foreign control. It has also greatly increased the concern with economic and social progress, usually in collectivist terms; and through the state control of schools, through the reform of textbooks and curricula with their emphasis upon natural science and social and political subjects and through the required study of the *San Min Chu I* under party members it has exercised considerable influence upon education along modern and national lines. The actual accomplishment of the nationalist ideals has been hindered by the uneducated, unorganized and poverty stricken condition of the vast, dispersed population. Soviet revolutionary technique and partial militarization, which together gained for the Kuomintang its precarious supremacy, brought with them the spread of Communism, the splitting of the party, the accommodation of an idealistic program to the power of generals and to regionalism. Within the Kuomintang's comprehensive aims still exists the peril of dualism: some members wish primarily for a political revolution and oppose radical social change, while others stress social reorganization and attack the political leaders as capitalists and feudalists. In addition to the serious difficulties created by regional movements the party is torn by factional-personal strife and continual use of force or intrigue; indeed there are no two leaders of importance who have remained working companions throughout the critical years. Since the reorganization of 1924 the gross membership of the Kuomintang has



averaged about 450,000, or one in a thousand of population. During the period of "popular movements" from 1924 to 1927 the party included a fair number of laborers and peasants, but in general the members are chiefly actual or expectant functionaries, officeholders in the party of the government, military officers, soldiers, teachers and students. More than half are under thirty; about one fifth have a secondary education; 3 percent are women. The Kuomintang has exercised authority for only a short time and it has encountered tremendous obstacles. Its position is perilous not only because of the menace offered by certain foreign powers but because it has developed desires for good government, national prestige and prosperity far beyond its ability to fulfil them. It has boldly assumed exclusive responsibility for the nation, but despite the relatively high ability of certain of its leaders it is still doubtful whether such a dispirited and faction ridden body will be capable of sustaining its great burden.

M. SEARLE BATES  
FRANK WILSON PRICE

*See:* GOVERNMENT, section on CHINA; CHINESE PROBLEM; EUROPEANIZATION; NATIONALISM; COMMUNIST PARTIES.

*Consult:* Holcombe, A. N., *The Chinese Revolution* (2nd ed. Cambridge, Mass. 1931); MacNair, H. F., *China in Revolution* (Chicago 1931); Rhodes, J., *La Chine nationaliste, 1912-1930* (Paris 1931); T'ung Leang-li, *The Inner History of the Chinese Revolution* (London 1930); Lynn, J. C. H., *Political Parties in China* (Peking 1930) ch. vi; Sokolsky, G. E., "The Kuomintang" in *China Year Book* (1928) ch. xxviii, and (1929-30) ch. xxvi; Foreign Policy Association, "The Rise of the Kuomintang," in its *Information Service*, vol. iv (1928-29) 156-86; Woo, T. C., *The Kuomintang and the Future of the Chinese Revolution* (London 1928); Chapman, H. O., *The Chinese Revolution 1926-27* (London 1928); *Two Years of Nationalist China*, ed. by Min-ch'ien T. Z. T'au (Shanghai 1930); Royal Institute of International Affairs, *Survey of International Affairs* by A. J. Toynbee and others (London 1925- ), especially volume for 1926, pt. iii; Wiegner, L., *L'ordre d'Éole* (1923), *Nationalisme* (1924), *Le feu aux poudres* (1925), *Boum!* (1927), *Chaos* (1931), and *Prodromes* (1931), volumes in *La Chine moderne* series published in Hien-hien, China.

LABAND, PAUL (1838-1918), German jurist. Laband was the most representative teacher of public law of imperial Germany. From the eastern part of the empire, where in 1864 he became professor at Königsberg, he was called to the newly founded chair in Strasbourg in 1872, which he continued to occupy until his death. As member of the first chamber and of the council of state of Alsace-Lorraine he remained

in direct contact with the political relations of those provinces.

Laband's importance in intellectual history rests on his attempt to found public law as a pure legal discipline. This implied a turning aside from political and sociological factors and the abandonment of a metaphysical basis; there was to be sought a scientific objectivity and freedom of evaluation. By following this course Laband became the true founder of the so-called conceptual jurisprudence (*Begriffsjurisprudenz*) in public law. Adopting the mathematical procedure of the natural sciences, he endeavored to show from the postulates of the existing law that his conclusions were logically inescapable. Any contrary conclusion rested thus not upon different ethico-political assumptions but was entirely false and due to error of thought and calculation. There was present at the same time in this conviction the liberal belief in the possibility of the purging of all differences by the method of intellectual discussion, a belief which on its side went back to the law of nature. In the final result this procedure necessarily placed legal form, as essential in itself, above content and led to a misunderstanding of the political, religious, metaphysical and economic background of the law as well as to the stifling of all sense of public policy.

Laband's system signified the proclamation of the purely intellectual man as the ideal jurist. But it attained the appearance of scientific objectivity only because the political differences within the bourgeoisie of imperial Germany were relatively slight. Present day doctrine in Germany has turned aside from the positivistic *Begriffsjurisprudenz* and once again clearly perceives the irrational, historico-metaphysical background of the state. On the other hand, in Austria the pure jurisprudence of Kelsen has led to its revival and further extension, so that to a certain extent Laband still represents the focal point of the struggle. In any event the great clarity and the admirable construction of Laband's theory of public law were recognized by his opponents as well as his disciples, and it ruled German *Staatsdogmatik* for a full half century.

ERNST VON HIPPEL

*Important works:* *Das Staatsrecht des deutschen Reiches*, 3 vols. (Tübingen 1876-82; 5th ed., 4 vols., 1911-14), abridged edition, 1 vol. (Tübingen 1883; 4th rev. ed. as *Deutsches Reichsstaatsrecht*, 1907; 7th ed. by Otto Mayer, 1919).

*Consult:* Sander, Fritz, *Staat und Recht*, *Wiener staats-*

wissenschaftliche Studien, n.s., no. i, 2 vols. (Leipzig 1922) vol. i, p. 701-76; Emerson, Rupert, *State and Sovereignty in Modern Germany* (New Haven 1928).

LA BOÉTIE, ÉTIENNE DE (La Boétie) (1530-63), French political theorist and litterateur. La Boétie, the adored friend of Montaigne, was born at Sarlat and died of the plague at Germignat. His principal contribution to mankind was a treatise called *Discours de la servitude volontaire*, or *Le contr'un*, which he wrote at the age of sixteen or, according to another edition of Montaigne, eighteen. As the investigations of Joseph Barrère have convincingly proved, the work was partly intended as a refutation of Machiavelli's *Prince*, published in 1532. The reason for its failure to mention Machiavelli was the fact that Catherine de' Medici, who then dominated the French court and to whose father the *Prince* had been dedicated, was a great admirer of the famous Florentine. The *Discours* constitutes at the same time an eloquent protest against political tyranny and a profound analysis of the genesis of human servitude, a term by which La Boétie designates the position of those subordinated to a government aiming only to gratify the desires of the governing person or group. According to its main thesis servitude is, to use a modern term, a type of political behaviorism which has resulted from the distortion of the original free nature of man by long governmental drill and pseudo-religious education. La Boétie describes the complicated political mechanism and network of corruption enabling the tyrant to maintain his antisocial domination. In conclusion he points the way to liberation through passive resistance. He declares that political servitude is voluntary; it can be terminated if those in bondage withhold their support from the tyrant.

La Boétie subsequently became a councilor in the Parlement of Bordeaux, then the supreme judicial body of this region. Under the pressure of the growing absolutism of the French king and of constant religious persecutions and civil wars the *Discours* remained unpublished except for brief excerpts until it was included among the pamphlets collected as *Mémoires de l'état de France* by the Huguenot pamphleteer Simon Goulard in 1574. Montaigne omitted it from the edition of La Boétie's work published eight years after his friend's death; when the prudent skeptic mentioned it in the 1580 edition of his own essays (bk. i, ch. 28) he sought to minimize its importance by describing it as a literary exercise.

This extreme caution of Montaigne aroused the suspicion of A. Armaingaud, who tried to prove (in *Revue politique et parlementaire*, vol. xlvii, 1906, p. 499-522) that the real author of the *Discours* was not La Boétie but Montaigne himself. Armaingaud contends that Montaigne used the name of his dead friend as a kind of pseudonym in his fight against the hated regime. This hypothesis seems, however, to be without sufficient evidence. In the meantime the *Discours* had profound repercussions as a circulating manuscript and influenced some of the later monarchomachs. Although La Boétie himself was not a Huguenot, his pamphlet, deeper and more profound in its denunciation of tyranny than any of the numerous writings which the French religious persecutions of the period evoked, provided the fleeing Huguenots after 1572 with an ideological weapon. Its later history varied in different countries. The Anglo-Saxons regarded it as little more than the rhetorical exercise of a youth who knew his Seneca; certain eminent Frenchmen have extolled the beauty and force of La Boétie's argument; Tolstoy exalted him as his precursor. According to Landauer the work was the first systematic formulation of the message later developed by Godwin, Stirner, Proudhon, Bakunin and Tolstoy. Passages in the *Discours* sound like a critique of the Fascist and Bolshevik dictatorships.

OSCAR JÁSZI

*Works:* Among the editions of La Boétie's complete works are those by Léon Feugère (Paris 1846), and by P. Bonnefon (Bordeaux 1892), who has also published a new edition of the *Discours* (Paris 1922). The *Discours* was translated into English (London 1735).

*Consult:* Feugère, Léon, *Étienne de la Boétie, ami de Montaigne* (Paris 1845); Barrère, Joseph, *Étienne de la Boétie contre Nicolas Machiavel* (Bordeaux 1908); Dezeimeris, R., *Sur l'objectif réel du discours d'É. de la Boétie* (Bordeaux 1907); Landauer, G., *Die Revolution* (Frankfurt 1907) p. 78-96; Weill, G., *Les théories sur le pouvoir royal en France pendant les guerres de religion* (Paris 1892); Allen, J. W., *A History of Political Thought in the Sixteenth Century* (London 1928).

LABOR. The valuation placed upon labor is a significant element in the ideology dominating any period, for it reflects the social structure as well as the scale of social values. Primitive peoples, especially warlike races, often display a marked disinclination toward labor; the necessary work devolves upon the women and upon foreigners, particularly those captured in wars and feuds, who are treated as slaves. It is only in a hierarchically organized society, however, that labor acquires a specifically

social character. Slavery existed as a social institution in Asiatic and in European antiquity, in despotisms and in democracies. The immense buildings erected by the Asiatic despots or by the Egyptians represented the labor of armies of slaves, as did at a later period the factories of the Roman magnates, the silver mines in Spain or the fleets of Roman galleys. Slavery existed also in the Greek city-states, where the culture of the upper classes was possible only on the basis of slave labor. In all these very different social systems labor which today would be considered socially valuable was looked upon with disdain. This attitude is reflected in the biblical quotation: "In the sweat of thy face shalt thou eat bread" (Gen. III: 19). In the Asiatic despotisms contempt for labor became contempt for all performance. The names of great artists remain unknown; only the names of ruling kings are preserved. In ancient Greece the laborer even when he was a citizen was scorned as a creature of low breeding. In contrast is the high esteem in which the peasant was held in ancient China and Japan; here he ranked next to the knights and the learned classes, although he might be only a tenant laboriously eking out a bare existence.

The lowly position of labor in most ancient societies was the result in large part of the institution of slavery. Since citizens and slaves worked side by side, for instance, as artisans, the contemptuous attitude toward slave labor extended also to the work of the free citizen. In Rome the emergence of the skilled laborer and even of the skilled slave effected a loosening of the system, for it became necessary to give to slaves possessing special capacities a certain interest in their work, to provide them with better living conditions, considerable independence and at least the possibility of purchasing their freedom. This development, which undermined the old organization of labor, serves to substantiate the contention that real slave labor can be only undifferentiated mass labor controlled by physical force.

With the disintegration of slavery, hastened and extended by the appearance of Christianity, the way was paved for a conception of labor as possessing peculiar dignity and worth. The early Middle Ages marked the rise of the guilds with political rights and defensive capacities unknown to the corporations of antiquity. The guilds soon became the carriers of a peculiar ethics of labor. They created the structure within which developed the professional pride, the

appreciation of one's own labor, the justification of wealth by labor, which distinguish the bourgeois from the feudal mentality. The fact that labor was valued only as professional labor was another result of the guild organization of society. Although the guilds did extend into more fields than is generally realized, all labor outside of corporations and guilds was looked down upon and abandoned to the arbitrary action of officials. The independent artisans, the "outsiders" (*Bönnhasen*), the workers not legalized by guild organization but nevertheless often of great importance to the economic system, were held in contempt—until through a radical change in ideology free enterprise attained the highest esteem, while guilds and trade organizations sank into disrepute.

The powerful influence of the guilds and the political alliances they built up, at first spontaneously and later consciously, brought about a new attitude on the part of organized religion; the church now became a staunch supporter of the guild system. Christianity, however, like all other ethical religions was (according to Max Weber) originally anti-economic; it recognized no dignity in labor and looked upon work as only a means of livelihood. The New Testament exhortation to "walk worthy of the vocation wherewith ye are called" (Eph. IV: 1) is an expression of indifference. For the monks labor became a means to the ascetic life but it had no positive meaning, no value in itself. Although the guilds in the cities were able to temper this indifference to some extent, no complete transformation was effected until the rise of Protestantism. With the abolition of the cloisters Christian virtues could be practised only within lay institutions. An explicitly positive valuation of labor and its products and therefore also an esteem for economic dynamics itself first found expression in Puritanism. Calvin denied the independent importance of "good deeds," holding that these do not guarantee the achievement of grace, of eternal felicity, which is determined by an obscure and impenetrable decision of God but is nevertheless indicated by the success of the individual in the affairs of the world. An individual can best attain the state of grace by working "methodically" in everyday life for the glory of God. Asceticism, particularly in the form of rational work, became the supreme duty; and thus was introduced into everyday life esteem for labor, for the product of labor and finally for wealth. Wealth was valued not as a means of enjoyment

but as the warrant of a mode of life agreeable to God. This approach, however, led soon to the positive valuation of abstract acquisition, of profit for its own sake; in short, of a capitalistic conception of life.

With the development of the science of political economy the concept of labor received an independent significance. Although in the doctrines of Adam Smith and of Ricardo (the system of the physiocrats applied more to agriculture than to agricultural labor) labor appeared only as one of the elements of the economic process it was nevertheless considered as preeminently the source of productivity. Later when it was made the principle of value formation labor acquired an extra-economic significance, which can be seen most clearly in Marx' theories. According to the classical economists labor like land and capital is a factor of production. It is simply the human factor. In Marx' doctrine the concept of labor becomes, as do all economic concepts, a social category. For Marx labor is the achievement of the workers, not simply of all who work, and more particularly of those workers who in different social systems—as slaves, as serfs, as members of the guilds and finally as workers in shops and factories—by their work first made possible the creation of social wealth and thus the existence of the ruling classes. According to Marx the capitalistic profit economy rests upon the proletariat as the wage earning class, the surplus value of whose labor is appropriated and controlled through the legalism and the price mechanism of capitalist economy, as the surplus labor of slaves or of serfs was controlled through political force. Labor under the capitalist economy has only a fictitious freedom. In reality propertyless labor is narrowly limited by the market economy, continually reenforced by social coercion.

The marginal utility school of economists went back to a socially indifferent conception of labor as one element in the economic system. Recently, however, among this group too there has been a tendency to consider labor in its social form, as a propertyless wage earning class. All the anticapitalistic currents of the present time tend to lead scientific thought in this direction. Indeed once the social character of labor has been recognized, it is impossible to consider it outside of the social structure.

The various attitudes toward labor are of course very closely dependent upon the social

and economic status of the laboring masses in any particular society, while at the same time they help to create that status. The conception of the value of labor constitutes a determinate ideology, the source of which is not to be found merely in the actual state of the society or in the interests of its members. It has already been pointed out that in ancient Greece the institution of slavery necessarily diminished the esteem for labor, even influencing the whole structure of society, which came to be based on local instead of professional organization. This contempt for labor completely erased the differences between skilled and unskilled labor which are so important in modern thinking. In India—to choose a totally different social system—the religious castes were at the same time bearers of definite labor functions, and thus quite irrational values were placed upon different kinds of labor. Each of the several thousand castes has its own *dharma*, or code, which determines its rank and which is itself conditioned by the character of the profession. Thus types of labor which are respectable in Europe are in India regarded as very low when they are performed by low or "impure" castes. On the other hand, impurity of caste often reflects the character of the profession.

The valuation of particular kinds of labor has varied greatly throughout history. In Japan and China agriculture is the most respectable form of manual labor. In Europe the development of urban culture resulted in a contempt for agricultural work. While agriculture is praised as the source of means of subsistence, workers on the land, especially peasants, are looked upon with a certain disdain because of their lack of culture. European feudalism especially built up an ideology according to which only the idle life of the aristocrat was noble; the peasant, "the coarse fellow" and the city worker, the Philistine and the petty trader, were all treated with contempt. Thus a feudal system based upon the labor of others leads to an ideology which scorns all labor and so furnishes a moral justification for its own existence.

Until very recently the learned professions have been regarded quite differently from other forms of labor. Indeed as long as the ability to read and write was rare, the profession of writer or even more of jurist, priest, physician or state official was not considered as "work." If the members of these learned professions often held a not very enviable position in the courts of princes they were treated with marked

respect by the people. Only bourgeois society has really emancipated these professions and it has even put them in a dominant position for long periods. The fact that they lost caste in the second half of the nineteenth century was due in part to the increase in the number of intellectuals and in part to the fact that, as the legislative, administrative and economic institutions created by this epoch and adapted to its spirit became more and more intelligible and accessible, the aura which had surrounded Roman law and its practitioners in the sixteenth and seventeenth centuries faded, and the social status associated with all professions based on classical culture declined.

Special concern for labor as we find it in the modern world developed only with industrialism. Mass labor in ancient Asia, in Greece, Egypt and Rome was the object of despotic control. A benevolent attitude toward labor can scarcely be said to have existed. In the feudal period there was a more human attitude toward the household servants but not toward the serfs. The fate of the latter varied according to locality, the quality of the soil and the character of the people, but everywhere they were looked down upon and exploited. The so-called emancipation of the peasants was not a struggle on their behalf but for their domination. The state wanted to give them certain opportunities toward economic development in order to obtain higher taxes. The conception that society is founded on labor was no more prevalent in the Middle Ages than in antiquity. In the guilds interest centered in the work done by the master, his personal contribution; both journeymen and apprentices expected to become masters, so that the idea of socially inferior labor was almost completely absent. It is true that occasionally there were strikes and movements of opposition among the journeymen, but their aim was not to suppress the guilds but only to improve their standard of living within them.

Only with the formation of a proletariat composed of free individuals, propertyless and concentrated in large masses, did the labor problem become the very center of the social problem. The first industrial workers were recruited from among the proletarian weavers, then from among the unemancipated cultural workers the independent artisans and so forth. They were a motley crew working under a system of mechanization and division of labor, under the orders of foremen who were often brutal. Personally and formally, however, they were free;

they could when they found work elsewhere leave their jobs at any time. They were not attached to a locality or to a factory, and they could better their situation with improving business conditions. They were the first great class of society that forged or suffered its destiny outside of legal chains. As whole cities were erected around the factories, the workers increased in number more rapidly than did any other part of the population. Indeed the rapidly increasing wealth resulting from industrialization was made possible only by an ever growing working class. It was therefore natural that the question should soon arise as to the part played by labor in the process of the creation of wealth and as to its rightful share in the social product.

Since Adam Smith and Ricardo political economy had placed labor in the center of the theory of value. Consequently there had arisen the problem of the part played by land and capital in the creation of value. Karl Marx declared that the income from land and capital must be considered theoretically as a deduction from workers' wages. The marginal utility theorists took as their point of departure consumption rather than the cost of production and found the source of value in the valuation of the product by the consumer. Neither theory answers the question of the relative productivity of labor compared with that of other classes. All modern economic theories recognize that labor produces value, industrial labor as well as agricultural. There remains only a controversy with regard to the significance of economic leadership—the labor of management and coordination. When the technical aspect of modern production is taken into consideration, it is impossible to deny the necessity of cooperation and coordination. Particularly is large scale production impossible without special organizing ability which can assure the efficiency of the technical processes, establish a plan of production and make decisions about necessary changes in the industry. Within the capitalistic system production on a large scale, especially increasing production, cannot be achieved without the work of owners or managers and their staffs of superior and inferior employees. There can then be no absolute answer as to how the product can "justly" be distributed among these groups of producers. Actual salaries and wages always depend partly on the monopolistic position of a given industry; under a system of free competition they would be quite different. There are no

"natural" wages, since, as Marx knew, in every system the level of wages is influenced by "social and historical factors"; that is, by the existence of monopolistic organizations. The conception of the participation of labor in the creation of social wealth can thus be considered only as a general leading principle in the distribution of that wealth.

The actual organization of labor has varied greatly in different periods. It is likely that among many primitive races there was no conscious organization of work, which was done with very primitive tools and with little attempt to develop more practical methods. Moreover labor in primitive societies, especially in tropical countries, is closely related to religious rites and to artistic activities. For technical, often even for psychological, reasons the greatest part of primitive labor is performed collectively, by a working group, for which songs or the rhythmic striking of an instrument regulate and guarantee the performance of a given quantity of work. Such group work exists today in transportation, agriculture and similar occupations. The organization of labor among primitive people is based either on the family—the large family in itself makes possible a certain division of labor—or for religious work and eventually for work done for the leader of the group, which frequently assumes a religious significance, on a larger unit.

Only when society became more differentiated socially and economically did the various classes of laborers acquire specific social status. Then such distinctions became marked. The separation between agricultural and industrial labor occurred as a result of the division of labor on the large estates of antiquity as well as on the mediæval farms burdened with the *corvée*. The soil yielded a sufficient surplus to provide not only for the agricultural laborers and tenant farmers but for spinners and weavers, blacksmiths, carpenters, masons, shoemakers, tailors, carpet weavers, coopers and many others employed in the lord's household. Specialization of labor was the rule, developing most markedly in the guilds. Karl Bücher estimates that there were nearly two hundred separate professions at the beginning of the fifteenth century. The guild was not merely an organization of labor and industry but also a political corporation. The guilds endowed chapels in the newly built churches; they armed their members; each guild defended its part of the city walls; guild representatives sat in the city councils.

The industrial revolution could not have occurred within the guild system. Factory industry and to an even greater extent mechanized industry required freedom in the utilization of market opportunities, in the employment of working forces. The guild regulations and customs which had to a certain degree protected the journeyman and the apprentice had no validity in the factory; hence the early days of capitalism witnessed an immoderate use of women's and children's labor without limitation of the working day, conditions which were unknown at the height of the guild system. The workers in the early factories were unskilled or only partly skilled; some had had previous handicraft training. For a long time, however, the different trades remained distinct; indeed the transformation of trade unions into industrial unions is only a very recent development. It is in the so-called new industries—the automobile industry, the machine industry and the like—that the organization of workers according to industries rather than trades has proceeded most rapidly. As a result labor organizations have become more strongly colored by a general class character and the workers have become class conscious rather than profession conscious, although membership in a trade is still of importance and although, especially in Europe, even at the present time many workers are first trained as handicraftsmen.

Of equal importance with the union of different trades within the factory in developing a new status and a new conception of labor was the mechanization of industry. At first the artisans resisted the introduction of machinery and destroyed the machines which deprived them of their bread. But when as a result of the rapid spread of factories and of increasing demand for workers for the construction of railways and new industries unemployment decreased or disappeared, there developed the theory that new forms of production automatically absorb all the workers thrown out of jobs as a result of technological improvements. This theory was largely accepted by the trade unions and created among the workers a more tolerant attitude toward the introduction of machines and the mechanization of industry. Since the World War keener theoretical analyses and added experience have brought this theory into disfavor. There is an increasing realization, especially among the working classes, that technical progress must be controlled.

Modern industrialism first created class con-

sciousness among the workers. The importance of the trade, of the kind of work performed, has become secondary to the common class destiny of all workers. It is true that class consciousness is frequently weakened or delayed by differences of profession, of ability, of the relative importance of particular industries; by divisions of sex, age, race and nationality. In the principal industrial countries, however, these differences undoubtedly tend to lose their importance for social action, especially since increasing competition makes ever more acute the struggle of the various classes for their share in the social product, while local and professional differences in the levels of wages, even for skilled and unskilled labor, are gradually diminishing. On the other hand, the psychological currents conducive to the development of class consciousness have thus far had little opportunity to affect the salaried employees, who constitute an increasingly larger portion of the dependent class. Moreover in many European countries, especially in Germany, the workers are more sharply divided by different social philosophies—socialistic, communistic, Christian—than by differences of trade or industry.

In organization and in efficiency of labor the present epoch represents the highest stage of capitalistic economy yet attained; never before in history have productive forces been so fully developed. At the same time never before has the great bulk of the working masses been so aware of its situation and so united as a class. This solidarity has become international, however, only in the last few decades. Whereas in previous centuries only scholars (through the Latin language and humanism) and the nobility (through the French language and common class interests) were internationally united, modern means of communication and modern methods of production have created an international solidarity of producers, both capitalists and workers.

Within each of the great industrialized nations the working class has become for the first time in history an important economic and political force. The World War greatly hastened this development. Far from wiping out class stratifications it greatly increased the influence of the working class. This first resulted in a rapid increase in the wages, and thereby an improvement in the standard of living of the working class, and in a multiplication of collective contracts. As the *working class*, at least in Europe, has become an active and decisive

factor in politics, the very principle of capitalistic economy has come into question. The problem as to whether the organization of production should be entrusted to the capitalist alone is being discussed on all sides. Indeed the importance of the proletarian movement lies in the fact that it has brought into actual discussion the problem of the economic structure of society. Certainly this problem is far more significant than that of the level of wages or of the share of the working class in the social product. The conception of an organization of the entire economy in the interest of society as a whole has been gaining more and more adherents since the war and especially since the crisis which began in 1929. In particular the development of the Soviet planned economy has spread the idea of such an economic organization and has thereby greatly enhanced the significance of labor in modern society.

EMIL LEDERER

See: LABOR MOVEMENT; ECONOMICS; ORGANIZATION, ECONOMIC; TECHNOLOGY; OCCUPATIONS; PROFESSIONS; SLAVERY; SERFDOM; PEONAGE; FORCED LABOR; PEASANTRY; PROLETARIAT; GUILDS; TRADE UNIONS; CLASS; CLASS STRUGGLE.

**LABOR BANKING.** Labor banks are incorporated profit making institutions carrying on a general banking business the majority of whose stock is owned by one or more trade unions as organizations. They are to be distinguished from people's banks or cooperative credit organizations—voluntary non-profit mutual aid associations organized to provide credit on a personal basis—which have functioned for many years in Europe, in some of the Asiatic countries and to a lesser extent in the United States. While the proponents of American labor banking utilized the achievements of people's banks as convenient propaganda material, they did not emulate the cooperative features and purposes but conformed to ordinary banking practices. The two types of popular banking moreover differ in their class character: cooperative credit organizations are essentially middle class institutions, while labor banks are an aspect of the institutionalism of organized labor. Labor banks are also to be distinguished from cooperative banks, such as the Cooperative Wholesale Society Bank in England, which do not accept purely business accounts and act mainly as bankers for the cooperative movement.

Although labor banking reached its highest development in the United States, whence it influenced the formation of the most important

European labor bank, the Bank der Arbeiter, Angestellten und Beamten of Germany, the first labor bank was organized in Belgium in 1913. Belgian credit unions despite their growth had never been closely identified with the trade unions, except through individual members. The Banque Belge du Travail was organized to carry on a general banking service for trade unions, cooperatives and the Labor party, which also owned the stock of the new institution. The bank has a number of branches and in addition to a personal banking service ministers to the financial needs of labor, cooperative and industrial enterprises, from which it also receives deposits. There were no new labor banks until after the World War. A labor bank was organized in Denmark in 1919, in Norway in 1920, in Palestine in 1921 and in Austria in 1922. The stock of the Palestine Workers Bank is owned by the Zionist World Organization and the trade unions, while in the case of the other banks the stock is held by trade unions and other labor organizations; no individual ownership of stock is permitted. While labor party and cooperative organizations may own stock in the labor banks, their ownership and control are essentially trade union.

European labor banking is most highly developed in Germany, where there are three labor banks. The Deutsche Volksbank, organized in 1921, is conducted by the Christian trade unions, while the Deutsche Wirtschaft Bank, organized in 1923, is under control of the Hirsch-Dumcker trade unions. Both banks are relatively small. The most important of the labor banks is the Bank der Arbeiter, Angestellten und Beamten, organized in 1924; five years later it had resources of 163,180,000 marks and a turnover of 2,787,000,000 marks. This bank is controlled by the central organization of the German trade unions, the Allgemeiner Deutscher Gewerkschaftsbund, with a minority stockownership by the Deutscher Beamtenbund and the Deutsche Krankenkassen. The Bank der Arbeiter, which has made substantial progress since its establishment, receives deposits from the affiliated organizations and finances enterprises conducted by trade unions and cooperatives. Another bank, the Deutsche Landvolk Bank organized in 1923, is not strictly a labor bank as it represents the employers as well as the Zentralverband der Landarbeiter.

The opening of the Mount Vernon Savings Bank with \$160,000 capital and \$40,000 surplus in the Machinists' Building in Washington, D.

C., on May 15, 1920, is generally viewed as the actual beginning of the labor banking movement in the United States. This is not actually correct, however, as the sponsoring union, the International Association of Machinists, owned the bank only in part and a majority control was secured by inclusion of the considerable holdings of the leading union officers. Labor banking as a nation wide movement may properly be said to have begun on November 1, 1920, when the Brotherhood of Locomotive Engineers' Cooperative National Bank opened for business in Cleveland with \$651,000 paid-in capital. Under the influence of Warren S. Stone, who had studied the people's banks in Europe, the Brotherhood of Engineers had decided as early as 1915 to open a labor bank at the opportune moment, but the World War delayed realization of the project. The Amalgamated Clothing Workers of America was the next large union to join in the movement; this organization opened one bank in Chicago in 1922 and another in New York in 1923. The Engineers' banking activities expanded rapidly. Within a few years they had launched several more banks, bought a large interest in an important Wall Street bank and branched out into a variety of subsidiary and collateral banking, investment and real estate ventures. Their activities involved tens of millions of dollars of capital investment and ran into a general turnover of hundreds of millions of dollars in sales of stocks, bonds and other securities.

Unions affiliated with the American Federation of Labor joined the banking movement slowly and half heartedly. Its leaders viewed with disfavor the diversion of union funds and energies into extraneous channels that were not well charted. As far back as 1904 the federation rejected a motion to organize several labor banks where unions could deposit their funds. The proposal was again rejected ten years later and again in 1918. But the spectacular success of the Engineers' banks or, more accurately, the publicity which made their quantitative success appear as a qualitative success weakened the resistance of the A. F. of L. leaders. In 1923 the Federation Bank of New York opened for business with \$500,000 capital and surplus subscribed by practically every A. F. of L. international union. It claimed to be "the most representative union labor bank in the country." Nevertheless, the central leadership of the A. F. of L. continued its warnings against the new financial attraction. By 1926 labor banking had



reached its peak; there were then thirty-six labor banks with a combined capital, surplus and undivided profits in excess of \$13,000,000 and total resources close to \$130,000,000. Connected with the banks were a number of investment trusts and securities companies, and a considerable number of banks were proposed or partially promoted. This development of labor banking was greeted by the financial community with general friendliness mixed with indifference. Many thought the new banks might attract the hoarded savings of workers and that they might also increase the conservatism of organized labor. In some cases, however, general friendliness rapidly turned into hostility; thus one important labor bank faced with a severe run was told by the Clearing House Association, to whom it appealed for aid, to "go to the labor unions for help and not ask the bankers," although up to the moment it closed the bank was declared solvent by the comptroller of the currency. The clearing house refused to do for a labor bank what it later did for commercial banks in the city.

American labor unions were prompted by several motives in organizing labor banks. The years 1920 and 1921 were marked by aggressive open shop drives. Labor leaders felt that bankers were behind the drives against the very unions whose money their banks carried, capitalized and made profit on. The conviction was widely held that labor could retaliate effectively if it mobilized its financial resources to serve labor's own ends. Walter F. McCaleb, first vice president of the Engineers' Cooperative National Bank, suggested that "if 20,000,000 workers were each to save \$1 a week and regularly deposit this money in their own institutions, this whole civilization of ours would be changed within the next five years." Peter J. Brady, president of the Federation Bank of New York, estimated that "of \$25,000,000,000 annually paid in wages to workers in American industry, from \$6,000,000,000 to \$7,000,000,000 is saved in various ways, and that labor banks hoped eventually to control." Taking into account the large accumulated funds and approximately \$25,000,000 paid out annually in various benefits, the unions considered that a better return on their resources could be secured by organizing banks and going in for investment. The unions would render their people a genuine and appreciable service by creating investment institutions for the savings of labor.

In addition to the purely financial considerations the unions envisaged an extension of union

power into new fields. Conservatism or progressivism was not the line of division between the leaders who favored labor banking and those who opposed it. Rather it was a division between the labor activists and their more passive colleagues. Labor banks could do more than extend financial help to unions engaged in strikes or lockouts; with their financial resources they could help "fair" employers who recognized the union and thereby strengthen unionism. One of the purposes of the International Association of Machinists in organizing its bank was to render financial assistance to an employer who was unable to secure credit through the regular channels because he recognized the union; and this specific case was generalized in labor bank policy. Some of the labor leaders had greater objectives; they believed it was within the power of labor, if all the workers' money was mobilized by their own financial institutions, to make substantial inroads into the money control which they considered oppressively exercised by Wall Street. Others hoped to get on the controlling boards of industrial enterprises which were unfriendly to organized labor and convert the respective managements to a more cordial attitude. To accomplish this end they aimed to utilize the power of their banks as money lending institutions and also to secure the confidence of employee stockholders and act as their proxies in the determination of the corporations' labor policies. Warren S. Stone saw labor entering upon a new, third cycle of development. The first cycle or phase, a stage necessary for the development of group solidarity, had been characterized by the growth of class consciousness; the second, a phase which "necessitated a period of warfare involving the use of force, sometimes economic, sometimes physical, on both sides," by defensive struggles for recognition of unions and for the principle of collective bargaining. The third cycle upon which labor was entering was "one of cooperation rather than war, and the most striking evidence of this phase is the labor bank." This program was an expression of the ideology of the "new capitalism," which influenced both labor and capital in the period before the depression which set in in 1929. Several labor banks emphasized the development of institutional services to the workers, such as character loans at reasonable rates of interest and with equally reasonable demands as to collateral security or the financial standing of cornakers, long term loans to home builders and the financing of cooperative housing developments.

The decline of the movement, which began in 1927, did not at once become evident. On the eve of the depression early in October, 1929, there were still in existence twenty-three labor banks with a total of capital, surplus and undivided profits well over \$10,000,000 and total resources of \$110,000,000. Three banks, representing about 45 percent of the total capital of all the labor banks and an even larger part of the total resources, led in the field: the Federation Bank and Trust Company of New York, the Engineers' Cooperative National Bank of Cleveland and the Amalgamated Bank of New York. But the Engineers' enterprises were in bad shape. They had lost many millions of dollars in questionable investments, in the organization of holding companies, in speculative land investments in Florida. Gross mismanagement and corruption were revealed. The imposing structure of banking and investment institutions collapsed involving enormous losses to the union and heavy special assessments on the members. Moreover the Engineers' enterprises were no exception. Labor banks proved vulnerable to temptations of speculation and excessive profit making, and they neglected the importance of competent banking personnel. The business depression revealed the weaknesses of the movement and caused many more terminations. By December 31, 1931, there remained in the field only seven labor banks with total resources of \$30,000,000, including capital, surplus and undivided profits of \$3,615,000. The three largest banks were the Amalgamated Bank, the 'Telegraphers' National Bank of St. Louis, Missouri, and the Mount Vernon Savings Bank.

The weaknesses which led to the collapse of the labor banks are in general weaknesses of the labor movement itself, from whose characteristic division of forces and crossing of purposes the banks suffered. Many banks fell prey to the game of union politics and disregarded the problem of competent non-political management. The essentially capitalist orientation of the American labor leaders led to imitation by labor banks of high pressure speculative and promotional methods. Although the labor banks started with many cooperative features in their charters, these were soon forgotten. It was originally planned to limit the number of shares an individual could own, to limit the declarable rate of dividends and to prorate a share of the profits to depositors, all with a view to restricting profit making and forestalling individual domination of labor banks. But in performance in most cases

the cooperative features were amended out of existence or modified beyond recognition in favor of the practices of unrestricted business enterprise.

Nor did the labor banks receive the confidence and support of the workers. The workers did not choose to deposit their savings (enormously exaggerated by the labor bankers) in labor's financial institutions, which were in some cases presided over by leaders who had failed to achieve much success in fields supposedly their own. Labor men together with liberal professionals sympathetic to labor supplied less than one third of the labor banking business. The volume coming from small business men attracted to the labor banks, because they offered credit facilities on easier terms than did the commercial banks, meant temperamental, panicky withdrawals and frozen assets in times of crisis.

While the American labor banks underwent their dramatic rise and fall, the European labor banks made steady progress. In the two years 1928 and 1929 the Bank der Arbeiter, Angestellten und Beamten increased its deposits 50 percent; in the same period there was a decline of 31 percent in the combined resources of the American labor banks. The difference in development reflects important differences in organization and policy. The European labor banks are centralized, national institutions organized under control and enjoying the protection of the whole trade union and labor movement of their respective countries. The American labor banks were primarily decentralized local institutions organized and owned either by single national unions or by local groups of unions and individuals who appreciated the profit making opportunities and contact values of the business. European labor banks moreover were primarily established as auxiliaries and service agencies of the labor movement. They do not have the profit making outlook of commercial banking business. A large volume of labor banking business awaited them: management of the funds of the unions, of the political party and of the well established consumers' and producers' cooperatives. Investment in municipal and other social enterprises offered an outlet for surplus funds. If under these circumstances profits were not likely to pile up rapidly, security and solvency were not easily jeopardized. The American labor banks on the contrary were primarily business enterprises organized to provide profitable financial opportunities for the national union or the local group which operated the bank. As small banks they

could secure only the left overs of the business which the large banks were not anxious to handle. A few labor banks sought to establish institutional services in special areas of activity, but the majority operated as small competitive banks at a time when small banks had to fight hard to survive. Both the financial situation and the character of the trade unions in general militated against the permanent success of American labor banking.

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See: TRADE UNIONS; INDUSTRIAL RELATIONS; LABOR-CAPITAL COOPERATION; CREDIT COOPERATION.

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LABOR BLACKLIST. See BLACKLIST, LABOR.

LABOR-CAPITAL COOPERATION emphasizing the harmony of interests between labor and capital aims to reduce or eliminate conflict of interests, to regularize production by preventing strikes and so to increase labor's output as to benefit both wages and profits. It is part of the understanding under most labor-capital cooperative relations that a share of the gains of cooperation will on some calculable proportional basis accrue to labor; in addition labor

is offered the further advantage of stability of employment. The practise which the term represents comes third in the evolution of labor-capital relations—non-recognition of unions, collective bargaining, cooperation to insure more efficient production and, in the larger aspects, social peace.

Labor-capital cooperation may assume forms which repudiate independent unions or collective bargaining and involve the direct subordination of labor to capital. This occurred in the United States in the period after the Civil War, when labor-capital cooperation was urged as an offset to unionism; it still occurs today in many industries where "cooperation" is forced upon the workers through company unions and employee representation schemes. This involuntary cooperation prevails also in Fascist Italy, where cooperation functions through unions organized and controlled by the government and not through independent unions of the workers. In more representative and progressive usage, however, labor-capital (and in the United States labor-management) cooperation represents an industrial relationship in which labor and capital recognize one another's independence and voluntarily agree to cooperate in common tasks. Capital concedes to labor the right to organize and act through its own representatives; labor assumes an active interest in and sometimes partial responsibility for the progress of production. In this sense labor-capital or labor-management cooperation constitutes an advanced phase of collective bargaining.

The term labor-management cooperation in American usage or in the alternative form union-management cooperation presupposes recognition of unionism as an independent force cooperating with management as does the term labor-capital cooperation in the European sense. Both rest upon recognition of unionism and collective bargaining. The one covers an American orientation, the other is characteristic of the European labor mind. Capital, when conjoined with labor, tends to emphasize the social aspects of industry and ownership, the contest of property rights and class interests behind the immediate issues of cooperation; hence labor-capital cooperation assumes general political forms and operates on a national scale, concerned with larger issues and solutions. The use of the word management rather than capital, while it expresses the unusually high development in the United States of functional separation of capital ownership and management, also denotes an

engineering or technological approach to the issue and implies interest in the immediate advantages of a simple bargain relationship. Labor-management cooperation consequently is animated by an essentially parochial spirit, ignores larger social issues and is unconcerned with property rights and class struggle.

The forms and development of cooperation differ greatly in American and European experience. The range of difference is from mere elaboration of traditional collective bargaining by the creation of additional, better equipped and permanently functioning machinery for realizing the ends of all trade agreements—industrial peace and uninterrupted production—to some participation of labor in the management of production. While in its major concrete aspects labor-capital cooperation represents no basic departure from the general course of orthodox unionism and collective bargaining, its theoretical implications and social ramifications are considerable, particularly as they are revealed in European experience. Although influences and efforts striving for labor-capital cooperation were at work, theoretically and practically, for many years before the World War and gained in momentum as socialism in Germany, syndicalism in France and laborism in England grew in power and importance, the specific practise now covered by the term took shape under the impact of forces generated by the World War and accelerated during the post-war period. These forces were the intensified application of science to industrial processes and the emphasis on rationalization, mass production of consumer goods and the consequent intensification of competition in both the home and world markets, the precarious state of business in many countries and of certain branches of industry in nearly all countries, the growing unemployment due in part to technological labor displacement in industry and agriculture, the rapid growth of labor unionism in particular and of the power of labor in general, and the strengthening of revolutionary tendencies in certain countries.

As the forces and conditions which led to cooperation did not arise simultaneously in all countries or operate everywhere with equal effect, the forms and objectives of cooperation have varied in time and place. In the United States labor-capital cooperation in the involuntary form imposed upon labor by company unions and employee representation plans developed out of the same general forces which produced voluntary cooperation in Europe.

Labor-management cooperation, however, was a product of the unusual American prosperity which flourished from 1923 to 1929; one of the results of prosperity was to weaken unionism, thus forcing the consideration of new policies (among them, for example, labor banking) and influencing labor leaders to propose cooperation with management as one method of strengthening the unions and collective bargaining.

The vital distinction between American and European experimentation with labor-capital cooperation is this: in most American cases, typically sporadic and local, it was primarily labor which sought to induce capital to cooperate, while in the European experiments, planned and national in scope, capital sought labor's cooperation. Trade unions in the United States, insufficiently organized and practically eliminated from the basic industries, sought to realize on capitalist prosperity by endeavoring to convince management that greater efficiency could be achieved by winning the workers' good will. Without the additional advantage of power in politics, such as is yielded by the influential political parties which labor controls in most European countries, American labor was able to use only moral admonitions and warnings against possible disaster. The distinction reflects differences in the character of the respective labor movements: European labor has appeared in the practise and discussion of labor-capital cooperation as a distinct social class striving for power, while the American practise and discussion of labor-management cooperation have avoided social theory, emphasized labor's local interests and stressed the purely business aspects of cooperation.

The practise of labor-capital cooperation reached its fullest development in Germany. During the World War, when *Burgfrieden* was urged upon labor and capital, voluntary joint associations of employers and workers, known as *Arbeitsgemeinschaften*, were organized to effect cooperation between labor and capital; they were, however, dissolved in 1924. Meanwhile economic decline aggravated international competition and the pressure of reparations and forced consideration of an elaborate program of rationalization. For such a program it was necessary to secure the consent and cooperation of German labor, which was strongly organized in both the economic and the political fields and enjoyed legal status as a class. Unwilling or unprepared to stake its fortune on the overthrow of capitalism, German labor accepted labor-capital co-

operation on a give and take basis. The declaration of the German General Federation of Trade Unions and General Federation of Unions of Salaried Officials stated conditional terms of acceptance in the form of specific demands: real wages must rise; management must work closely with the work councils (shop organizations which have legal standing in Germany); social hardships resulting from rationalization must be compensated; rationalization must be carried out in each industry as a whole; prices must be reduced; opportunities for promotion of workers must be provided as well as assurances given that the management will be efficient; comprehensive unemployment insurance must be guaranteed; wealth must be taxed directly and adequately; tariffs on imported foodstuffs and raw materials must be reduced; a planned credit system must be provided to meet new conditions in industry. Having outlined so complete a program of labor-capital cooperation, German labor simultaneously set forth its socialist view of the limitations of cooperation: "So long as private enterprise exists, it will produce economic classes which will struggle against each other to decide their respective shares of the proceeds of industry. We hold this struggle to be unavoidable, because an impartial scientific agreement on this question is not possible. But without prejudice to this view we also believe that, for the solution of various economic, financial, social and political problems, a joint effort by all parties is worth while with the object of overcoming the present crisis and developing the productive capacity of German industry." Through this cooperation the unions expect increasingly to acquire functional power in industry and thus gradually to realize the new social order. While the revolutionary elements in the German labor movement, organized in independent communist unions and the Communist party, regard labor-capital cooperation as an abandonment of the class struggle and surrender to capitalism, Catholic labor unions have been in line with their general ideology and traditional attitude the most persistent exponents and faithful followers of the idea that capital and labor are constituents of a single organic whole and that there must be an essential harmony of interests between employers and employees.

As in Germany the problem of labor-capital cooperation acquired new significance in Great Britain during the World War. One result was creation through government initiative of the Whitley councils, which were intended to form a

sort of industrial parliament, give labor some representation in management and realize peace and cooperation between labor and capital. The councils were partly an answer to the radical workers who during the war had formed shop committees acting independently of the trade union administrations. Whitleyism never acquired any real practical importance. The problem of labor-capital cooperation assumed new significance because of the decline of British industry in the post-war period. Discussions of the problem eventuated in 1928 and 1929 in two conferences, known as the Mond-Turner conferences; Sir Alfred Mond (Lord Melchett) was head of the employers' group and Ben Turner, chairman of the General Council of the Trades Union Congress, was head of the labor group. The conferences were brought about by the uncertain state of both capital and labor. Several important industries were facing virtual collapse under the joint pressure of German rationalized industry and American mass production and superior wealth in raw materials. The labor movement was considerably weakened by the collapse of the general strike in 1926 and the defeat of the miners' strike. It was generally felt that traditional trade union methods did not have much positive achievement to offer. The supporters of cooperation argued that labor could not watch indifferently the breakdown of industry and production, England was not a self-sufficient country, rationalization and the consequent strengthening of industry were issues of primary importance and labor's position would eventually be stronger if it made itself a part of the rehabilitation process. Furthermore they did not anticipate an immediate and complete breakdown of the capitalist system but rather a slow, long drawn out wearing away of its strength, out of which new developments might come, temporary and partial revivals; hence, it was argued, labor would profit by taking an active part in this evolutionary development. Against this the opponents of cooperation contended that it was not the business of labor to help decaying capitalism to gain a new lease on life. Even if an immediate collapse might be averted and a temporary restoration of the functioning of the capitalist system achieved, it would sooner or later break down again under the weight of the conflicting forces which operate in the social order and labor might as well face the basic issue now rather than endeavor to postpone the unavoidable; if labor embarks upon the cooperative venture it will not save capitalism or prevent

eventual diaster, and by acting the minor partner in the capitalist game it will take the edge off the class struggle, demoralize its own ranks and throw in jeopardy its chances in a final struggle for power. The Mond-Turner conferences conceived labor-capital cooperation as involving discussion and joint action on rationalization, unemployment, labor supply, the organization and control of industry, and other social and economic problems of industry as well as of wages and hours. Mondism, as this policy of cooperation came to be known, involved full recognition of bona fide labor unions, something like representative government in industry by means of work councils, employee stockownership, conciliation of industrial disputes and machinery for continuous investigation, criticism and conference. There was strong opposition to the conference plans among a minority of the trades unions and even stronger opposition among influential groups of employers. This opposition and Sir Alfred Mond's death resulted in the collapse of the movement.

Labor-capital cooperation in England and Germany and to a lesser extent in other European countries is the result of economic decline and the increasing power of labor. Where labor is strongly entrenched capital is compelled to secure labor's voluntary cooperation in order to put through necessary measures and avoid disputes which may further weaken an already weakened economic fabric. On the other hand, labor can no longer concern itself exclusively with hours and wages; in a period of economic decline labor is forced into larger action—either cooperation with capital or the overthrow of capitalism with labor assuming the responsibility for social reconstruction. Labor-capital cooperation is thus the alternative to revolution.

In the United States the unions suggested cooperation as a means of strengthening their position, but the offer was accepted by management mainly as a means of solving certain aspects of the modern work process involved in scientific management. In non-union industries scientific management might be imposed upon the workers by means of company unions and similar devices, but in union industries it depended considerably upon overcoming union opposition by accepting cooperation—a much narrower consideration than that involved in European labor-capital cooperation. This is the most important reason why none of the American labor-management cooperative ventures has been large enough to assume to deal with the

whole labor-capital issue or with all the problems of an entire industry on a national scale. Their cooperative content ranges from rather narrow and technical agreements, seeking to fortify collective bargaining by labor assisting in waste elimination and increased output, to schemes which carry a measure of authority for labor in determining work terms in relation to the state of the business. In no case does labor assume any real measure of industrial control. Labor-management cooperation in the forms thus far developed is applicable only where labor is still appreciably skilled and the workers' initiative can increase output; it is, however, inapplicable to mass production industries where the workers are paced by the machine.

The B. and O. Plan, best known of all American labor-management cooperative experiments, originated in 1923 in the Glenwood repair shops of the Baltimore and Ohio Railroad, whence it spread so that by 1931 it was actively in effect in the mechanical departments of four major railroad systems of the United States and Canada covering about one sixth of the combined mileage of the two countries. The B. and O. Plan, as interpreted by its leading exponent, Otto S. Beyer, rests on three main principles: mutual recognition by labor and management and their cooperation for improved service and elimination of waste; fair division by labor and management of the gains of cooperation; and stabilization of employment and perfection of joint administrative machinery to promote cooperative spirit and effort. Liberal interpreters of the B. and O. Plan were at one time willing to see in the extension of the arrangement a gradual process of substituting workers for owners, with industry eventually operated with capital "hired for a fixed and guaranteed wage," thus abolishing the profit motive, and with efficiency of operation maintained by the cooperation of "trained and conscientious management, public regulation with adequate standards of performance, and the enterprise of organized labor seeking its ends through better service." The really potent urge on the part of management to view the B. and O. Plan with favor sprang from the technical peculiarities of the maintenance and repair departments of the railroads. In 1928 the outlay for this part of work on Class 1 carriers in the United States comprised 26.4 percent of total operating expenses, decidedly a large expenditure. It was reasonably expected that willing workers inculcated with cooperative spirit and anticipating tangible gains would

do better work than contractors or workers devoid of that incentive and would thus increase efficiency, regularize production and reduce disputes. This proved to be true, but it has also been generally admitted that "the companies receive more lucrative returns from the practices of cooperation than do the men." As to stabilization of employment, it is not by any means certain that the B. and O. Plan accomplished any more than ordinary collective bargaining could achieve. There were in some instances other motives favoring cooperation; the government owned Canadian National Railways, for example, wanted to rally the political strength of labor in support of the experiment in nationalization against the efforts of private business interests trying to thwart it.

Another labor-management cooperative experiment, the National Council on Industrial Relations for the Electrical Construction Industry, was constituted in 1920 with an equal representation of employers and the union, the International Brotherhood of Electrical Workers. The workers' right to organize was accepted as basic in the arrangement, but simultaneously the abandonment of the "philosophy of power and struggle" was emphasized. The industrial philosophy of the council reduces the major causes of disputes between workers and employers to intermittent and shifting employment, price competition and the lack of any general and active understanding of the indissoluble partnership which exists in industry between management and labor; the council seeks to remedy these evils. After ten years of experience with the National Council on Industrial Relations resulting in an almost complete lack of tangible achievements, the Electrical Guild of North America was formed with a view to further more aggressively "industrial cooperation in the electrical construction business on a scale hitherto unknown and untried." An authoritative spokesman for the union thus describes the guild plan: "It insures democracy by dealing with the voluntary society of the workers; it guards management by making it the central source of power in the industry; it establishes industrial government without aid of the state; it secures stability without fixity; it elevates craftsmanship and technology to places of prominence. It has features not dissimilar to those of the once-projected Guild Socialism, with the added virtue of being a going concern." To which might be added "and free of the vice of tending to weaken vested interests."

The case of the Rocky Mountain Fuel Company closely cooperating with the United Mine Workers of America is interesting in its inclusion in the cooperative plan of sales promotion by labor. It is in a way a case of labor-management-consumer cooperation. This arrangement followed a protracted sanguinary struggle against unionization wages by the company under an earlier administration, together with other coal companies in Colorado. The organized labor movement in the state and the Colorado Farmers' Union actively assisted the company to market its coal as encouragement to a corporation which recognized unionism in the midst of a non-union coal center. The general public was converted to that view with the result that the company's retail sales grew considerably. This plan is obviously limited in its application, since the competitive advantage of labor's help in consumer sales would disappear if the plan embraced any considerable number of companies in the industry.

In the X-Construction Plan in the men's clothing factories of the Hart, Schaffner & Marx Company of Chicago, introduced by the company and the Amalgamated Clothing Workers of America in 1924, there appeared elements of labor responsibility for production with a share in control over industrial and business policy. Although spread over a limited area the X-Plan was the farthest step taken by labor-management cooperation in the United States. Under the arrangement which remained in force for several years the union assumed responsibility for a major part of the production process, namely, the tailoring of the garments after the raw material left the cutting rooms. It was a clear case of rationalized production under joint labor-management auspices with the main objective of cheapening production costs and lowering selling prices of the product so that larger sales, re-orders and consequently more work in the shops might be achieved. The workers relinquished certain customs and rules restricting output and expected to be compensated by the gain in volume of available work and the relative employment security that would follow increased sales. The cooperative contribution of the union consisted in placing at the service of the business the workers' accumulated industrial competence, which enabled the company to meet customer style requirements with progressively smaller labor costs and substituted team methods and machine work for costly individual handwork. The larger objective of the experiment

was to stabilize employment by supporting a large scale industrial enterprise against the reckless competition of non-cooperating employers. Yet the union could not logically withhold its cooperation from other manufacturing concerns, however keen their competitive practices, if they agreed to deal with labor on a union basis. Hence only one objective of union-management cooperation, stabilization of employment conditions, was met, and that only in part; the major objective, that of defeating reckless competition, was not achieved.

The economic depression which began in 1929 dealt a severe blow to those proponents of labor-management cooperation who saw in the practise a means of solving the fundamental issue between labor and capital. On the other hand, the experience of cooperation, wherever it was practised by strongly organized union groups, demonstrated the positive contribution which labor interested in the production process as a whole can make to industry if its efforts are not blocked by the operation of the profit motive. This positive demonstration of the value of labor's interest in production has given practical meaning to the issue of economic or social planning, which would take into account all the factors in the productive process. It has also emphasized the significance of the power element in the situation: economic concessions are not secured by moral invocations. Carried on in times of normal business activity, labor-capital or labor-management cooperation need not, as its opponents claim, take the edge off the class struggle or cause a loss of labor militancy, provided the area of application is a whole industry or the whole of national industry and cooperation is seen as one aspect of larger issues. The additional competence that labor gathers in the controlled exercise of cooperation is an asset not unlikely to prove of determining significance in the struggle for power. The relation of cooperation to the theory of "harmony of interests between labor and capital" is not necessarily generic, but it is tangent. The acceptance by strongly organized unions of a cooperative plan of procedure need not signify an *eo ipso* abandonment by labor of all opposition to the social status quo, although experience indicates that it undoubtedly tends to tame the manifestations of opposition.

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See: LABOR; LABOR MOVEMENT; TRADE UNIONS; COLLECTIVE BARGAINING; INDUSTRIAL RELATIONS; INDUSTRIAL RELATIONS COUNCILS; ARBEITSGEMEINSCHAFT;

SCIENTIFIC MANAGEMENT; MANAGEMENT; CLASS STRUGGLE; LABOR PARTIES; REVOLUTION AND COUNTER-REVOLUTION.

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LABOR COLLEGES. See WORKERS' EDUCATION.

LABOR CONTRACT. Narrowly defined a labor contract is an agreement, express or implied, between an individual worker and an employer under which the former agrees to perform work



in return for compensation. Entry into the contract creates a relationship of master and servant or, in more modern terms, of employer and employee which entails mutual rights and obligations. These may be mentioned only in the broadest outlines or not at all in the individual contract itself but are defined by certain external controls, such as custom, judicial decision, legislation and collective agreement, and are assumed to form part of the contract. In so far as the individual labor contracts which prevail in a given legal-economic system thus largely conform to a common set of arrangements, it is possible to speak more broadly of "the" labor contract which characterizes the system.

Slavery, serfdom and forced labor are types of employment relation in the determination of which contract plays no part. In ancient society with its predominantly slave economy even such contracts for free labor as were made reflected the characteristic arrangements for the renting or maintenance of slave labor. In feudal society the typical employment relation was serfdom, under which the villein, or peasant, was born into a status from whose customarily determined obligations he could escape only under exceptional circumstances. Gradually there emerged a class of unattached agricultural and town laborers who were in a position to sell their services. Typically, however, the terms upon which they might do so were fixed by custom, guild regulation or law and not by contract. In England the Ordinance of Laborers of 1349 limited the wages that might be paid to agricultural laborers and workers in certain trades, compelled them to accept employment and in other ways determined their status. As early as 1381 in the Peasants' Revolt the demand was made that labor contracts should be free of legal restrictions. But it required four centuries of time and the dissolution of a subsequent widespread control over the employment of craftsmen and laborers of all sorts, established by the Statute of Artificers in 1562, for the peasants' demand to become an actuality. With the coming of the industrial revolution the system of free individual contract was established as the dominant type of employment relation.

Implicit in the concept of the labor contract is the idea that both parties are not only legally but actually free to bargain for terms and equally able to grant or withhold as they see fit the services or economic opportunities which they control. The resulting contract then represents the terms of the greatest mutual benefit, based

on the genuine consent of the two individuals. Such an ideal is measurably attained in the type of agreement whereby the services of a responsible manager or technician are procured by a business organization. Such a bargain frequently is concluded only after extended negotiations have led to the mutual acceptance of specified terms. A maximum of freely established elements thus is present in the ensuing employment.

In the great mass of labor contracts in the present economic system, however, although the parties are legally free to bargain for terms subject to limited control by law and collective agreement, economic necessity drives them together and along with other forces compels workers and less frequently employers to accept conditions which they have had little or no share in establishing. Market forces, custom, public opinion, collective bargaining and legislation play far more important roles than personal negotiation in dictating these contracts. By the time of the establishment of the free labor contract in England the legally liberated worker, who was forbidden to combine with his fellows, often had to face an employer with whose economic power he could not cope. The worker simply offered his labor, which must be sold both because it was highly perishable and because he had no other means of existence. The employer possessed capital that was more lasting and that increased his power of resistance, and he generally had an oversupply of workers from which to choose. This situation was later aggravated by the emergence of corporations and of large scale businesses as employers in all important industries except agriculture. Similar conditions accompanied the development of industrialism in the other occidental countries and have since spread into the Orient.

The history of the labor contract in the western world during the past century aside from the progress in abolishing slavery and forced labor is largely a story of efforts to introduce formal controls in the interest of the workers and of counterefforts to preserve individual bargaining as the only acknowledged determinant of employment relations. The simple contract of employment has increasingly been recognized as primarily a means of entry into a relationship whose characteristics have been determined previously and may be altered later, analogous in some ways to the "contract" of marriage. Hence improvement in the terms of the relationship has been sought partly through legislation, embodied in safety and health acts, laws regulating

the dismissal of workers, minimum wage and maximum hour laws, workmen's compensation and unemployment insurance legislation and other measures. At the same time certain employers have voluntarily improved the position of their employees not only by reducing hours and providing better working conditions but also by introducing company supported welfare work and pension schemes. More recently a few prominent employers have undertaken to guarantee a minimum amount of employment each year. Some concessions spreading through an industry or occupation have tended to establish certain customary rights of labor deriving from the labor contract, the violation of which, while not legally punishable, results in a loss of the goodwill of labor. All of these measures, however, have proceeded without regard to the shared control of the employment relation by employers and employees which the device of contract has been supposed to make possible. The effort to establish such control as a reality has proceeded largely through the movement for collective bargaining.

Collective bargaining has become possible through the removal of legal restrictions upon the right of workers and employers to organize. It has for its purpose the democratic establishment of the terms of employment relations. It seeks to accomplish this end by means of a process of bargaining between employers, acting singly or in groups, and organizations of workers, thus bringing about negotiations between two parties or sets of parties whose economic strength has some approximation to equality. Where this process succeeds it results in controlling agreements which take many forms ranging from informal understandings to written contracts enforceable at law. The collective agreement is not a contract of employment. Of itself it puts no one to work and fills no jobs. It is rather legislative in its effect upon employment, for it binds the parties to bring about the introduction of its terms into the labor contracts to which it applies. Thus, in so far as the employees' organizations are actually in their own hands, collective bargaining confers upon the workers in groups a share in controlling their employment relations which they could not enjoy individually. Moreover the evil effect of competition among employers in the matter of labor costs is diminished where a number are dealt with on the same basis.

The legal source of the strength which the workers are able to exert both in seeking to establish collective bargaining and in carrying it

forward is also the cause of their economic insecurity—the terminable nature of the typical labor contract of modern times. Since involuntary servitude has become contrary to public policy, even a contract of employment for a definite term cannot be specifically enforced. A damage suit for its breach would be of no use against an employee whose property, as is generally the case, is worth less than the legal exemption from execution. In the United States moreover the cumbersomeness and expense of legal proceedings have largely closed the door of the courts to workers. These reasons combined with the economic convenience of employers have caused labor contracts ordinarily to be made terminable at the will of either party without prior notice. Hence the simultaneous quitting of employment or shutting out of workers in furtherance of a collective negotiation is not of itself a breach of contract or other legal wrong, except where it violates the terms of a collective agreement. Neither is it an invasion of the rights of either party to a labor contract terminable at will for a third person, in furtherance of an otherwise legitimate purpose, to attempt to persuade the other party to withdraw from it. If, however, abuse can be shown in connection with any of these activities, an injunction—except as against the bare failure to offer to work or to employ—can be obtained in many states of the United States and in the federal courts. To aid in procuring this type of judicial remedy the so-called yellow dog, or individual non-union, contract has been used by numerous employers.

Preliminary organizing activity among workers having collective bargaining for its objective must be carried on by securing memberships in the labor union or at least promises to join from a considerable number of employees prior to the presentation of a demand upon the employer. The yellow dog contract furnishes a legal basis for checking this organizing activity without at the same time introducing the element of permanence into the employment relation. The essential element in such a contract is the promise on the part of the worker not to become a member of a union so long as he remains in the service of his employer. Despite the fact that the only consideration for the worker's promise is employment, still terminable at will, the courts have tended to uphold the validity of these contracts and to protect the property rights created by them. In *Hitchman Coal and Coke Co. v. Mitchell* [245 U. S. 229 (1917)] the United States Supreme Court held that efforts to per-

suade workers who were bound by such contracts to promise to join a union without disclosing their intention to their employer or quitting their jobs could be enjoined in a suit filed by the employer. Thus the power of the judiciary to enjoin interference with non-union agreements is used to frustrate organizing activity. In 1930 it was estimated that well over a million workers in the United States were bound by such contracts. Only the New York Court of Appeals has indicated, without expressly holding, that such contracts will not be protected by injunctions [*Exchange Bakery and Restaurant, Inc., v. Rifkin*, 245 N. Y. 260 (1927); *Interborough Rapid Transit Co. v. Lavin*, 247 N. Y. 65 (1928)]. The courts of other states when faced by the issue have followed the ruling in the *Hitchman* case. As a result of considerable agitation by organized labor to nullify the force of that decision Congress in 1932 passed the Norris-La Guardia anti-injunction act, which declared yellow dog contracts contrary to public policy and unenforceable by injunction or otherwise in the federal courts. The extent to which state legislatures and courts will follow this federal action remains to be seen.

The settlement of terms and conditions of employment by more or less impartial agencies of adjustment is variously provided for in modern legal-economic systems. Conciliation and arbitration may be established by law or collective agreement and may be made to apply to collective disputes or to differences arising out of individual labor contracts or to both. Where an agency of adjustment is representative of workers and employers it involves an extension of shared control similar to that which is effected by collective bargaining. Within particular establishments moreover the formation of shop rules together with control over a variety of other matters has been entrusted by law, collective agreement or voluntary concession by employers to works councils established for the purpose. In a few instances substantial participation in ownership and management has been conferred upon employees and the labor contract has thus been assimilated to the organic arrangement governing the business enterprise.

The unrelieved individual labor contract terminable at will characterizes what appears to be relatively a brief phase in the history of the employment relation. Prior to the industrial revolution employment contracts in England, in the absence of stipulations to the contrary, were presumed to run for a year. Only gradually did it

come to be established that the employer might dispense with this arrangement by rule or that a custom might authorize summary discharge. In virtually all countries the basic law of the labor contract laid down in judicial decisions or code provisions arrived at substantially the same result; but in Italy, France, Germany and other countries the movement toward a dismissal wage or notice of discharge, required either by legislation or collective agreement, has since made considerable headway. This development coupled with unemployment insurance legislation and legal provisions which make unpaid wages a preferred charge in insolvency proceedings defines the extent of the worker's claim upon the business enterprise to which he contributes, over and above his current compensation. It thus performs a function similar to the entrepreneur's or stockholder's right to the going concern value and to the bondholder's right to have the assets applied if need be to the satisfaction of his claim. A mutual obligation to give prior notice of the termination of a contract of employment does not necessarily apply to a strike or lockout, which may be considered in the same light as a layoff or shutdown, during which the employment relation may be taken to continue.

Control over employment on a democratic basis, extending even to agriculture, has proceeded farther in Germany since 1918 than in any other major country. Collective bargaining between employers and workers who are extensively organized has been encouraged by legally established conciliation and arbitration machinery and supported by well defined legal sanctions. The ultimate responsibility of the democratic state for the welfare of workers and for the steady functioning of trade and industry is recognized through a discretionary power to impose agreements in settlement of collective disputes. A statutory system of works councils fosters joint control over employment within industrial and commercial establishments. In Russia a structurally similar system serves the Soviet dictatorship both because of state ownership of the important enterprises and because of state control over the trade unions. In Italy the dictatorship makes use of a rigidly governed syndicalist organization and machinery of collective bargaining to maintain a like control over employment. In the United States individualism in the labor contract still dominates, partly because of a traditional adherence to "freedom of contract" as against both public and private control and partly because of limitations upon public

control which the courts have held to be embodied in constitutional provisions. The general tendency, however, which is being reinforced by international conventions, seems to foreshadow greater security and participation in the benefits of machine industry for the workers, whose present insecurity and inadequate compensation are an outstanding weakness of the legal-economic structure.

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See: LABOR; CONTRACT; FREEDOM OF CONTRACT; EQUALITY; BARGAINING POWER; COLLECTIVE BARGAINING; TRADE AGREEMENTS; LABOR LEGISLATION AND LAW; LABOR INJUNCTION; COURTS, INDUSTRIAL; ENTICEMENT OF EMPLOYEES; LABORERS, STATUTES OF; CONTRACT LABOR.

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**LABOR DISPUTES.** The terms "labor dispute" and "industrial dispute" are frequently used or interpreted as having exclusive reference to a concerted cessation of work. Thus the United States Bureau of Labor Statistics, after maintaining for some years a separate classifica-

tion for strikes and lockouts, now combines the data on these mass activities under the heading "industrial disputes." The term may, however, be used in a broader sense to include all disagreements and all evidences of disagreement between employer and employees, whether or not organized activity is implied and whether or not the dispute culminates in a strike or lockout. It is in this broader sense that the term is used here.

In its most common meaning a labor dispute implies a definite employer-employee relation which still exists, although in more or less strained form, or which has only recently been broken. It may involve an employer and some or all of his employees, a group of employers in the same or related trades and their employees or, in rare cases such as that of the general strike in England in 1926, all employers and their employees over a wide economic or geographical area regardless of industrial boundaries. Thus defined, it is essentially limited in its application to the period in economic history during which the employer-employee relationship has existed, the period of the free laborer. Yet it is related historically to the unrest and discontent of the unfree workers of earlier periods—the slaves of antiquity and of the southern states in the United States, the peasants of feudal Europe and the peons of Latin America. To these unfree groups individual escape—more difficult for the slave than for the serf, especially after the rise of the towns—restriction of output or sabotage (*q.v.*) offered the only peaceable means of expressing discontent with their status in general or their treatment in particular. Group action by these unfree workers almost necessarily involved violent uprisings with considerable bloodshed. Generally such uprisings were mercilessly put down; yet occasionally they effected permanent political freedom for the workers, as in Haiti, or forced some mitigation of the former status.

Restriction of output and sabotage are avenues for the individual registering of dissatisfaction by the free worker also. Or, like the Luddite rioters, he may take his vengeance upon the machines which seem to threaten his status or his job. Another indication of unrest is found in labor turnover, resulting from the voluntary quitting of jobs or from insubordination leading to discharge.

The limitations upon the effectiveness of individual action led free labor early to seek the benefits of organization. With the creation

under the guild system of a group of journeymen increasingly less likely to rise into the ranks of the masters, there developed, sometimes within the guilds themselves but often as independent organizations, journeymen's societies established primarily to defend the position of these workers against the control of the guilds. By methods suggesting those of the modern trade union these societies tried to limit the number of apprentices, improve wages and shorten the working week. With the decay of the guild system and the coming of industrialism the journeymen's societies lost their power. There ensued a period of sporadic strikes by the new factory workers, often sponsored by organizations which sprang up just to see the dispute through and then disbanded. Gradually out of these spontaneous evidences of common discontent there developed permanent organizations ready to act as soon as a dispute arose. A permanent unionism became the principal agent of the workers in labor disputes. Even in the twentieth century, however, sporadic strikes occur by workers who have hitherto been unorganized.

A further indication of the existence of unrest and dissatisfaction among wage earners appears in their activity in the political field. The labor dispute arises primarily out of economic conditions. But these in turn are profoundly affected by the relation of government to industry, and the ability of the workers' organizations to function in an economic conflict depends in large part upon their legal status. The essentially economic labor dispute thus tends to assume a political character. To secure proper consideration of its rights labor demanded the right of suffrage and having obtained it proceeded to support either the candidates or parties which seemed to offer it the most or organized parties of its own. The former procedure is still followed in the United States, as it was in England in the latter decades of the nineteenth century; at present British labor has its own political party, and in Europe generally labor organizations are affiliated with political parties which represent their own interests.

One of the earliest concessions which the workers sought through political action was the legal right to organize and carry on their activities in the economic field as a collective unit rather than as an agglomeration of individuals. This right was not easily obtained. In most industrial countries trade unionism was at first

illegal. England took the first step toward legalizing collective labor action in 1824. The same end was achieved in the United States through a series of court decisions and in France and Germany through legislation. The attainment of the right to organize was followed in England by a century long struggle, not yet ended, for the right to function without interference by legislation or by judicial decisions. The same struggle is evidenced in the United States in the attempts of the unions to restrict the use of the injunction and the "yellow dog" contract. In varying degrees the political demands of labor in different countries have come to include attempts to secure through legislative action improvements in the status of labor which could be secured only with great difficulty or not at all through economic action. The growing body of labor legislation represents the fruit of this activity and constitutes an important factor in the elimination of certain causes of labor unrest.

Dissatisfaction over wages seems to be the most important immediate cause of labor disputes. In slightly more than half of the strikes reported to the United States Bureau of Labor Statistics, in two periods together covering forty-one years, some aspect of the wage question has been involved; the wage question has motivated more than twice as many disputes as any other cause. In other countries for which records are available the matter of wages occupies a position of similar importance. This is in part a reflection of the whole area of industrial hazard. Concentration on the effort to secure higher wages undoubtedly has its origin not merely in dissatisfaction over the wage rate itself but also in a consciousness of the danger of work interruptions of every sort, which constitute interruptions in earning power. This fear of loss of stability in earning power is emphasized also in the establishment in many labor agreements of seniority rules, for the protection of workers longest in service. Other well recognized causes of disputes are such matters as the length of the working day or week and other factors generally described as "working conditions." These include shop conditions affecting comfort, safety and health.

But no concise categories can include all the causes of strikes. The British Ministry of Labour before the World War reported strikes for such reasons as the refusal of an employer to let miners attend the funeral of a fellow worker killed at work, the unwillingness of employees

to work with certain individuals involved in a family quarrel or with foreigners and a demand for the suspension of a policeman who had arrested a workman for using obscene language. Often the more significant causes of unrest do not appear among the listed causes of strikes in the official reports. A denial of what is believed to be "justice," extremely discourteous treatment by persons in authority or an invasion of "rights" may lead to strikes of unusual duration and bitterness. In the United States some of the most violent strikes have followed refusal by an employer to confer with a committee of workers, refusal to answer communications from employees or their representatives, discharge of members of workers' committees asking for an adjustment of grievances and discharge of persons joining unions.

An underlying cause of industrial conflict is the more or less active consciousness of lack of status on the part of wage earners generally. It is this lack of status which makes for economic insecurity and at the same time accentuates the sense of injustice arising out of objectionable conditions of any sort. The achievement of a condition of freedom, while securing to the worker individual rights of incalculable importance, failed to provide him with the right of access to the means of livelihood. The most important new individual weapon was the right to refuse to work under the terms offered. Among organized workers quitting was and is the common individual response to dissatisfaction with working conditions. But this "freedom to quit" is often entirely theoretical. It depends primarily upon the ability to obtain a new job. In periods of great unemployment or in sections which are devoted to one industry and in which the employers maintain a blacklist, the right to quit is frequently tantamount to the right to starve. Where a particular type of labor is employed by one firm only, quitting entails the loss of all the advantages of acquired skill and training.

The employer may deal with industrial unrest by ignoring its existence or repressing its manifestations by disciplinary methods, including dismissal and the use of the blacklist. This procedure, although not generally approved by progressively minded employers, may have the appearance of success when labor is plentiful or when artificial barriers to labor mobility exist, as in isolated centers or in one-industry towns. At almost the opposite extreme is the method of collective bargaining, having as its purpose

an adjustment which will be acceptable to both employer and employee.

Between these two methods is that of anticipating dissatisfaction by considering the needs of the workers and attempting in varying degrees to meet them. When offered as a form of philanthropy, as in certain types of industrial welfare work, or as a thinly veiled "sop to Cerberus," such methods sometimes create rather than allay dissatisfaction. Intelligently managed personnel departments, on the other hand, organized on a frankly business basis and devoid of pseudo-philanthropic motives may do much to lessen unrest and to create an atmosphere of understanding and good will.

Company unions (*q.v.*) are another method of dealing with unrest which is open to the employer. These unions generally operate in connection with plans providing for petitions and joint committees to hear complaints but are not so organized as to encourage more vigorous action.

Similar alternatives are open to the state. It may endeavor through protective and other legislation to eliminate abuses and thus to raise the level at which disputes arise. Having done this, it may interfere with the dispute itself by forbidding it, placing limitations upon the methods of conducting it or setting up agencies to promote a peaceable and practical settlement.

Definite limitations, either of custom or of legislation, upon the right to carry labor disputes to the point of striking occur most frequently in the case of public employees and employees of public utilities. Because of legal restrictions public employees resort to political influence or to petition for redress of grievances. Although workers in the civil service are organized in many fields in many countries, strikes of these employees are so rare as to be negligible. In the field of public utilities there are few strikes outside of transportation. This undoubtedly is due in part to the relatively small number of employees engaged at each plant unit, in part to the fact that much of the work is unskilled and substitutes could easily be found, and in part to public opinion, which would generally be hostile to any interruption of service and which if put to the test might favor restrictive legislation. The greater number of workers, many of whom are highly skilled, has led to the growth of trade unionism in the transportation service, and here action in labor disputes has been more aggressive.

The legal status of strikes and methods of dealing with them vary in the different countries. Machinery of some sort for dealing with industrial controversies has been set up in most of the states of the United States. The most common device is a state bureau of mediation and conciliation with no compulsory powers of any sort. In a few states the bureau or some similar agency has power to make an investigation of a dispute and compel witnesses to testify under oath. Only one state, Colorado, attempts to forbid the carrying on of a strike where neither violence nor other illegal methods are involved. In this state no strike or lockout may legally take place while the Industrial Commission is investigating the dispute. This law is an adaptation of a Canadian law applying to public utilities alone.

The United States Department of Labor maintains a conciliation service which attempts to mediate in industrial disputes. The federal law relating to disputes on interstate railroads provides for a board of mediation which may offer its services or suggest arbitration. If its offers are rejected and a strike seems imminent the board must notify the president, who may create an agency to investigate and report. If such an agency is created no strike may legally take place while it is carrying on its investigation or for thirty days after it has reported to the president.

In Great Britain and France as in the United States official machinery exists for the promotion of peaceful settlement of disputes. In Great Britain courts of inquiry may be set up with power to take testimony and make the findings public. In neither country is arbitration compulsory nor are there other legal barriers to peacefully conducted strikes. Germany resorts to compulsory arbitration under certain limited circumstances and it is the established practise in Australia and New Zealand. In Italy all strikes and lockouts are forbidden and in Soviet Russia, although strikes are theoretically legal under certain circumstances, the combined effect of restrictive legislation and the domination of the unions by members of the Communist party has made strikes practically non-existent.

It is during the preliminary stage of industrial disputes while negotiations are pending that governments or other third parties attempt to facilitate settlement by offering their services. Frequently a trade agreement calls for the establishment of an arbitration board whose findings

the groups have agreed in advance to accept. Occasionally two groups without previous arrangement agree to arbitration by the government or by some third party.

Once a dispute has reached the state of an actual strike or lockout, a definite break occurs in the continuity of employment and the two groups assume a somewhat different relation toward each other. The same agencies may still offer themselves or be made available for the settlement of the controversy after it has reached the strike or lockout stage, but the problem has become more difficult by virtue of this changed relation. A new technique—a war technique—is now called into play and the problem of the government becomes one of laying down certain rules, seeing that they are enforced, protecting third parties and attempting as soon as possible to secure a settlement.

JOHN A. FITCH.

See: STRIKES AND LOCKOUTS; BOYCOTT; SABOTAGE; BLACKLIST, LABOR; DETECTIVE AGENCIES, PRIVATE; LABOR INJUNCTION; LABOR LEGISLATION AND LAW; LABOR MOVEMENT; JOURNEMEN'S SOCIETIES; TRADE UNIONS; EMPLOYERS' ASSOCIATIONS; LABOR PARTIES; ARBITRATION, INDUSTRIAL; COURTS, INDUSTRIAL; LABOR-CAPITAL COOPERATION; INDUSTRIAL RELATIONS.

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*Fascism*, Columbia University, Studies in History, Economics and Public Law, no. 318 (New York 1930), especially ch. viii; Hoover, Calvin B., *Economic Life of Soviet Russia* (New York 1931) ch. x; International Labour Office, "The Trade Union Movement in Soviet Russia," *Studies and Reports*, ser. A, no. 26 (Geneva 1927), especially p. 167-81. See also bibliographies on Strikes and Lockouts; Arbitration, Industrial; Courts, Industrial; Personnel Administration.

LABOR EXCHANGE BANKS is a composite term which for the purposes of this discussion comprises labor exchanges in the older sense, exchange banks and similar experiments and plans. These nineteenth and twentieth century projects were designed to secure a fair compensation for the producer through a currency reform sometimes linked to a reorganization of the mechanism of commodity exchange. The common assumption basic to these plans is that they reject the system of metallic money and the credit structure built upon it as an institution which puts monopolistic power into the hands of the owner of liquid wealth and enables him to exploit the producer who must sell his labor incorporated in commodities. Unlike socialists, who decry the exploitation of the wage-worker by the private owner of the means of production, the advocates of these plans find the root of the evil in the sphere of circulation and credit; their enemy is not the industrialist but the merchant and the banker, and in this sense their outlook is that of the handicraftsman or small manufacturer rather than that of the wage-worker. But they go much further than those who proclaim the parasitism of the middleman; they condemn the existing currency system, which enables him to monopolize money and credit funds rather than the middleman's function as such. The earlier of these plans emphasized the distortion of the true value relationships between commodities caused by the fact that the possessor of money who tries to buy cheap and to sell dear intervenes between the producer and the consumer; they proposed accordingly a more or less direct exchange of commodities against one another with a currency issue designed merely to facilitate such exchange. The later schemes, on the other hand, attacked the charging of interest for loans as the most direct manifestation of exploitation by money and credit power; their primary aim therefore was to bring about such a reconstitution of the currency and credit mechanism as would deprive the moneyed man and the banker of their monopolistic status.

The most important of the early experiments was the National Equitable Labour Exchange established under Robert Owen's guidance in London in September, 1832. The principles underlying it have already been stated in a fairly developed form in Owen's *Report to the County of Lanark of a Plan for Relieving Public Distress* (Glasgow 1821), presented in 1820 when the acute post-war depression in England was being aggravated by measures taken to restore the gold standard. Owen argued that the prevailing poverty could not be due to lack of wealth because man's labor had long been sufficient to maintain him and recent inventions had multiplied its productivity manifold. The trouble was due to poor circulation of wealth caused by the use of an artificial standard of value—gold and silver—which "altered the *intrinsic* values of all things into *artificial* values" (p. 5). "The natural standard of value is in principle human labour, or the combined manual and mental powers of men called into action" (p. 6), for "that which can create new wealth is of course worth the wealth which it creates" (p. 19). One of the measures required to "let prosperity loose on the country" was an arrangement by which "the *natural* standard of value shall become the *practical* standard of value" (p. 20). This standard obtained under barter when commodities were exchanged against one another according to the amount of labor they contained. But "barter was succeeded by commerce the principle of which is to produce or procure every article at the *lowest*, and to obtain for it in exchange the *highest* amount of labour. To effect this an artificial standard of value was necessary" (p. 20). Like barter commerce was adapted to a certain stage of development—it promoted inventiveness but also encouraged selfishness and greed. With the increase in wealth resulting from inventions metals have become inadequate to represent all wealth; nor can paper money like the Bank of England note be acceptable, because it gives monopoly of the standard of value to a private trading company. Now "the strong hand of necessity" forces man toward a new system which combines the advantages of barter and commerce. Its establishment is conditioned upon ascertaining "the net value of the whole labour contained in any article of value, the material contained in or consumed by the manufacture of the article forming a part of the whole labour" (p. 20) and upon the issue of a paper representative of the value of labor in order to facilitate exchanges. Under this system



"human labour . . . would acquire its natural or intrinsic value, which would increase as science advanced. . . . The demand for human labour would be no longer subject to caprice, nor would the support of human life be made, as at present, a perpetually varying article of commerce, and the working classes made the slaves of an artificial system of wages more cruel in its effects than any slavery ever practised by society" (p. 7). Only under the new system would the producer be certain to receive "a fair and fixed proportion" of all the wealth he creates, to which he is justly entitled and which the best interests of every community require that he should have.

The principles propounded in the *Report* influenced producers' cooperative societies established in the 1820's, which early in their history decided upon the establishment of central exchanges or bazaars to facilitate intercooperative trade at cost prices. An exchange bazaar on "an equitable time valuation basis" was actually founded in April, 1832, by the British Association for Promoting Cooperative Knowledge (the central body of the cooperative movement at the time) before Owen decided to promulgate a full scheme for a labor exchange with draft labor notes and rules. According to this plan the exchange was to receive goods on deposit and to appraise them in terms of hours of labor. The appraisal was to be based largely upon the depositor's own statement, and the cost of raw material entering into the commodity was to be turned into labor time at the rate of sixpence for an hour of labor. A service charge was to be made of a halfpenny per shilling for members and double that for outsiders. The labor notes paid the depositor could then be used by him to purchase goods delivered by other depositors and similarly appraised. Thus, Owen concluded, if a sufficient number of people were to patronize the institution, producers could then exchange their goods without the use of money and the intervention of middlemen.

At the beginning the National Equitable Labour Exchange attracted the interest of the public and met with considerable success. In the first four months goods to the amount of 445,501 labor hours were deposited and goods amounting to 376,166 labor hours were exchanged. No less than 250 stores announced that they would accept the labor notes as the equivalent of cash. It was asserted that a great moral effect had been produced upon the non-laboring classes, who saw the basis of their existence endangered and resolved to seek productive

employment. In December, 1832, the exchange opened a branch in south London and in the following year one in Birmingham. A similar establishment in Liverpool soon followed.

The success of the exchange was, however, short lived. After a while the number of commodities deposited with it diminished and exchanges decreased even faster, the holders of its notes complaining that they could not find the goods which they needed. The exchange accepted goods regardless of the demand for them; its customers took advantage of this to unload goods otherwise unsalable, particularly commodities which required a great deal of labor and a comparatively small use of raw materials. Another fatal practise of the exchange was the setting of equal value upon different kinds of labor; some of the goods in its stocks were therefore priced very low and were eagerly taken by shopkeepers who came into possession of labor notes. The exchange was compelled after a time to make use of money. To relieve the stringent shortage of raw materials in its stocks it solicited subscriptions of money in order to purchase materials for distribution among suitable members; the goods produced according to this plan were to be sold partly for cash and partly for labor notes. A similar arrangement was made with bakeshops to make bread available to the customers of the exchange. These measures, which constituted a radical departure from the principles of the exchange, forecast its early end. The labor note lost 25 percent of its value in the open market and at the end of May, 1834, it was announced that the exchange was to be dissolved.

Owen's experiment was in a sense anticipated by an American, Josiah Warren, who was a member of the New Harmony community in 1825-26. Disappointed in collectivism Warren became an extreme individualist violently opposed to monopolies and to the state created to maintain and perpetuate them. He believed that under true competition price will be equal to cost, while in the present order the upper limit of price is value. Under the value principle prices are raised in consequence of increased want and are lowered with its decrease, and that man is regarded as the most successful who can create the most want in the community; this, according to Warren, is no better than "civilized cannibalism." Under the cost principle price fluctuations, business insecurity, maladaptation of supply to demand and every species of speculation will disappear. Moreover, since the cost

of a commodity is equal to the exertion entailed in its production, goods which do not involve exertion, such as natural resources, will be free. Similarly interest will virtually disappear, as "the equitable compensation for the loan of money is the cost of labor in lending it and receiving it back" (*Equitable Commerce*, 3rd ed. by S. P. Andrews, New York 1852, p. 46). Money shares all the disadvantages of the value system: it is not a proper medium of exchange because its relation to property is indefinite. "Money represents robbery, banking, gambling, swindling, counterfeiting, etc., as much as it represents property. . . . We want a circulating medium that is a definite representative of a definite quantity of property, and nothing but a representative. . . . A note given by each individual for his own labor, estimated by its cost, is perfectly legitimate and competent for all the purposes of a circulating medium. It is based upon the bone and muscle, the manual forces, the talents and resources, the property and property-producing powers of the *whole people*—the soundest of all foundations, and is a circulating medium of the only kind ever to have been issued" (p. 67-68).

Warren's practise was more moderate than his theory. In 1827 he opened in Cincinnati an "equity store" dealing in general merchandise. It sold goods at cost prices, but a charge (4 percent according to some sources and 5 percent according to others) was added to cover general expenses and the time of the storekeeper consumed in waiting upon the customer was paid by the latter in labor notes calling for an equal amount of his own labor; for this reason Warren's establishment became known as the "time store." In addition the store acquired goods for sale on a labor for labor basis, but the labor value of such goods was regulated by the expert opinion in the respective trade and only goods for which there was an assured demand were bought; a list of staple articles with labor values attaching to them was available for ready reference. Apparently not all kinds of labor were given equal value. Warren maintained that "we must discriminate between different kinds of labor, some being more disagreeable, more repugnant, requiring a more costly draft upon our ease or health than others. The idea of cost extends to and embraces this difference" (p. 42-43). For the sake of convenience some labor notes equated labor time to corn at the rate of thirty pounds of grain per hour of the farmer's labor.

The time store was in effect underselling other establishments in Cincinnati and was soon doing a thriving business despite its inconvenient location. But having proved to his satisfaction the workability of the cost principle Warren decided in 1829 to discontinue the store in order to be free for more radical and significant social experimentation. Many of the cooperative settlements which he later founded had equity stores attached to them, and from 1842 to 1844 a similar establishment operated under his guidance in New Harmony. In the meantime some followers of Warren organized in Philadelphia an association of small producers eager for independent marketing facilities; it opened in 1828 a "producers exchange of labour for labour store," which sold goods both for money and for labor, depending upon the manner of their purchase by the store. Two similar stores were established in Philadelphia shortly after the first was successfully launched; later the original labor exchange did business also on a commission basis. It is likewise on record that in 1847 an equity store was opened near Cincinnati by a follower of Warren.

The provision of marketing facilities for the handicraftsmen and small manufacturers who wished to remain independent of capitalist merchants was the need of the hour not only in the United States but also in France. Only thus can be explained the successful operation of a *banque d'échange* in Marseille from 1829 to 1845. Comparatively little is known of this institution established by the brothers Mazel, one of whom, Benjamin Mazel, is known to have been a lawyer influenced by Fourierist and Saint-Simonian ideas and professing a belief that *l'épargne tue, l'échange vivifie*. Although in his *Code social* (Marseille 1843) Mazel proposed that metallic currency be replaced by labor money based on a definite valuation of work performed by each of the seven different classes into which all the producers were to be divided, the bank did not provide for valuation on a labor basis but accepted the prevailing market price as the standard. It allowed its members to deliver goods of their own production, paying for them in exchange notes stated in francs; the notes were redeemable in goods which could be selected and priced in members' shops. A service charge of 8 percent enabled the bank to maintain the necessary quarters and to pay a 5 percent return on the invested capital. Its initial success is illustrated by the fact that about 50,000 laboring families were enlisted

as members and that the turnover for the first six months amounted to 2,400,000 francs. Several million exchange operations in many cities of France, Belgium and Switzerland were effected under the guidance of the bank before it collapsed. The reason for its failure is significant—disputes broke out among members as to the valuation put upon their products and a minority refused to honor the bank's notes. Mazel went to law to force compliance with the agreement. It was decided that a notary public in Lyons should be appointed to appraise the goods of recalcitrant members; he was authorized to compel delivery of goods against the bank's notes and to collect the additional costs which such a procedure involved. Mazel hoped for better luck with the more enlightened artisans of Paris, but the "société générale d'échange" which he planned to establish there in 1848 did not materialize.

The scarcity of money and the lack of equilibrium between production and consumption were the considerations which according to his own admission impelled Bonnard to establish an exchange bank in Marseille in 1849. Bonnard's institution attempted to bring about direct exchanges. Its exchange notes unlike those of Mazel did not represent a general claim against the labor of its members; they merely entitled their holder to certain quantities of specific commodities at a definite valuation. The bank functioned therefore as a clearing house for goods on a commission basis with the administration operating as an expert appraiser. Its success, depending essentially upon the skill with which the appraising was done, was very marked in the early years of its existence. In the first year, for example, it transacted business amounting to 434,624 francs on a capital of 7825 francs and in the following two years it increased both its capital and its business. Another banking practise introduced by Bonnard's institution was the granting of credit in its own exchange notes for the purchase of raw materials, obligating the debtor to surrender the finished product to the bank at a definite valuation. The bank was thus able to finance production from the initial to the last stage in striking contrast to the practise prevalent at the time—the financing by the wholesale distributor from the stage of the finished product downward; it was this aspect of Bonnard's operations which attracted favorable attention of respectable economic opinion, such as represented by Courcelle-Seneuil. In 1853, when Bonnard

reorganized an ordinary exchange bank in Paris into a *crédit central*, he introduced a similar practise there; the turnover of this institution in 1854-55 was reported to be about 45,000,000 francs. The principle was soon adopted by some German credit institutions notably in Magdeburg and Berlin in 1856. In the last years of its existence the management of the Marseille bank apparently neglected the rules of ordinary business prudence; the bank collapsed in 1858 after incurring a loss of 308,000 francs. A fairly large number of banks similar to those of Mazel or Bonnard were established in various cities of France but so far as is known they did not last long.

Although they were never carried out Proudhon's plans for an exchange bank are of greater interest than those of his French contemporaries: they formed an integral part of his general scheme of social reconstruction and had numerous advocates both in his own day and in later periods. Maintaining that the principal cause of poverty and distress is not the anarchy of production but the lack of centralized organization in the field of circulation Proudhon regarded money and interest as the two chief evils which distort true labor values and bring about crises. Both of these could be abolished by a system of mutual credit which would place the exchange of goods and banking on an entirely new basis. The first scheme which he proposed, that of a bank of exchange, was intended to transform the bill of exchange into an instrument of general circulation. The Bank of France, which was to become the only credit institution in the country, was to issue irredeemable *bons d'échange*, the sole circulating medium in France, to be delivered against discounted commercial paper and in the form of loans based on merchandise collateral. Centralization of banking and abolition of redeemability in specie would adjust circulation to the needs of production and dispense with the privilege of moneyed wealth; interest as such would be eliminated and banking charges reduced to the cost of conducting banking operations. Proudhon's second scheme called for the establishment of a people's bank, a voluntary cooperative institution which would grant free credit on a mutual basis and facilitate exchanges through the issue of *bons de circulation* to be delivered to members against goods deposited for sale with the bank. In the valuation of such goods profits were to be renounced and the depositions of members as to cost checked by the bank's appraisers. The

people's bank was established in 1849; 36,000 francs of capital in five-franc shares had been subscribed and a considerable membership both of individuals and of associations enlisted, but the bank had not yet begun operations when Proudhon's imprisonment on a political charge for a term of three years sounded the death knell of the institution.

Proudhon's idea of mutual and gratuitous credit, which he expounded on a number of occasions independently of his concrete proposals, took vigorous hold upon the imagination of his contemporaries. It was reflected, for instance, in Émile de Girardin's scheme of a *banque rationnelle* to guarantee private credit. This service was to be rendered at a much smaller cost to those who agreed to accept the bank's notes in lieu of legal tender, with the obvious intention of setting up a mutual credit scheme alongside the ordinary credit mechanism. The idea of mutual credit proper was popularized in the United States by William B. Greene, a Unitarian preacher of Massachusetts, who published in 1849 a series of articles (reprinted as *Mutual Banking*, West Brookfield, Mass. 1850, and several times thereafter) which attempted to show how the system could be adapted to American conditions. About the same time Charles A. Dana manifested his enthusiasm for the people's bank in a series of articles written for the New York *Tribune* and reprinted during the 1896 presidential campaign by Benjamin R. Tucker (*Proudhon and His "Bank of the People,"* New York 1896), who for many years had advocated mutual banking in the columns of *Liberty* (17 vols., 1881-1908). Mutualism has its exponents to this day both in the United States and elsewhere.

Like Proudhon, Edward Kellogg, a New York merchant who lost his fortune in the panic of 1837, believed that the root of social evil lies in the charging of interest above the actual cost of lending. He looked upon money as a creature of the law and identified the value of money as a medium of exchange with its value as a means of accumulation, i.e. the interest rate. Believing that high interest allows a few large capitalists not only to despoil the producer of his fair share of the product but also to exploit the small capitalist he regarded the prevalence of high interest rates as evidence of capitalistic control of the government. The "true monetary system" which he proposed (*Labor and Other Capital*, New York 1849) would reduce interest to its proper level and provide for a volume of money corre-

sponding to people's needs. Instead of mutual banking he advocated the establishment of a government loan office with branches throughout the country to issue money as loans against mortgages on land; the interest charged, about 1.1 percent, would correspond to the cost of operation and regulate charges in private credit transactions. The quantity of new currency in circulation was to be made flexible by the issue of government bonds yielding about 1 percent which would be interchangeable with the currency. Kellogg hoped that the new system would practically abolish interest, prevent unequal accumulation, dispense with non-productive capital—capital dissociated from the productive effort of its owner—and establish a standard of distribution which would almost conform to the natural rights of man. After his death Kellogg's critique of the existing order and his reform proposal became the economic gospel of the Greenback movement, at least in its early stage when it demanded cheap credit rather than cheap money.

Proudhon's ideas of centralization of exchange and abolition of money influenced Wilhelm Weitling, who in 1851 was the leader of German labor groups in New York City. Weitling advocated the establishment of an exchange which should issue labor money against the deposit of useful articles or the performance of useful work, this money to constitute the sole circulating medium. The labor valuation of the goods was to be determined by a commission collaborating with the associations of producers in each trade, which were to fix wages and guarantee quality. Weitling expected that his plan would not only dispense with middlemen and reduce the cost of exchanging goods but would also stabilize production and abolish unemployment.

The difficulty which none of the early advocates of labor money really attempted to meet was the establishment of value relationships between different kinds of labor. It was faced directly by Karl Rodbertus (in "Der Normal-Arbeitstag" published in 1871, reprinted in his *Schriften*, ed. by Moritz Wirth, 4 vols., Berlin 1899, vol. iv, p. 337-59), who regarded the preservation for the workmen of the benefits resulting from the increasing productivity of labor as a means of stabilizing the social order. He proposed to arrive at a standard unit of labor by establishing for each industry a normal working day, the length of which was to depend upon the physical and nervous exertion required for the particular type of work. The output

of a workman of average skill and application during a normal working day in every industry was to be considered of equal value and to serve as the standard unit of new labor money to be issued by the state and advanced to the employers. In order to secure the general circulation of labor money, which was not intended entirely to displace metallic currency, the output of industry operating under this arrangement was to be assembled in government warehouses for sale against the new money. The advantages of this scheme were the definite determination of wages, regulated by the ratio of actual performance to the standard daily output, and the easy valuation of all commodities. While labor was admittedly the sole producer of wealth it was to get only three tenths of its product; equal shares were to be left for the owners of capital and land, while the remaining one tenth was to be appropriated by the state to cover government expenses. While the standard daily output, functioning as the value unit, was to be revised from time to time in order to take account of the increasing productivity of labor caused by new inventions, labor's share was to remain constant; wages were thus to be protected from the influences forcing them down to the subsistence level.

Attacks upon the iniquities of the monetary and banking system and advocacy of labor money or gratuitous credit were submerged after the triumph of industrial capitalism in the second half of the nineteenth century by the rise of socialism, which became the most important ideology of the oppressed classes. Socialism, which looked upon the struggle between the industrial proletariat and the employers as the major social conflict, had as its goal the revolutionary appropriation to society of the means of production as the only feasible comprehensive solution of the social problem. In its nineteenth century variants it paid little attention to currency and banking as such, tending to view them merely as one of the instrumentalities of the existing order which was as essential to the maintenance of the power of the ruling class as to the normal functioning of the capitalist economy. During the years 1870 to 1914 fierce criticism of the established credit and marketing mechanisms was voiced by small agricultural producers and the surviving handicraft groups, both of which were hampered by lack of capital and by the predatory features of the marketing organization. Their resentment, however, was canalized into bimetalist propaganda, the ad-

vocacy of agrarian protectionism and the fostering, often with government aid, of a great variety of cooperative institutions. Occasionally demands were made for the issue of unlimited quantities of paper money against agricultural or other commodities in storage, but these merely reflected the momentarily depressed condition of some basic industry and were not taken seriously. More socially significant and intellectually substantial plans for currency reform as a means of social reconstruction matured only after the World War, when confidence in orthodox socialism waned and the pre-war mechanism of money and credit showed signs of collapse.

Perhaps the most interesting of these proposals is that advanced by Major C. H. Douglas, a Scottish engineer. Douglas contends that at present the economic organism is dominated by bankers, who have succeeded in usurping the privilege of creating purchasing power and therefore of making prices. According to Douglas every new productive process means the creation by the banks of more purchasing power, which after a time they must somehow retrieve and cancel. This can be done only if the prices of finished goods are raised high enough to absorb, when sold to ultimate consumers, the entire amount of purchasing power created by the banks, even though a part of it has been used to finance the manufacture of intermediate goods, not transferred to consumers. For this reason manufacturers are driven to raise prices by every means possible—by reducing production of consumers' goods at the expense of producers' goods, by expanding exports and by forming monopolistic combinations. This system of financial accounting, which is out of accord with the real situation, can be dispensed with only if prices are regulated so as to allow for the retention in the hands of the community of an amount of purchasing power corresponding to the increase in real capital. Prices must be set at a fraction of costs as calculated by the manufacturer, a fraction corresponding to the ratio of the cost value of total consumption (including capital depreciation and exports) to the money value of total production (including capital appreciation and imports). To reimburse the manufacturer, who will thus have to sell below cost, a national authority must create a sufficient amount of new purchasing power to balance the accretions to real capital. The essential condition for the execution of this reform is the restoration to the community of the banking function; that is, the ability to create financial evidences of

purchasing power. In each industry a bank owned by organized labor should be established through which the employers will disburse wages, salaries and dividends and the government credit the manufacturers with the difference between cost and prices. Once this is accomplished, the artificial limitation of production of consumers' goods will be relaxed, industrial efficiency will approach in practise its theoretical limits and production in general will be oriented in the interests of the consumer. The Douglas scheme of social credit, which is supported in England by the London weekly *New Age*, has attracted attention in recent years also in the United States but is practically unknown on the continent.

The foremost currency panacea on the continent is that proposed by Silvio Gesell, who advocates "shrinking" or free money. Gesell explains the exploitation of producers and the periodic breakdown of the distribution machinery by the inequality of the terms on which the owners of goods and the owners of money meet in the market: while most goods are apt to depreciate if they remain unused, money is an imperishable value. To restore the balance a new currency must be introduced which will impel its holder to exchange it for goods as soon as possible. Gesell maintains that the purpose would be answered by paper money which would depreciate every week by 0.1 percent. It would accelerate exchanges and reduce their cost as well as eliminate interest. Of necessity a managed currency, its issue could be administered in such a way as to keep the price level stable. Gesell's unhoardable currency was actually tested in 1931 in Schwanenkirchen, a German industrial community; the experiment, conducted on a small scale, proved successful.

The German National-Socialist (Nazi) Labor party has its own scheme of economic reconstruction, the central feature of which is the abolition of "interest serfdom" by means of a currency reform. According to its economist Gottfried Feder the party is opposed not to capitalism but to its distortion, "mammonism," characterized by the hegemony of loan capital, which thrives by imposing upon the productive classes the burden of interest charges. There is no reason why the ownership of money pure and simple should yield a continuous income nor is there any ethical justification for it. The community is the source of all money and credit, and it is particularly irrational for the state to follow the methods of ordinary business and

borrow money at interest from private creditors. In connection with a housing scheme Feder advocates the establishment of banks which shall issue notes or book credits lent free of interest to the owners of the land for use in building construction. The banks are to be repaid within fifty years, during which period the currency thus injected into circulation will be gradually withdrawn.

It is too easy to condemn the post-war proposals or the earlier plans in the light of orthodox economic analysis; the obvious confusions involved are those of the labor cost of production with value which is vitally affected by demand factors and of money with capital or of short term credit to finance self-liquidating transactions with long term credit supposed to come from savings. Such criticism is relevant, however, only in so far as the assumptions underlying orthodox analysis are in perfect correspondence with economic reality, and it is futile because the denial of the validity of these assumptions is basic to the reasoning underlying the proposals. Much more relevant is the consideration that the plans do not go far enough. Most of them aim at a radical reconstitution of the circulating mechanism without infringing upon the individualistic and decentralized set up in the sphere of production; therein lies the principal logical fallacy and the most unyielding obstacle to their practical execution. The centralized regulation of the exchange of goods, such as is implied in authoritarian valuation, must involve regimentation of both consumption and production, while the abolition of interest, however accomplished, signifies the expropriation of the capitalist and a most radical revision of the relations between the various factors of production. In the present stage of capitalism the reform of currency and banking must form an essential part of any program of revolutionary reorganization, but it would be only a part integrally related to changes in the other components of the existing order.

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See: ANARCHISM; UTOPIAS; COMMUNISTIC SETTLEMENTS; PRODUCERS' COOPERATION; SOCIALISM; MIDDLEMAN; RENTIER; MONEY; MARKET; INTEREST.

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LABOR EXCHANGES. *See* EMPLOYMENT EXCHANGES.

LABOR, GOVERNMENT SERVICES FOR. Government services for labor comprise legislative provisions and administrative activities designed to regulate and improve the conditions of labor. These services are essentially a product of the modern industrial system. The rudimentary labor legislation which existed among most of the peoples of antiquity is not comparable to the elaborate government services for labor which have developed and are growing more comprehensive and complex in modern industrial countries. The services vary in character and scope from country to country, but in general they are most highly developed in the more industrialized countries, where wealth is greatest and labor has achieved significant status.

With few exceptions the welfare of labor did not receive much consideration before the nineteenth century. Most labor, except that of killing enemies, was held in contempt and was performed by slaves or serfs who had the status of cattle and enjoyed little or no governmental protection against their owners or masters. A few of the peoples of antiquity, however, developed laws and customs regulating working conditions. The laws of Hammurabi fixed the wages of laborers and limited the freedom of both workers and masters. The labor regulations embodied in the Mosaic law reproduce the more ancient laws and customs evolved by the Semitic peoples of Babylon and other eastern countries. Some principles in the codes of these ancient oligarchic and despotic states reappear in modernized form in the democratic states of today; thus the Sabbath, prescribed on theological grounds in the Mosaic code, is now considered not as a pious acceptance of the precedent established by a work weary Jehovah but as a necessity for health, efficiency, sound morals and good citizenship. When agriculture became unprofitable in Roman Italy the government passed laws improving the status of the slave tillers of the soil and facilitated transition to a sort of serfdom. Although in mediæval Europe the church considered charity a duty, it can scarcely be said that there were any government services for labor in the modern sense. Mercantilism projected a series of government services for industry and commerce but practically none for labor. It can be broadly stated that until the beginning of the nineteenth century government regulation of labor conditions was designed to keep laborers in their place, to compel them to work for such wages and hours and under such conditions as their masters chose to offer. The Statutes of Labourers in fourteenth century England tried to keep down wages and prevent combinations of workers. Somewhat similar laws to offset demands for "excessive pay" were adopted in the North American colonies. Suppression not protection of the rights and welfare of workers was the predominating motive of the ruling classes; it still is to a large extent, but the motive of suppression is limited and modified by the increasing economic and political power of labor.

Government services for labor in their modern purposes and complexity are a direct result of forces set in motion and changes produced by the industrial revolution. No systematic or continuous development of labor legislation was

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possible until modern industry had so altered social organization as to make possible the assertion of labor's needs and rights and their recognition as an aspect of the general social welfare. The first impetus to the development of government services for labor came from recognition of the abuses and degenerating influences of the early factory system, particularly the danger to the community incident in the exploitation of women and children and in certain occupational diseases. Humanitarians and social reformers insisted on the necessity of enforcing minimum standards for the good of the enlightened community, and others argued that the "future of the race" (often interpreted as its ability to provide efficient soldiers) was threatened by unrestrained industrialism. The steady increase in the number of industrial wage-workers and their organization into unions and labor parties have in some cases enormously strengthened the pressure for legislation and other government services for labor. Thus the elaborate labor legislation of Bismarckian Germany had as one of its main purposes the prevention of the spread of socialism, and this was equally true of the rudimentary labor legislation which arose in Russia prior to the World War. Another contributing factor was the idea that better working conditions meant higher productivity of labor; in fact labor standards were sometimes raised in order to assure the victory of the employer with a modern production technique over his backward competitors.

Modern humanitarian labor legislation in contrast to former merely repressive laws began in England with the Health and Morals of Apprentices Act of 1802, an act to regulate the conditions of child labor. The act itself produced little change in factory conditions because no adequate administrative machinery was provided, enforcement being placed, as in the case of the Elizabethan poor laws, in the hands of justices of the peace, who generally ignored the law. It took more than twenty years of agitation to prohibit children under nine from working in cotton factories and to limit the work of children between nine and sixteen to twelve hours per day and sixty-nine hours per week, exclusive of meal times. Reports of investigating commissions indicate that outside the regulated cotton factories physical weakness and exhaustion set the only limits upon the age and hours of employment recognized by many employers. Early legislation and its enforcement met with determined opposition from employers and their

sympathizers; John Bright, for example, threatened to close his works if the state interfered between him and his workers. But the principle of state interference in industry for the protection of workers as an important measure of social welfare was firmly established by the early factory acts. From these small beginnings have grown the general recognition of the necessity of public regulation of private employment, the extensive systems of laws, court decisions, administrative regulations and enforcement agencies for the regulation of employment relations, and other government labor services developed in Great Britain and the British Empire.

Outside the British Empire the development of government labor services has been very uneven. In general they have expanded with the development of industry, the labor movement and democracy. Economically backward countries, where the rising factory system usually duplicates many of the worst features of the earlier industrialism in England, offer few services to labor. Even the United States, highly industrialized and democratic, has lagged behind England and Germany in government services for labor, although government services for industry and commerce have developed on a large scale. This lag can be explained only in part by the existence of vast undeveloped resources, the great opportunities offered ambitious individuals to rise out of the working class and the consequent fluidity of classes, for these conditions existed also in New Zealand and Australia, where government services for labor far surpass those of other countries. Other causes are comparatively high wages, the strength of American capitalism and its resistance to social legislation, the peculiar heritage of an extreme individualism, relative lack of interest in social legislation on the part of the labor movement and the development of "welfare capitalism" in large scale industrial enterprises.

The order of evolution of the various government labor services in different countries has also varied considerably. The typical chronological sequence has been as follows: prohibition of child labor in certain employments and regulation of hours of labor for both children and women; establishment of sanitary and safety standards; creation of factory inspection and special commissions to investigate conditions of labor; provision for conciliation and arbitration of industrial disputes; provision of compensation for disabilities due to work accidents and sickness; machinery for fixing minimum



wage rates; establishment of state health (sickness) insurance and old age pensions; provision for compulsory unemployment insurance; governmental endeavors to promote better employer-worker relations by setting up machinery for the participation of workers in the management of industry. In some countries these services appear in isolated, often unrelated forms; in others they consist of comprehensive, unified systems of social legislation and the necessary administrative machinery.

In the development of government labor services laws regulating the work of women and children were followed shortly by legislation establishing standards of shop sanitation, ventilation, lighting and protection against dangerous machines and work places. The difficulty of setting up safety standards by legislative enactment has led most governments to the expedient of authorizing administrative agencies to work out safety codes to deal with particular hazards in each industry. In the United States greater emphasis has been given to the development of safety codes than in other countries because the industrial accident rates have been so alarmingly high. The National Safety Council, an employers' organization, has cooperated with state labor officials in perfecting safety codes for nearly all industrial undertakings.

The passage of labor legislation led to the organization of administrative agencies designed to execute the will of the legislatures as interpreted by courts or administrative officials. The Factory Act of 1833 in England created a system of factory inspection to enforce the factory laws, which had theretofore remained in many instances merely dead letters. Since then practically every country having any considerable industrial development and labor legislation has provided some administrative agencies, but their adequacy differs widely from country to country. The best inspection systems and the best trained inspectors are to be found in the industrial nations of Europe; English factory inspectors and investigating commissions in particular have earned an enviable reputation for efficiency and devotion to duty. Many economically backward and some highly advanced countries which can boast of comprehensive and progressive protective labor laws have failed to provide adequate and efficient means of enforcement. China, for example, has passed legislation embodying the provisions of the draft conventions adopted by the International Labor Conference respecting limitation of

hours of work, vacation with pay for women at childbirth, prohibition of the labor of children below the minimum age, prohibition of night work of young persons and the prohibition of the use of white phosphorus in match manufacturing. No enforcement machinery exists, however, and the laws are scarcely more than moral yearnings inscribed on the statute books. It is asserted that this failure is due to the constant and continuing turmoil which has prevented the establishment of any effective national government since the establishment of the republic. Mexico also has an extremely progressive system of social legislation which is not rigorously enforced, although in comparison with prerevolutionary days labor services there are considerable. In most of the other Latin American countries labor services have grown markedly since the World War under the influence of increasing industrialization, of a growing labor movement and, to a certain extent, of the International Labor Organization, all of which are encouraging new ideas of state regulation of labor conditions. Nevertheless, labor legislation is still meager and rarely enforced. Among the most advanced industrial countries the United States offers many conspicuous examples of government labor agencies which lag far behind the enactment of labor laws. A great variety of labor laws or a total lack of them and every degree of adequacy or inadequacy in enforcement may be found in the forty-eight states of the union.

The development of government labor services with their emphasis on social and class cooperation led naturally to state action for the prevention or settlement of industrial disputes, which increased in intensity and magnitude with the growth of industrialism. Spectacular outbreaks of "peaceful" industrial war because of their dramatic features attract much more public notice than unemployment, sickness and accidents. Pressure for state interference in industrial disputes came from both capital and labor, although not always simultaneously and with the same purposes in view. Most western countries now have agencies to aid employers and employees to adjust their differences without resort to strikes or lockouts and to resume employment relations in cases of open rupture.

Great Britain has evolved through long experience a comprehensive system of non-compulsory conciliation and arbitration. Only briefly during the World War did the United Kingdom depart from its traditional policy of free agree-

ments and resort to compulsory arbitration, but the failure of compulsion to compel caused it to be dropped as soon as the war emergency ended. No large claims, however, can be made for the success of the non-compulsory British system. Many governments have enacted drastic laws forbidding strikes and lockouts entirely or until after public investigation and report. New Zealand was the first country to try to bring agreement by compulsion; in 1894 it enacted a compulsory conciliation and arbitration law applying to public utilities and certain essential industries, under which the rates fixed by the arbitration tribunal were binding upon both employer and employee. The fundamental principles of the New Zealand law were adopted by the Australian states (except Victoria and Tasmania) and the Commonwealth of Australia. For twelve years subsequent to the enactment of compulsory arbitration New Zealand was known as "the land without strikes," but since 1906 strikes have been about as frequent as in other countries with similar industrial conditions. Canada has tried to prevent strikes with the Industrial Disputes Investigation Act of 1907, which has since been amended; the act provides that no strikes or lockouts are allowed before the board of inquiry set up by the Department of Labor has investigated the causes of the dispute and made a report thereon. Neither party is obliged to accept the decision of the public investigators, and in fact even outlawed strikes have been merely reduced in number rather than completely eliminated.

Germany has built up what is perhaps the most elaborate and comprehensive system for conciliation and adjudication of labor disputes. The Industrial Courts Act of 1890 created permanent courts for deciding labor disputes, in which employers and workers are equally represented. Since the World War the authority of these courts and their conciliation machinery has been greatly extended by making them responsible for the interpretation and enforcement of collective agreements. Germany's conciliation system has developed into a compulsory arbitration system with compulsory enforcement of awards. In 1926 the Reichstag created a unique system of labor courts for adjudicating labor disputes; with much broader powers than the courts created in 1890 these courts have exclusive jurisdiction in all labor cases and are entirely independent of the ordinary courts. The labor court system comprises local labor courts, district labor courts and a federal labor court,

as the court of last resort; courts in a particular state are under that state's jurisdiction.

In the United States attempts to prevent strikes were made by Colorado with a State Industrial Commission based on the Canadian legislation and by Kansas with a Court of Industrial Relations, which were to investigate and act on labor disputes. Both measures met with the hostility of capital and organized labor (especially the latter) and failed to prevent strikes. Many states have some sort of governmental machinery for conciliation and arbitration. The federal government has had an industrial conciliation service, started in 1888 but not given any real functions until 1913, the main function of which is investigation; it has a small personnel and is not equipped either legislatively or administratively to accomplish any very important work. Another federal conciliation service is the Board of Mediation, which functions exclusively among the railroads and is supplemented by the authority of the Interstate Commerce Commission to regulate conditions of work and safety.

The conciliation machinery set up by governments has helped to adjust labor disputes as well as to prevent their occurrence in many cases. Compulsory laws seem to have accomplished little, however, except to send some workers to jail and to increase rancor and opposition to governmental interference. Government interference in labor disputes usually redounds to the benefit of the employers, since governments are mainly interested in preserving the status quo, which labor strives to upset more frequently than capital, and act in the name of "the public," which desires industrial peace—at practically any price. Government interference in labor disputes appears in its most drastic form in Fascist Italy and Communist Russia, where strikes are unconditionally forbidden. Both have severely regulated employment and have practically destroyed independent action by laborers who singly or collectively might seek to achieve advantages at the expense of other groups.

An outgrowth of the government service involved in labor conciliation, mediation and arbitration is the movement for state action to promote the "participation of labor in management." The movement originated in the United Kingdom during the World War, when radical shop stewards in some plants repudiated collective agreements made for the whole nation, even though the officers of their own trade unions had negotiated them. To counteract this rebellion

and to promote organization in unorganized industries the Whitley councils consisting of representatives of employers and workers were set up by legislation. There are a national joint council for each industry, district joint councils and a local works committee in each plant. Their purpose is to give workers frequent opportunities to air their grievances and to discuss any matters of shop management with managers and employers. It is claimed that the councils have brought about a better understanding between employers and workers and a higher morale in industry, but proof is lacking or uncertain. Few Whitley councils would have been formed without the strenuous efforts of the government and still fewer would have survived. The same meager success met the somewhat similar works councils in Germany, an extremely elaborate system set up by the government to give labor a "share" in management. These attempts are not strictly governmental labor services but they are animated by the same general motive—better understanding, cooperation and peace between labor and capital.

Among the more important government labor services are benefits for or insurance against sickness. The fact that more physical suffering and economic distress are caused by illness than by accident disabilities was recognized in some districts and industries in Germany and Austria, where sick benefits were established with government sanction even before accident benefits were first inaugurated. The detrimental effects of sickness, accidents, invalidity and old age upon workers impelled Germany to adopt in 1883 the famous Social Insurance Act, which obliged employers in most industries to organize mutual associations to insure workers against disabilities from these causes. The money benefits provided were small, but the act clearly recognized the principle of public responsibility to workers incapacitated for work by any cause. Austria passed similar legislation in 1888 and other European countries soon followed—Hungary in 1891, Norway in 1909 and England in 1911. Today the principle of compulsory general health (sickness) insurance is recognized in all advanced European countries, but in only two countries outside of Europe—Chile and Japan. There is no insurance against illness in the United States or Canada, although European experience has amply demonstrated that illness is an insurable hazard and that the administration of health insurance is little if any more difficult than that for accident compensation.

Not until 1897 did the United Kingdom adopt a compensation law, thus discarding the three atrocious common law doctrines of fellow servant, contributory negligence and assumption of risk, which made it practically impossible for a worker to collect damages from his employer for work injuries. Most advanced industrial countries now have legislation providing for work accident compensation, although the laws differ widely in content. In the United States, for example, all but four of the forty-eight states have some kind of workmen's compensation law, but no two laws agree completely on any one point. In some instances identical language in the laws of two or more states has been so interpreted by the state courts as to make the identical provisions quite dissimilar in effect. The workers in only five states and in the federal service receive compensation for industrial diseases; four other states grant compensation for certain listed diseases only. The United States and Canada, although they lag in other government labor services, have the most advanced types of law and administration in workmen's accident compensation.

That labor legislation originates in attempts to protect the most helpless and exploited groups of workers is evidenced again in the development of legislation for setting minimum wages. Minimum wage legislation was first enacted in Victoria, Australia, in 1896 to protect workers in "sweated trades." The principle, which applied from the beginning to male as well as female workers, has been accepted in all the Australian states and in New Zealand. The setting of wage rates, even minimum rates for women and children, was long fought by workers and employers alike as an undesirable or unwarranted interference with employment. It is still opposed by most American trade unionists on the ground that a minimum wage is set at the minimum of subsistence level and that the minimum so fixed becomes the maximum. The United Kingdom adopted the principle in 1909 as applying to women workers in certain "sweated" trades where wages were exceptionally low but has since extended it to cover men and women in practically all unorganized or weakly organized trades. The Trade Board acts provide for the fixing of minimum wages by representatives of employers and employees. These acts effectively repeal the ancient English common law principle known as freedom of contract, which safeguarded the "right" of an employee to contract "freely" with his employer for such wages as the employer

was able to impose. The minimum wage is obligatory; an employer accused of paying less than the minimum wage fixed by a board may be sued by his employees or by the officials of the Ministry of Labour and if found guilty is subject to fine as well as to the payment of all withheld wages to his employees. The principle of minimum wage rates is well established and is accepted in practically all European countries; in the United States its application has been brief and unimportant. In practise the rates fixed are usually below the level of "health and decency," but they recognize the standards of existence which obtain in the given trade. The International Labor Office has given much consideration to the minimum wage problem and has recommended that a minimum wage draft convention be adopted by the Labor Conference.

Unemployment insurance appears to be an inevitable corollary and a logical culmination of government labor services. Unemployment relief funds were first established by trade unions. Today unemployment prevention and relief are recognized in Europe as the most important services the government owes to workers. Seventeen European countries and Queensland, Australia, have adopted unemployment insurance systems. If the Wisconsin system of unemployment reserves be included, eighteen jurisdictions throughout the world have provided unemployment insurance, representing nine compulsory and nine voluntary systems. The United Kingdom established in 1911 the first nation wide system of unemployment insurance, based on an efficient network of employment exchanges for the entire country organized under the Labour Exchange Act of 1909. In 1920 unemployment insurance was extended to all workers except those engaged in agriculture, domestic service and casual labor. An important incidental service provided by this act is a practically complete registration of all unemployed persons. Since the war unemployment benefits have been extended to meet the unemployment and poverty caused by economic depression.

Among the important and best developed activities of government labor bureaus is the compilation of statistics and the preparation of reports dealing with conditions relating to labor. This service, performed for the benefit of employers and employees alike, dates from about the middle of the nineteenth century; now all but the most backward countries publish more or less satisfactory labor statistics. The information includes statistics of wage rates, earn-

ings, hours of work, cost of living, employment and unemployment, strikes and lockouts, industrial accidents, workmen's compensation and other subjects connected with employment. The publications of the United States Bureau of Labor Statistics and of some of the state bureaus are among the most complete except for the lack of unemployment statistics; Canada, the United Kingdom, Germany, Australia and New Zealand compile very full and useful information. In addition to regular statistical reports the information includes special investigations and reports on various aspects of labor in industry. This service would be much more useful were statistical aims and methods standardized internationally. It is impossible to make accurate comparisons of such a relatively simple matter as the rate of fatal accidents in mines and factories in different countries, while in the field of earnings and cost of living only rough guesses as to relative levels and rates of change are possible. The International Labor Office is trying to bring about some degree of standardization, but it will be many years before the fixed traditions and practises in the various statistical offices can be modified so as to yield comparable labor statistics.

Along with variations in the scope and complexity of government labor services in the different countries there are great differences in the administrative organization of the services. The range is from wholly inadequate administrative machinery in such countries as China to the elaborate and efficient ministries of labor and other agencies in the United Kingdom, Germany, Belgium, France and other advanced industrial countries.

The United Kingdom, which in 1931-32 appropriated £119,000,000 on its labor and social services out of the central government's total appropriations of £865,000,000, has a well organized Ministry of Labour. This ministry, created in 1917, has three departments particularly concerned with labor services: the industrial relations department; the general department, comprising the trade boards division, the statistics division and the International Labor Office division; and the employment and insurance department. The industrial relations department administers the Conciliation Act of 1896 and the Industrial Courts Act of 1916, which provide for the prevention and the settlement of trade disputes of all kinds. The Whitley councils are organized under this department. In the general department the trade boards division administers the Trade Board acts, which

provide for the establishment and enforcement of minimum wage rates in unorganized trades; the statistics division gathers and compiles excellent reports on employment, wages, hours and conditions of labor, cost of living, strikes and lockouts, trade unions, employers' associations and other important subjects relating to workers; the International Labor Office division serves as the liaison office between the British government and the International Labor Office and has representatives from the Home Office, the Board of Trade, the Treasury, the Foreign Office, the Colonial Office and the Ministry of Agriculture. The employment and insurance department administers the Employment Exchanges and the Unemployment Insurance acts. The ministry has approximately 1160 local offices grouped in seven major divisions. In addition to the Ministry of Labour various other ministries and departments are entrusted with the administration of various labor laws. Factory inspection is carried on by the Home Office; the Health Insurance Act is administered by the Ministry of Health; the Ministry of Transport looks after the hours and conditions of work of railway employees; the mines department in the Board of Trade looks after the health, safety, wages, hours and conditions of workers in mines; while other ministries perform services to labor in particular industries.

In spite of the disorganization and poverty caused by the World War Germany has clung to her historic policy of protective labor legislation, and the German Ministry of Labor created in 1918 is perhaps the most comprehensively organized labor service agency to be found anywhere, with the possible exception of Soviet Russia. It consists of six divisions dealing with general policies; social insurance; labor law, labor protection, wages and social questions; employment exchanges, unemployment insurance and relief; with welfare services, comprising social relief, housing and land settlement; and with pension law. There are also seven subdivisions and fifty-four sections. In 1929 its expenditures amounted to 723,367,000 marks. France has had since 1906 a Ministry of Labor, Hygiene, Assistance, and Social Welfare, which is now divided into four directorates subdivided into fourteen bureaus. In addition there are three services dealing with actuarial matters, statistics and private insurance societies, and a large number of councils and commissions. Most types of labor service are covered, including labor exchanges, unemployment, regulation of labor and

wages, industrial hygiene and safety and housing. It expanded its functions and improved its administrative apparatus after the passage of the social insurance law in 1928, although each insurance fund is managed by an autonomous body with the council of administration elected at a general meeting of insured persons. In addition there is in France a national labor supply council, created in 1920 and attached to the prime minister's office in 1925, which coordinates the work of employment exchanges and regulates the influx of foreign and colonial labor. In Italy since 1923 services to labor have been placed in the Ministry of National Economy, which includes a general directorate of labor and social welfare, national social insurance fund, national industrial accident fund, control statistical office, general inspectorate of industry, general directorate of agriculture, general inspectorate of mines and national fuels, general inspectorate of industrial education and some other services affecting labor. The corporations into which workers and employers are organized in each major industry carry out the policies determined by the central government. A peculiar government labor service in Italy is the *Dopolavoro*, which is similar to the American Young Men's Christian Association. It was originally a private enterprise but it now functions as an organ of the Fascist state.

The scope of government labor services is more comprehensive in the Soviet Union than in any other country, although the administration is as yet imperfect. This flows from the theory and structure of the Soviet state, which makes its primary concern the welfare of labor. Legislation and other government labor services consequently are designed to cover every need and risk of industrial and agricultural workers. The All-Union Commissariat of Labor is supplemented by similar commissariats in each of the constituent republics. Within these commissariats are bureaus of labor protection which supervise the safeguarding of workers in conjunction with provincial and local administrative organs; the work although centralized provides for a large measure of local autonomy. The unions participate in labor protection through the factory committees on labor protection, which work in conjunction with the inspectors. Measures of labor protection are based on the theoretical material furnished by over eighty institutes engaged in research on working conditions and by factory research departments and independent institutes. Another department of

the Commissariat of Labor is the Bureau of Central Administration of Social Insurance. Social insurance in the Soviet Union includes all workers and all forms of insurance—sickness, invalidism and disability (full pay), old age and maternity (full wages for the working mother two months before and after childbirth, nine months' maintenance allowance for the child). No unemployment insurance is provided since there is presumably no unemployment. The collections and expenditures of insurance funds are under control of the labor unions. Total expenditures on labor protection and social insurance in 1931 amounted to 2,500,000,000 rubles. The Commissariat of Health spent another 1,271,000,000 rubles on public health (including health work in factories).

The administrative machinery of the government labor services is not very highly developed in the United States, where social legislation in general is backward. After the Civil War trade unions and labor leaders demanded government bureaus devoted to the interests of labor. The first government labor agency was the Massachusetts Bureau of the Statistics of Labor, formed in 1869; fourteen states created similar bureaus before the federal government created the Bureau of Labor in the Department of the Interior in 1885. Shortly thereafter the Knights of Labor demanded a department of labor; this was created in 1888 and absorbed in 1903 by the Department of Commerce, which became the Department of Commerce and Labor. The present United States Department of Labor was established in 1913 to "foster, promote and develop the welfare of the wage-earners, to improve their working conditions and to advance their opportunities for profitable employment." It consists of the Bureau of Labor Statistics, which makes statistical reports upon hours, wages, productivity and conditions of labor, wholesale prices, retail prices and cost of living, industrial accidents and hygiene, workmen's compensation and other important subjects; the Bureau of Immigration and the Bureau of Naturalization; the Children's Bureau, which deals with child welfare in general as well as employment, wages, hours and conditions of child workers; the Women's Bureau, which makes special studies relating to the employment of women; the Employment Service, which continues to operate in a much curtailed and ineffective manner a national system of employment offices in conjunction with the several states; and the Division of Conciliation, which attempts to medi-

ate and settle certain important labor disputes when invited to do so. The department is handicapped by lack of authority, the backward state of labor legislation and labor services generally, and inadequate financial resources. It has about 4908 officials and employees, and its appropriation in 1929-30 amounted to \$11,322,000 and in 1932-33 to \$12,920,770.

Many important services to labor are performed by other federal departments. In the Department of the Interior the Bureau of Mines, created in 1910, has charge of safety work and the reporting of mine and quarry accidents; the Bureau of Navigation supervises the employment of seamen. In the Treasury Department the Bureau of the Public Health Service makes studies of occupational diseases and fatigue in relation to lost time and per capita production; the Interstate Commerce Commission exercises jurisdiction over wages, hours and conditions of railroad labor and accidents; the United States Employees' Compensation Commission handles industrial accident compensation cases for all federal employees and all employees and employers in the District of Columbia; the Federal Board for Vocational Education, created to promote vocational education in cooperation with the several states, also administers the expenditure of federal funds provided to supplement state appropriations for the rehabilitation of persons disabled in war and in industry.

The administrative machinery of government services is also backward in most of the states of the American union. The early American state labor departments were agencies for investigating and studying labor conditions and making recommendations to the legislatures. At present the labor departments in most of the states are responsible for enforcing the labor laws; many also have quasi-legislative powers in connection with safety legislation and quasi-judicial powers under workmen's compensation acts. The departments generally administer some laws which are not properly labor legislation and have some duties not connected with labor problems. A few departments are not charged with enforcement of the labor laws. In about a dozen states there are separate labor and compensation departments. Nearly all the labor departments are understaffed and their functions are usually performed less efficiently than in England or Germany. In 1929 the total expenditures on labor administrations of all the states did not exceed \$6,539,000 (exclusive of workmen's compensation administration), of which \$3,355,000

was expended by three states—New York, Pennsylvania and Illinois. Florida has no labor bureau and its only labor official is a factory inspector; the same holds true of Mississippi, and New Mexico has only a coal mine inspector. Some states have no factory inspection and some have no inspection of mines and quarries. In most of the states labor protection suffers because inspectors are not required to pass civil service examinations to prove their competence and are not systematically trained in the duties and technique of the service. Massachusetts, New York, Ohio and Pennsylvania have highly organized departments of labor. The New York department, which may be taken as the model, is divided into seven sections: a bureau of inspection, which is responsible for enforcement of laws and prosecution of violations; a division of industrial codes, which holds hearings and investigations preparatory to the formulation of new codes; an engineering division, which examines and approves plans for public, industrial and commercial buildings; bureaus of industrial hygiene, of women in industry, of statistics and information and of industrial relations (mediation and arbitration). It also operates public employment offices in various cities. In general the most highly organized service in the United States and also in Canada is the administration of workmen's compensation. A unique quasi-official organization, the International Association of Industrial Accident Boards and Commissions of the United States and Canada, has been formed to establish and better standards of administration and to improve the compensation laws of both countries. The Association of Government Labor Officials of the United States and Canada has similar functions in the broader field of general labor administration.

The growth and increasing complexity of government labor services make larger and larger demands upon the personnel employed to maintain the services, creating a large body of experts with a knowledge of economics, technology and psychology. The character and ability of the personnel naturally differ from country to country; in general they are lowest in the backward countries and the newer industrial nations and highest in Europe, with the United States occupying a middle position. Jobs in the American services are frequently dispensed as patronage to politicians and labor leaders who are presumed to influence the workers' votes; these conditions are, however, slowly changing, and a body of experts is being developed partic-

ularly in the labor services of the federal government. In the advanced European countries the character and ability of the experts in the government labor services are extremely high; the requirements are stringent and the work is considered a life profession. Factory inspectors, for example, must pass severe examinations which necessitate arduous preliminary study and training. Political appointments are rare, tenure is secure during good behavior and promotion determined by competence and service. Because of the introduction of an international civil service system high standards prevail also among the expert personnel of the International Labor Organization; this has had an important influence on raising personnel standards in the labor services of the more backward countries.

The International Labor Office marks the culmination of decades of effort for common international action on the improvement of labor conditions. In the twelve years of its existence the International Labor Organization has been of great service in directing attention to sub-standard conditions of labor in many countries and in fostering public opinion favorable to higher standards. The importance of the International Labor Organization services to labor should not be judged by the number of draft conventions adopted by the labor conferences, the number of ratifications by governments and the number of new laws passed to carry these conventions into effect. Of much greater significance is the education of public opinion in all countries to the importance of the standardization of labor legislation, improvement in the quality of labor administration and the necessity of strengthening both the national and international services which governments may perform for labor.

ROYAL MEEKER

See: LABOR; LABOR LEGISLATION AND LAW; SOCIAL INSURANCE; HOURS OF LABOR; INDUSTRIAL HAZARDS; INDUSTRIAL HYGIENE; SAFETY MOVEMENT; WORKMEN'S COMPENSATION; EMPLOYERS' LIABILITY; MINIMUM WAGE; WOMEN IN INDUSTRY; CHILD, section on CHILD LABOR; EMPLOYMENT EXCHANGES; HOUSING; ARBITRATION, INDUSTRIAL; CONCILIATION, INDUSTRIAL; COURTS, INDUSTRIAL; INDUSTRIAL RELATIONS COUNCILS; INDUSTRIAL RELATIONS; LABOR-CAPITAL COOPERATION.

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**LABOR INJUNCTION.** The use of the injunction in industrial controversies gives as striking an illustration as the law affords of the truth that in the domain of ideas, no less than in the biological world, an organism cannot be torn from the context of its environment without destroying its meaning. Abstractly the labor injunction is merely the application of a generalized legal idea to particular circumstances. But these introduce social and economic factors which give the injunction a unique setting and create for it an essentially new situation.

The injunction is the powerful and staple device of the equity side of Anglo-American legal administration. The first authoritative resort to this remedy in a controversy between employer and employees was made by an English court. But the innovation did not take root in its native soil. Until its recent formal revival in England the labor injunction remained distinctively United States law. As in other fields of social endeavor similar concepts have, however, penetrated also into Canada. While as late as 1896 the chief justice of Massachusetts could say in opposing a labor injunction sanctioned by his court that the "practice of issuing injunctions in cases of this kind is of very recent origin" [*Vegeahn v. Guntner*, 167 Mass. 92, 100 (1896)], the idea once transplanted to America has burgeoned exuberantly.

An English vice chancellor in 1868 restrained striking employees "from printing or publishing any placards . . . whereby the property of the Plaintiffs, or their business might be damaged" [*Springhead Spinning Co. v. Riley* (1868) L. R. 6 Eq. 551]. This precedent was not followed by the English courts, indeed was criticized. So far as it looked to law England continued to rely upon criminal law for the maintenance of industrial peace. After the famous Taff Vale judgment, whereby union funds could be reached for wrongful acts by union members in the course of a strike, the Trade Disputes Act of 1906 in order, as Vinogradoff has said, "to allow organized labour to exert its action as a counterpoise to the power of capital wielded by the employers" (*Collected Papers*, ed. by H. Fisher, 2 vols., Oxford 1928, vol. ii, p. 323) gave unions complete immunity "in respect of any tortious act." The general strike of 1926 caused Parliament in 1927 to restrict the immunities of the act of 1906 to cases only of "legal" strike—illegal strikes being defined as those whose purpose was other than to further a trade dispute or those designed to exert pressure upon the government [Trade Disputes and Trade Unions' Act, 17 & 18 (Geo. v, c. 22 (1927); see the debates upon this measure, particularly the speech of the Marquess of Reading in Great Britain, Parliament, House of Lords, *Parliamentary Debates*, vol. lxxviii (1927) p. 67-68]. The act of 1927 empowered the attorney general to apply for an injunction against the use of trade union funds for the prosecution of illegal strikes. Ramsay MacDonald's second Labour government in 1931 sponsored a repeal of the act of 1927 and a return to the status created by the law of 1906. The attorney general,



who was in charge of this bill, referred as an example to be avoided to the unique record of American experience with the labor injunction [Great Britain, Parliament, House of Commons, *Parliamentary Debates*, vol. ccxlvii (1931) p. 392-93]. The bill failed, but the act of 1927 has not occasioned a change in English practise.

In the United States appeal to the courts for injunction against strikers was facilitated through the adventitious fact that in the 1870's, following the panic of 1873, great railroad properties were in the hands of receivers and thus, theoretically, administered by courts. Obstructions to the operation of such railroads were treated as obstructions to the courts, and judicial orders against strikers naturally suggested themselves. Disobedience of such orders was followed by summary punishment for contempt of court, which had the advantage of avoiding the cumbersome process of the criminal law. To grant injunctions against strikers in cases other than receiverships was an easy transition for lawyers and judges.

In law as elsewhere imitation is a potent factor. But in the spread of the labor injunction the incisive and quick nature of the remedy was a powerful ally of imitation. An application was made in a labor case for an injunction apart from a receivership in New York in 1880 but seems to have been refused. Such injunctions, however, were granted in Maryland and Ohio in 1883, in Iowa in 1884, in Pennsylvania and Massachusetts in 1888. There were doubtless other instances; legal records in such matters are most inadequate. As a legal institution the labor injunction reached its maturity in 1895, when in the famous *Debs* case the Supreme Court sanctioned the injunction by which probably the Pullman strike was broken. Thereafter the labor injunction became a customary weapon in the strategy of American industrial conflicts. While no authoritative statistics as to the number of injunctions are available, there are a few straws. For the federal courts from 1901 to 1928 the official reports disclose 118 applications; a congressional investigator in 1914 found 116 unreported injunctions; a private inquiry by Senator Pepper of Pennsylvania disclosed that during the railway shopmen's strike of 1922 nearly 300 injunctions were asked for and granted (see Pepper, G. W., in *American Bar Association, Report*, vol. xlix, 1924, p. 174-80). Of these only 12 seem to have been officially reported. For Massachusetts an official investigator revealed more than 260 cases between 1898 and 1916, and

for New York City there were at least 250 cases between 1894 and 1928.

The grounds avowed by courts for resorting to the injunction in labor cases are the actual or threatened damage to property rights and inadequacy of legal remedies. 'To resort to the criminal law, it is urged, is to lock the barn after the horse is stolen, and suits for money damage are futile because money cannot compensate; too many suits would have to be brought in view of the continuing nature of the menace, and the strikers are financially irresponsible. Despite the novelty of the remedy and the serious differences between a labor controversy and the situations for which injunctions had been historically employed, the Supreme Court in the *Debs* case concluded that "the jurisdiction of courts to interfere in such matters by injunction is one recognized from ancient time and by indubitable authority." Contemporary legal scholarship challenges this claim.

The labor injunction derives significance from the mode by which it has operated. What is called procedure determines results. In theory the final injunctive decree alone is an adjudication on the merits; temporary restraining orders and temporary injunctions are nominally provisional. In fact, however, the restraining order and temporary injunction usually register the ultimate disposition of a labor litigation, which seldom persists to a final decree. Lack of resources may frustrate pursuit of the litigation or, as is often the case, the strike has ended before the final stage is reached and ended not infrequently as a result of the injunction. Of the 118 officially reported federal court cases from 1901 to 1928, 70 involved ex parte orders and 88 temporary injunctions. Twelve of the ex parte orders and 56 of the temporary injunctions were in fact final dispositions. Of 35 temporary injunctions issued by the New York courts from 1923 to 1927 none reached a further stage.

The theoretical safeguards attending the final decree are therefore largely inoperative. Here as elsewhere in law its formal doctrines tell very little of what law does for those who invoke it or against whom it is invoked. Not the so-called principles governing the "rights" and "duties" of the combatants in a strike, but the procedural characteristics of provisional relief furnish the key to an understanding of the labor injunction in action. The truth of the situation is seldom explored through oral testimony, and the proceeding largely resolves itself into a clash of affidavits. These, because they flow from the pas-

sionate partisanship of a labor struggle and are drafted more with an eye to the requisites of legal formula than of truth, are generally contradictory in all important particulars. The judge determines the facts without the aid of a jury, and the usual safeguards for sifting fact from distortions or imaginings—personal appearance of witnesses and cross examination by opposing counsel—are lacking. Finally, the opportunity to correct error by appeal is extremely narrow and seldom exercised.

To be sure, violence is an incident and too often an ingredient of industrial strife in the United States. Latter day labor racketeering is still another story. Whatever the cause for this violence—the ready resort to violence generally, the survival of pioneer traditions, the less rooted habits of the American population, the exacerbation of feeling or the actual incitement to violence by agents provocateurs and proprietary police—the injunction serves theoretically as a swift and effective check. Legal theory therefore justifies it in so far as it explicitly restrains illegal conduct. But departures from this theory are abundant and indeed common. The text of the injunction has grown to be an elaborate and complex document—a fearsome and ambiguous instrument reaching far beyond outlawed excesses and snuffing out trade union activities which as a matter of abstract law are deemed legitimate. Injunctions have restrained innocent conduct through fear of violation of general and all inclusive terms of doubtful meaning. They have restrained conduct that is clearly permissible, like furnishing strike benefits, singing songs, maintaining tent colonies; permissible, that is, on the theory that it is the function of the law merely to keep the peace and maintain the ring between employers and employees according to the prevalent standards of fair economic combat. The dangers of these dragnet decrees have led a few of the more farsighted judges to attempt to define with particularity the line between forbidden and permitted conduct. What can be done by an imaginative and conscientious judge was shown during the railroad strike in 1922 by Judge Charles F. Amidon [*Great Northern Ry. Co. v. Brosseau*, 286 Fed. 414 (1923)]. While the injunction is the result of a judicial proceeding between two litigants, its obligations frequently, especially in the federal courts, attach to the general public. By the easy device of blanket clauses its prohibitions extend to “all persons whomsoever” or “all persons to whom notice of this order shall come.” All aware of the injunc-

tion must obey it or be punished for contempt.

The practical uses to which the labor injunction has been put have turned it into a persisting political issue. It has maintained itself thus to no small degree because disinterested legal opinion has supported the essential grievances of labor. Some of the most learned scholars of equity procedure have found the labor injunction in consonant with the traditions and philosophy of the whole equitable process. Ever since the Debs case it has been urged that except under appropriate safeguards and within a defined and restricted area the injunction is not an appropriate intervention in the conflict of forces between employers and employed. The decree places the power of the state upon one side of a complicated social struggle in advance of and frequently altogether without that careful ascertainment of fact which is the traditional protection of the innocent; the injunction invades by indirection constitutional safeguards that speech, press and assembly shall be free from previous restraints; vague and all inclusive terminology customarily employed results in sweeping decrees which subject all activity—legitimate no less than illegitimate—to the peril of prosecution for contempt; and therefore the injunction becomes in effect a penal code enacted, interpreted and enforced by a single judge without the constitutional securities available to persons accused of crime.

The extent to which these consequences of the injunction affect the labor conflict lies almost wholly in the realm of guesswork. There are as yet no dependable data regarding the effect of the injunction upon the progress of unionization in America; and equally meager and inconclusive is the evidence, aside from opinion testimony, of the relation of injunctions to the results of particular strikes. Does interdicted conduct cease or is it intensified? Are injunctions enforced and to what extent and with what consequences? Answers to such questions require an intensive and subtle analysis of the elusive factors of particular controversies in their economic, social and psychological settings. With the exception of some studies in the New York garment industry by Brissenden and Swayzee and a recent inquiry into a few southern strikes by McCracken, social economists have left this field of inquiry unexplored. But considerable evidence has necessarily been gathering upon the effect of the injunction on public opinion, particularly on opinion generated by the feelings of the workers. To the United States Commission on Industrial Relations its director in 1915 reported that

"... there exists among the workers [of whom there were then said to be twenty-five million] an almost universal conviction that they... are denied justice in the enactment, adjudication, and administration of law, that the very instruments of democracy are often used to oppress them and to place obstacles in the way of their movement toward economic, industrial and political freedom and justice."

Labor's feeling against the use of the injunction has certainly not abated since 1915. Nor has its bitterness been appeased by its own occasional resort to the injunction. Labor has employed the injunction as a weapon in internecine conflicts and has invoked it against employers to enforce collective bargaining agreements, to restrain the operation of black lists or to insure some forms of statutory protection. The most significant instance of use of the injunction by labor arose under the Railway Labor Act of 1926 and resulted in a decision by the Supreme Court highly favorable to the workers [*Texas & N. O. R. Co. v. Ry. Clerks*, 281 U. S. 548 (1930)]. On the whole, however, opportunities for such relief have heretofore been comparatively restricted and the gains achieved have not outweighed the detriments. Moreover the circumstances to which the injunction applies when invoked by labor do not lend themselves to the procedural abuses that have developed as the normal concomitants of the injunctive process against labor. It is not surprising therefore that according to the American Federation of Labor the use of the injunction by labor is "a snare and a delusion."

The pressure of labor for its own immediate interests has combined with the desires for reform of those who are concerned over the weakened prestige of the judiciary, particularly of the federal judiciary, and the undermined confidence in even handed administration of the law. From the turn of the century there have been manifold attempts at corrective legislation. In their earlier form they were directed against a modification of the ancient doctrines of conspiracy and restraint of trade as applied to contemporary labor conflicts and later on to the outlawry of agreements by workers not to join or remain members of a union—the so-called yellow dog contracts. Corrective measures did in fact reach the statute books but were in the main nullified by judicial construction. Reform then addressed itself to the procedural aspects of equity jurisdiction in labor cases, ranging from an outright withdrawal of the injunction in labor controversies to the formulation of restricted details in granting such

injunction. Here again the courts largely erased what the legislatures wrote. Thus a California statute of 1903 which specifically forbade the issuance of an injunction was construed by the California state court to have effected no change in the law. A similar statute enacted in Massachusetts in 1914 was found by its Supreme Judicial Court to be a denial of due process of law and of the equal protection of the law and so unconstitutional. On the other hand, Arizona sustained such a statute, although it finally foundered in the United States Supreme Court. Since this decision [*Truax v. Corrigan*, 257 U. S. 312 (1921)] was based on the Fourteenth Amendment it has had far reaching effect upon the movement for dealing with the labor injunction. By the Clayton Act Congress in 1914 seemed to confine the activities of the federal courts in the issuance of labor injunctions to such narrow limits that Samuel Gompers hailed the Clayton Act as labor's magna carta. But the Supreme Court construed the ambiguous language of the Clayton Act to be "merely declaratory of what is the best practice always" [*Amer. Steel Foundries v. Tri-City Council*, 257 U. S. 184, 203 (1921)] and not as remedying drastically the evils which gave rise to the Clayton Act. In effect therefore the decisions of the Supreme Court and the actions of the lower federal courts have so confined the Clayton Act as to leave substantially intact—in some respects even to enlarge—the grievances against the labor injunction which led to the Clayton Act.

The Supreme Court was more hospitable to another important provision of the Clayton Act—that granting right to trial by jury in certain cases of contempt for violation of an injunction—holding it not to be "an invasion of the power of the courts as intended by the Constitution" [*Michelson v. United States*, 266 U. S. 42 (1924)]. This decision was the more significant in that several state courts, interpreting the doctrine of separation of powers as a narrow, mechanical rule of law rather than as a maxim of political wisdom, had invalidated similar state legislation. But in practise this provision of the Clayton Act was narrowly applied.

The labor troubles in the coal, rail and steel industries in the period following the World War, coming at a time of general conservatism and "Red" phobia, led to a series of injunctions, some of which made the Debs decree look mild. These excesses in turn stimulated a new effort for corrective legislation. Some states, like Illinois and New Jersey, enacted analogues of the

Clayton Act, which local courts, following the decision of the Supreme Court upon the Clayton Act, severely limited by construction. A number of states limited—and New York and Wisconsin abolished—the issuance of ex parte orders. In 1928 the Judiciary Committee of the United States Senate proposed a detailed revision of equity practise in labor litigation which sought to withdraw the aid of the federal courts from the enforcement of anti-union agreements, to correct procedural abuses, define and confine discretionary jurisdiction and to extend the right of jury trial for contempt. This proposal became law upon March 23, 1932, when President Hoover signed a bill embodying it (Public no. 65, 72nd Cong., 1st sess., 1932).

In 1931 sixteen state legislatures had before them counterparts of the pending federal measure. One state, Wisconsin, enacted them into law; another state, Pennsylvania, enacted all but the provision invalidating anti-union agreement; and four states, Arizona, Colorado, Ohio and Oregon, followed the earlier lead of Wisconsin in invalidating anti-union agreements.

FELIX FRANKFURTER  
NATHAN GREENE

See: INJUNCTION; CONTEMPT OF COURT; TRADE UNIONS; LABOR DISPUTES; STRIKES AND LOCKOUTS; JURY; WRITS, LEGAL.

*Consult:* Frankfurter, Felix, and Greene, Nathan, *The Labor Injunction* (New York 1930); Brissenden, P. F., and Swayzee, C. D., "The Use of the Injunction in the New York Needle Trades" in *Political Science Quarterly*, vol. xlv (1920) 548-68 and vol. xlv (1930) 87-111; Witte, E. E., "Social Consequences of Injunctions in Labor Disputes" in *Illinois Law Review*, vol. xxiv (1930) 772-85, and "Labor's Resort to Injunctions" in *Yale Law Journal*, vol. xxxix (1929-30) 374-87; Frankfurter, Felix, and Greene, Nathan, "Congressional Power over the Labor Injunction" in *Columbia Law Review*, vol. xxxi (1931) 385-415; McCracken, Duane, *Strike Injunctions in the New South* (Chapel Hill, N. C. 1931); Witte, E. E., *Government in Labor Disputes* (New York 1932). For a collection of source materials, see Sayre, F. B., *A Selection of Cases and Other Authorities on Labor Law* (Cambridge, Mass. 1922).

Testimony taken in the course of congressional

hearings is valuable. The references to 1914 are collected by Justice Brandeis in his dissenting opinion in *Truax v. Corrigan*, 257 U. S. 312, 354, 369-70 (1921). The latest extensive hearings are United States, Congress, Senate, Committee on the Judiciary, 70th Cong., 1st sess., *Limiting Scope of Injunctions in Labor Disputes*, 4 pts. (1928).

Decisions of most importance and interest in the United States Supreme Court: *In re Delis*, 158 U. S. 564-600 (1895); *Gompers v. Bucks Stove & Range Co.*, 221 U. S. 418-52 (1911); *Hitchman Coal & Coke Co. v. Mitchell*, 245 U. S. 229-74 (1917); *Amer. Steel Foundries v. Tri-City Council*, 257 U. S. 184-213 (1921); *Duplex Printing Press Co. v. Deering*, 254 U. S. 443-88 (1920); *Truax v. Corrigan*, 257 U. S. 312-76 (1921); *Bedford Cut Stone Co. v. Journeymen Stone Cutters' Ass'n.*, 274 U. S. 37-65 (1927); *Dorchy v. Kansas*, 272 U. S. 306-11 (1926); *Texas & N. O. R. Co. v. Ry. Clerks*, 281 U. S. 548-71 (1930).

Lower federal court cases: *Toledo, Ann Arbor, etc. Ry. Co. v. Pennsylvania Co.* (C. C. N. D. Ohio, 1893) 54 Fed. 730-45; *Arthur v. Oakes, et al.* (C. C. A. 7th, 1894) 63 Fed. 310-29; *Iron Molders' Union v. Allis-Chalmers Co.* (C. C. A. 7th, 1908) 166 Fed. 45-53; *Great Northern Ry. Co. v. Local Great Falls Lodge* (D. C. D. Mont. 1922) 283 Fed. 557-65; *United States v. Railway Employees' Depart. of A. F. L.* (D. C. N. D. Ill. 1922) 283 Fed. 479-96, 286 Fed. 228-42, 290 Fed. 978-83; *Great Northern Ry. Co. v. Brosseau* (D. C. N. Dak. 1923) 286 Fed. 414-25; *International Organization, etc. v. Red Jacket Consolid. Coal & Coke Co.* (C. C. A. 4th, 1927) 18 Fed. (2nd) 839-50; *Aeolian Co. v. Fischer* (C. C. A. 2nd, 1930) 40 Fed. (2nd) 189-94.

State court cases: *Bossert v. Dhuy*, 221 N. Y. 342-66 (1917); *Auburn Draying Co. v. Wardell*, 227 N. Y. 1-12 (1919); *Exchange Bakery Restaurant, Inc. v. Rifkin*, 245 N. Y. 260-72 (1927); *Interborough Rapid Transit Co. v. Lavin*, 247 N. Y. 65-83 (1928); *Nann v. Raimist*, 255 N. Y. 307-19 (1931); *Vegelahn v. Guntner*, 167 Mass. 92-109 (1896); *Plant v. Woods*, 176 Mass. 492-505 (1900); *A. T. Stearns Lumber Co. v. Howlett*, 260 Mass. 45-74 (1927); *Pierce v. Stablemen's Union*, 156 Calif. 70-81 (1909); *Barnes v. Chicago Typographical Union*, 232 Ill. 424-40 (1908); *Clarage v. Lufphringer*, 202 Mich. 612-15 (1918); *Greenfield v. Central Labor Council*, 104 Oregon 236-81 (1922); *Keuffel & Esser v. Inter. Asso. Machinists*, 93 N. J. Eq. 420-46 (1922); *Forstmann et. Co. v. United ete. Workers*, 99 N. J. Eq. 230-37 (1926); *Gevay v. Greek Restaurant Workers' Club*, 99 N. J. Eq. 770-87 (1926); *Jefferson & I. Coal Co. v. Marks, et al.*, 287 Pa. 171-84 (1926); *Kraemer Hosiery Co. v. American Federation of Full Fashioned Hosiery Workers*, 157 Atl. 588 (Pa. 1931).

## LABOR LEGISLATION AND LAW

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| LABOR LEGISLATION . . . . .     | EDWIN E. WITTE |
| LABOR LAW                       |                |
| <i>Anglo-American</i> . . . . . | ROBERT L. HALE |
| <i>Continental</i> . . . . .    | WILLIAM SEAGLE |

LABOR LEGISLATION. No attempt to define the term labor legislation has been made either in the leading work on the subject in the English

language or in the principal collection of American labor laws. Where definitions have been attempted emphasis has generally been placed

upon the protective or regulatory aspects. From the former aspect labor legislation is concerned with "raising the lot of the working classes," from the latter with "exceptions to general rules of freedom of contract." As a statement of the general character and purposes of labor legislation, however, neither concept is wholly adequate, nor are both combined.

Although labor legislation is a form of social legislation and of social and political reform, many important distinctions are involved. Labor legislation considers the worker as such; social legislation and reform treat him primarily as a citizen. Some reforms affect workers directly and some only indirectly, while others may not affect them at all. Labor legislation is moreover not a revolutionary change; it modifies industrial autocracy but affects the capitalist system only in minor respects. It is supplemental to employees' solutions, like trade unionism and collective bargaining, and to employers' solutions, like welfare plans, and is an alternative to such fundamental changes as socialism, communism or Fascism. Social legislation is a narrower concept than social and political reform but broader than labor legislation. Labor legislation whether in the form of statutes, administrative orders or judicial decisions is specifically concerned with regulating conditions of labor and relations between employers and employees. Social legislation includes also such fields as poor relief, public education and housing, only minor features of which can be included within the concept of labor legislation. Social insurance is in general labor legislation, although in some cases it may include non-workers and not regulate industrial relations. Labor legislation originated in humanitarian legislation but has become at once narrower and broader—part of a governmental program for the regulation of industry. Here it merges into social legislation and social and political reform—the general movement to improve and alter social relations; and hence the reciprocal influences are many and important.

Modern labor legislation is generally said to date from the English Health and Morals of Apprentices Act of 1802, but there were many earlier statutes regulating the relations between masters and servants, as in the case of the Statute of Labourers and the many Elizabethan laws concerning working conditions and wages. Contrary to the impression left by some accounts, there was never a sharp break between the old master and servant relation and the modern

employment contract; and many of the early English laws and decisions have exerted a profound influence on the law of employment relations to this day. What really made the act of 1802 notable was not its break with the past but the advent of humanitarian motives in labor legislation; this act, with most of the early labor legislation after the industrial revolution, was inspired by the misery of the working classes, enacted before workmen had the right to vote and trade unions exerted any important influence in the national life, and merely served to protect the weakest workers. Following the pioneer act of 1802, which limited to twelve hours daily the labor of children in cotton mills, England passed a series of factory acts; the first in 1819 further restricted the employment of children. In 1833 special enforcement officers known as factory inspectors were appointed. In the next decade was enacted the first labor law for women, the twelve-hour law of 1844 and in the same year the first law for the safeguarding of machinery, followed a little later by laws regulating dangerous trades and homework. The right to form unions had been legally recognized in 1824-25. Six years later the first 'Truck Act was passed compelling payment of wages in kind and in full, and in 1862 a preferential wage payments act similar to the American mechanics' lien. The factory acts of 1864 and 1867 broadened the area of factory legislation to include practically all industrial occupations. By this time labor legislation had ceased merely to protect the weakest workers and was coming to cover many of the most important aspects of the relations between employers and employees. This was emphasized by acts passed in 1871, 1876 and 1893, which strengthened the legal status of trade unions; by an act in 1875 to regulate strikes, which provided that a combination to carry on a strike shall not be indictable as a conspiracy unless the acts involved would be criminal if committed by an individual; and by a Conciliation Act in 1896 to settle industrial disputes. The Factory and Workshop Act of 1901 consolidated and improved all the existing factory acts; it strengthened the enforcement machinery and included legislation applying to buildings in construction, laundries and docks. The Trades Disputes Act of 1906 freed trade unions from all liability for torts and swept away the last vestige of the common law doctrine of conspiracy in its application to labor disputes. The advocacy of the trade unions and of the Labour party was a strong factor in

the passage of this act as well as of all subsequent labor legislation. The Coal Mines Regulation Act of 1908, which introduced the eight-hour day, was the first definite regulation by statute of the hours of labor of adult workers. Meanwhile a new development had begun with the Workmen's Compensation Act of 1897, followed in 1909 to 1911 by legislation for employment exchanges, trades boards, minimum wages, health insurance, old age pensions and unemployment insurance. At the same time labor legislation came to assume more and more of a non-parliamentary character because of the enormous increase of administrative enactments regulating industrial relations.

Although it developed much later and on a modified scale labor legislation in continental Europe followed the English pattern. Prussia in 1839 enacted a Children's Protective Act; thirty years later the North German Confederation adopted an industrial code, subsequently incorporated in the legal system of the German Empire, which regulated the labor of women and children. This merely protective legislation affecting the weakest workers was followed in the 1880's by the pioneer introduction of social insurance covering accidents, sickness and old age. At the same time other laws were enacted for the purpose of preventing workers from organizing economically and politically. The scope of more specific labor legislation was extended in 1891 by the Workers' Protection Act, which decreed Sunday rest, safety regulations, a minimum working day and abolition of night work for women and children. Labor legislation now placed increasing emphasis upon adult males; it was moreover supplemented by repeal of the antisocialist laws and by laws legalizing trade unions, regulating collective agreements and strikes and instituting a system of courts for the settlement of industrial disputes. From this time forward the trade unions and the Social Democratic party were important factors in the enactment of labor legislation.

In France the first labor legislation properly so-called was the act of 1841 limiting the working hours of children to eight hours for those eight to twelve years old and to twelve hours for those twelve to sixteen years old; no enforcement machinery was provided, however, and the law was practically a dead letter, as was the general twelve-hour day law enacted in 1848. Until this time such meager labor legislation as had been enacted aimed primarily at suppression of workers' rights; as, for example, the

law of 1791 prohibiting combinations of workers. A factory inspection law was not enacted until 1883. In 1864 the restrictions on the formation of labor organizations were modified; twenty years later trade unions were legalized, and legislation was enacted providing an opportunity for the settlement of industrial disputes without strikes. A workmen's compensation law covering factory workers only was passed in 1898; subsequent legislation awarded compensation to other categories of employees. A substantial legislation gradually developed regulating labor relations in industry but it was mainly concerned with the weakest workers, although public opinion manifested an increasingly strong demand for more comprehensive labor laws and social insurance.

By 1914 the north European countries had labor legislation comparable in scope to the English and the German as well as social insurance systems covering all major industrial hazards except unemployment. Russia and the Balkans lagged considerably behind, with Italy and Spain occupying a middle ground. To a much greater extent than in England and the United States labor legislation in continental Europe was embodied in administrative orders rather than in statutes—perhaps one of the more important reasons why such legislation was considered paternalistic by Americans.

Before the World War labor legislation reached its highest development in Australia and New Zealand, which in the 1890's enacted the first general eight-hour laws, minimum wage laws and compulsory arbitration laws. These Australasian states early abandoned the merely protective principle and promulgated laws covering all groups of workers and all phases of industrial relations. The minimum wage laws set up machinery for fixing minimum wages and indicating the trades in which they were to be fixed and included workers other than women and children. Compulsory arbitration regulates the relations between employers and employees by means of special boards or courts, which in practise, however, have not rendered decisions until all efforts at conciliation have failed. Strikes have decreased but have not altogether disappeared. In 1904 an Australian federal law set up a court for conciliation and arbitration and made strikes or lockouts an offense if the dispute extended beyond the limits of a state. The Canadian Industrial Disputes Act provides a method of dealing with industrial disputes midway between the Australasian system of

compulsory arbitration and the English policy of governmental non-interference except to preserve law and order or to effect a settlement.

In the United States labor legislation developed somewhat later than in England but earlier than in most continental European countries. The earliest American labor laws were the mechanics' lien and wage exemption laws of the 1830's and 1840's. Massachusetts, the most industrialized of the American states, was the pioneer in labor legislation through the nineteenth century and blazed the trail by the enactment in 1836 of a statute providing schooling for employed children; six years later it passed a ten-hour law for children under twelve years of age. By 1853 six other states had similar laws regulating the working time of children. Three states (including highly industrialized Rhode Island) passed laws limiting the working time of women to ten hours, but they were ineffective because of the provision that the laws were operative only in case of the absence of a contract to the contrary. Massachusetts was the first state to enact (1874) an effective ten-hour law for women; and the state was also the first to employ factory inspectors (1867), to establish a state labor department (1869) and to pass an industrial safety law (1877). Other industrial states lagged about ten years behind Massachusetts; many non-industrial states still have few labor laws. Not until the 1880's was there a considerable volume of labor laws in the United States, but ever since it has grown rapidly, with its greatest development in the 1880's and early 1890's and from 1910 to 1915. American labor legislation, however, lagged behind the more progressive European and Australasian countries.

Before the World War labor legislation was still in its initial stage. It was hampered by low minimum requirements in the fields which were covered by legislation and by the absence of legislation in other fields. The administration of labor laws moreover was generally inadequate, although less so in Germany, England and Australasia than in the United States and other countries. The significance of administration is extremely great not only from the standpoint of enforcement but also because so much labor legislation consists of the enactments of administrative bodies. Both the scope and quality of labor legislation and administration were enormously improved in the European, Asiatic and Latin American countries during the war and post-war periods. War requirements

led to legislation on behalf of the workers in all the belligerent countries, such as the eight-hour railroad labor law enacted by the American Congress, while in the post-war period labor legislation was stimulated by the radical mood and increasing strength of labor in Europe and by the acceleration of industrialization in Latin America and Asia; a contributing factor was the inclusion for the first time in history of labor clauses in the peace treaty, which provided for an International Labor Office and international labor conferences to consist of the representatives of governments, employers and workers.

England during the war promulgated considerable labor legislation in the form of a series of munitions acts under which minimum wage rates were established and for the time something akin to compulsory arbitration was instituted for a large part of British industry; workmen's compensation acts which increased benefits in an attempt to offset depreciation of the currency; and an act to strengthen the powers of the trade boards set up in 1909 to regulate wages. After the war labor legislation increased greatly. Minimum wage legislation was again broadened and in 1924 agricultural wages boards and agricultural wages committees were provided to fix minimum wages for agricultural workers. A series of acts further regulated labor conditions in mining; one act provided a fund for "social improvement." Another series of acts made minor changes in the workmen's compensation laws by strengthening the administrative machinery and extending the compensation to include salaried employees; but the labor group is very much dissatisfied with the law and has urged extensive changes. The scope of social insurance was made more inclusive. Unemployment insurance was extended to practically all industries in 1920 and in 1929 the Industrial Diseases Compensation Act consolidated the existing laws and listed twenty-eight compensable diseases. In 1921 the British Railways Act set up a Railway Wages Board, but its decisions were not mandatory. This non-compulsory feature also characterized the permanent machinery for arbitration of industrial disputes set up by the Industrial Courts Act of 1919 and the "parliamentary self-government" of the Whitley industrial councils for cooperation between employers and employees. The development of labor legislation parallels increasing state intervention in industry as a whole; as, for example, the government machinery for the unification, and development of the electric power industry.

French labor legislation is mainly a product of the post-war period. The war legislation, including minimum wage laws, was merely a prelude to larger developments. In 1919 under pressure of popular demand and despite the opposition of employers the government adopted the principle of the eight-hour working day without reduction of wages. In the same year a law was enacted providing compensation for certain industrial diseases. During the succeeding years the eight-hour law was introduced by administrative decrees to cover nearly all employees, who were given joint representation with the employers in the administrative machinery to enforce the law as well as in that to fix minimum wages. In addition to enactments extending the scope of legislation on industrial diseases an improved workmen's compensation law was enacted in 1925, in the passage of which trade union agitation was an important factor. In general the most significant factor in the development of labor legislation in post-war France was the real activity of the reformist *Confédération Générale du Travail*, which separated itself from the communist unions, abandoned the pre-war syndicalist distrust of the state and legislation and developed a program for the enactment of comprehensive labor laws. The reformist unions moreover are represented on many consultative organs set up by the state to advise on problems of labor and social legislation. The culmination of these developments was the Social Insurance Law of 1928, subsequently modified because of violent opposition by the employers. At the same time machinery has been set up by law in many industries regulating collective bargaining. Simultaneously state intervention in industry has grown greatly, as evidenced in the attempts at national economic planning.

The greatest development of labor legislation in the post-war period took place in Germany. The revolution in 1918 brought an eight-hour law. In the following year the Weimar constitution laid the basis for a comprehensive unified development of labor legislation in the following constitutional provisions: "The organization of economic life shall be based on principles of justice, with the aim of assuring to all the conditions worthy of a human being. . . . Labor is under the special protection of the federal authorities. . . . Manual and non-manual workers shall be called upon to cooperate with employers on an equal footing in the regulation of wages and labor conditions." Out of the

latter provisions grew the Works Councils as the basis of labor-capital cooperation, but which were gradually reduced to practical insignificance by the action of employers. A series of new labor laws was enacted to meet new conditions and the growing strength and demands of the workers. They regulated industrial safety, giving the Ministry of Labor extensive powers to define requirements for specified undertakings; hours of labor, based on acceptance of the eight-hour day, including regulation of overtime and increased protection for women and children; and introduced more effective labor inspection and enforcement machinery, with broader powers delegated to the federal government. There are also provisions institutionalizing collective bargaining, courts for the compulsory settlement of industrial disputes, legal recognition and regulation of collective agreements and the regulation of wages. Social insurance covers all hazards that affect the workers. German labor legislation is now probably the most highly developed in the world; it best represents, moreover, the tendency of such legislation to become part of a coordinated program of government regulation of industry.

In most of the other European countries also the post-war period witnessed a great development of labor legislation. Austria followed the German pattern, including the eight-hour day and works councils. Czechoslovakia has a series of labor laws, including social insurance, of the most progressive character, although they are scattered and not yet unified in a comprehensive labor code. Since the establishment of the republic Spain has enacted a series of labor laws modeled on the legislation of the most advanced countries. Hungary is still extremely backward in its labor legislation, which is mainly of an elementary protective character; scarcely any new labor laws have been enacted in recent years. Poland is also backward, although it has an eight-hour law, limited unemployment insurance and a measure of regulation of collective bargaining. In Italy the Fascist regime has introduced some additions to labor legislation; its main contribution has been a new system of administration, the prohibition of strikes and strict governmental supervision of the trade unions. Great progress in labor legislation has been made in Soviet Russia, where the trade unions participate directly and actively in the enactment and administration of labor laws.

Of the non-European countries other than



the United States the most important development of labor legislation has taken place in Japan, China and Latin America. Japan's pre-war labor laws were wholly inadequate, consisting of a factory law and a mining law which served to protect only the weakest workers, and which were poorly enforced. Since 1919, however, legislation has been enacted with regard to employment exchanges, health insurance (accidents and diseases) and conditions of labor in factories, including a minimum working age of fourteen, and maternity protection. In 1924 legislation was enacted providing for arbitration of industrial disputes, compulsory or optional according to circumstance. China in recent years has adopted labor laws of the most progressive character, but they are not enforced. The standard of labor laws in other Asiatic countries is low. Canada's legislation, which developed almost wholly after 1900 and has been improved since the World War, includes safety regulations, unemployment exchanges, workmen's compensation, minimum wages for women and conciliation of industrial disputes, national and provincial. Canadian labor legislation has been influenced strongly by that of the United States and compares favorably with that of the advanced American states. In Latin America labor legislation is mainly the product of the past twenty years. It is based on the European model and includes all phases of labor legislation, although not all in the same countries. Mexico has a series of comprehensive labor laws, which are, however, inadequately enforced. Some of the Latin American countries, such as Argentina, Chile and Uruguay, have labor laws which compare favorably with those of European countries. Most of them have ratified the conventions adopted at the international conferences of the International Labor Office, including the eight-hour day. There is considerable protective wage legislation (including the dismissal wage) and protection of women and children. Unions are generally recognized as legal, but little legislation on collective bargaining has been enacted.

In the United States there was little development of new types of labor legislation in the post-war period, although existing labor laws were strengthened and their administration materially improved. In this period labor legislation was retarded by unusual prosperity, increased opposition on the part of employers, the suspicions of a large element in the trade unions and the critical attitude of a majority of the United States

Supreme Court toward all extension of governmental control over industry. Since 1929 depression has made the American public much more sympathetic with labor legislation and the attitude of the Supreme Court has been more liberal. The volume of labor laws enacted in 1931 was probably greater than in any other year of American history.

After the mechanics' lien and wage exemption laws the first important labor laws in most of the American states were those restricting child labor. These at first set very low standards: ten-year age limits and maximum eleven or twelve-hour workdays in factories with no restrictions on the employment of children in other industries. More adequate child labor laws date from the 1880's. By 1900 practically every state had some legislation on the subject. A strong impetus to higher standards was given by the passage of the two federal child labor laws of 1916 and 1919, both of which were held unconstitutional, and the submission of a proposed child labor amendment to the Constitution of the United States in 1924, which failed of adoption. Coordination of child labor with compulsory school attendance laws began quite early and part time education for employed children was introduced by the Wisconsin pioneer law of 1911 and the passage of the Smith-Lever Act by Congress in 1916. Today child labor legislation in the United States is still spotty but distinctly in advance of that of any other country.

Legislation regulating hours was first enacted after the Civil War, although there was agitation much earlier. The first laws were applicable to all employees, but they applied only when there were no provisions to the contrary in existing employment contracts. Compulsory laws have been confined to women and to public and quasi-public employees and to industries presenting peculiar health or public safety hazards. This development has been due largely to decisions holding restrictions on the hours of labor of adult male employees to be unconstitutional in the absence of peculiar hazards. In this respect legislation in the United States is far less advanced or extensive than in Europe and differs further from European laws in that it generally prescribes absolute limitations, while the continental (but not the English) laws establish only a standard of hours which may be set aside in emergencies upon payment of an increased wage for overtime.

American wage legislation is still more limited, although some types were among the

earliest of labor laws, and has been regarded askance by the courts even more than legislation of hours. Laws dealing with incidental features of the wage contract, such as time and manner of payment; laws giving preference and special protection to wages due workmen, whether they appear as creditors or as debtors; laws extending governmental assistance in the collection of wage claims; and laws prescribing the wages to be paid by contractors engaged in public works are generally regarded as unconstitutional. Attempts to regulate wage rates paid adult employees in private employments have, however, been discouraged by the courts. In the second decade of the present century more than a dozen states and also the national Congress for the District of Columbia enacted minimum wage laws applicable to women and minor employees, but the District of Columbia act was held unconstitutional in 1923 by the United States Supreme Court. While some of these laws are still being enforced they have only precarious authority except as to minor employees and all further development of minimum wage legislation has been checked, although there is still some hope that a constitutional basis may be found for laws establishing minimum rates to be paid adult employees.

Safety legislation did not appear except in Massachusetts until the 1880's, but in a very short time it exceeded in volume every other type of labor legislation. Until 1911 all safety legislation was embodied in statutes describing in detail what machinery was to be guarded and sometimes how this was to be done; but since that year statutes have laid down the general standard that employers must provide safe employment, while the labor department is delegated to make detailed administrative regulations as to what guards and other protective methods are deemed safe. The bulk of industrial safety laws in the United States is now to be found in administrative orders; safety legislation is much more extensive than in European countries but not nearly so thoroughly enforced. Legislation relating to sanitation and health hazards in industry is, however, far less extensive in this country than in Europe. Very few processes and substances are subject to special regulation, while in Europe there are numerous prohibitions.

The United States is also far behind Europe in public employment exchanges. Despite the fact that the first public employment office was established as long ago as 1890 (in Ohio) and

notwithstanding the great interest during each depression period in a more efficient employment service there were in 1932 fewer than 250 free public employment offices, while there were at least 3000 fee charging private employment agencies. Some of the existing public offices are conducted by the federal government, but the majority are under state or city control and only loosely federated with the United States Employment Service. During the depression following 1929 larger federal appropriations have once more made expansion possible, but this has apparently been more competitive than cooperative with the states. Private employment agencies are subject to regulation in most states, but the United States Supreme Court has held that they cannot be prohibited and that the states cannot prescribe the maximum fees they may charge. Judging by the large number of complaints, regulation in most states is far from effective but is gradually becoming more strict.

The United States is deficient also in social insurance legislation, although more attention is now given to workmen's compensation than to any other type of labor legislation. The first workmen's compensation laws held constitutional were enacted in 1911, and within the next four years the great majority of the states passed such acts. Today all but four states have compensation laws, and no other type of labor legislation has so generally met the approval of American public opinion. These compensation laws resemble much more closely the English workmen's compensation acts than the continental European accident insurance laws. With one exception they require no contributions from employees and the liability is imposed on the individual employer rather than on social insurance funds. Unlike the English acts most of the American laws require employers to insure their liabilities and to set up special tribunals for their administration. The American compensation laws do not cover all employees. The entire group of railroad employees concerned with the actual movement of trains, practically all agricultural and domestic employees, all employees in small establishments and varying groups of other employees must still in cases of accident look for recovery to the common law as modified by employers' liability laws. These laws, many of which antedated workmen's compensation, are distinctly favorable to recovery but do not escape the necessity of establishing negligence on the part of the employer before the injured employee has any claim.

After workmen's compensation had spread through the United States it was expected for a time that health, old age and invalidity insurance would follow, as in the case of accident insurance in Europe. No state, however, has ever enacted a health insurance law and the question has received little attention since the World War. Fourteen of the workmen's compensation laws have been amended to include at least some occupational diseases, but this is by no means a substitute for health insurance. Since 1923 old age pension laws have been enacted in fifteen states, but unlike the European laws they are non-contributory and are not limited to workers in industry. No state adopted any unemployment legislation until 1932 and the Wisconsin unemployment reserves act (effective July 1, 1933) contemplates individual plant reserves rather than a central insurance fund as in the English and European systems.

The law governing collective bargaining, labor organizations and labor disputes is in the United States almost entirely a matter of judicial decisions rather than of statutes. The majority of the statutes in this field have had for their object relieving labor from restraints imposed through court decisions but have been so construed that they have had little practical significance. Statutes extending favors or protection to labor organizations, except laws to prevent infringement of union labels, have been held unconstitutional, and some general laws not originally considered to have had any application to labor disputes, such as the federal antitrust acts, have been interpreted to impose additional restrictions. This by no means exhausts all of the American labor legislation. There is a considerable volume of special legislation for public employees and the employees of public service companies, particularly the railroad workers. Very important to the trade unions are the immigration and convict labor laws. Similarly, licensing laws for trades, apprenticeship laws, building and fire prevention codes, adult and vocational education and vocational rehabilitation all have important labor aspects.

Labor legislation in the United States has developed piecemeal and as a remedy for specific evils. Each proposal has had a somewhat different group of proponents and opponents. The strongest support for labor legislation has come from the trade unions; liberal political, civic and church groups; progressive, pioneering employers; social workers; labor departments; and stu-

dents of labor problems. It has been opposed most commonly by employers' associations and on social insurance measures by the casualty insurance companies and the medical associations. In recent years the feminist group known as the Woman's party has fought against all special labor legislation for women. Every type of labor legislation before its enactment has had the support of some progressive employers, and nearly all labor laws have after enactment been accepted by the great body of employers. Neutral groups not directly identified with industry have often been the arbiters between the trade unions and the employers' associations in contests over labor legislation. Jealousy of the farmers and distrust of the trade unions by the middle class have retarded progress, but the organized farmers have generally supported labor legislation favored by the unions.

After enactment nearly all American labor legislation has been challenged in the courts. Most labor legislation restricts the right of contract and consequently is attacked as a denial of liberty and a seizure of property without due process of law. In defense the police power of the state is invoked—the right to restrict freedom of contract in the interests of the general welfare. The question of constitutionality in the final analysis depends upon whether the courts see a relationship between the challenged law and the general welfare. Great weight attaches to precedents, but really decisive is the view of the state and federal supreme courts of the reasonableness of the legislation.

A further ground for attack on some labor laws arises out of our federal system of government. Attempts of the national government to regulate labor conditions, particularly child labor and workmen's compensation, are challenged as an invasion of the rights of the states; and some state legislation has been held to amount to an interference with interstate commerce. The regulation of labor conditions is mainly within control of the states; but railroad and maritime employments present many problems in which the dividing line between the state and federal jurisdictions is shadowy, and many a labor law has been annulled because it overstepped this indistinct line. For this reason and because of the further consideration that labor regulations should be uniform throughout the country in order not to handicap some employers many advocates of labor legislation have favored extension of federal jurisdiction. The great outcry over states' rights which followed the submis-

sion of the federal child labor amendment, however, showed that such extension is not yet within the range of practical politics.

The list of labor laws which for one reason or another have been held unconstitutional is a long one, but the list of those which have been sustained is much longer. The courts have been inhospitable to laws favoring organized labor and to minimum wage laws for adult women employees, have viewed with suspicion other attempts at wage regulation and all legislation of hours for men and have greatly weakened the regulation of private employment agencies. They have, however, sustained the great mass of labor legislation and in a number of fields have reversed earlier adverse decisions. No important labor law once enacted and sustained by the courts has ever been repealed.

Despite its piecemeal character and uneven development in different countries labor legislation tends to follow a definite pattern. The fundamental influence involved is the change in the relations between employers and employees produced by the development of industrialism. This new order in its struggle against feudal restrictions emphasized the economic individualism of *laissez faire* and limited the state's intervention in industry. But economic individualism itself forced such state intervention. The state was early compelled to enact laws regulating competition, commerce, transportation, banking and corporations. Where state aid might facilitate any particular economic development, as in the building of railroads in the United States, it was secured regardless of the theoretical assumptions of *laissez faire*. Simultaneously economic competition and the increasing use of machinery led to the growth of large scale industry and eventually of monopolistic combinations severely limiting economic individualism and forcing legislative regulation. Employers moreover organized into associations to further their mutual interests. Similarly workers organized into their own associations, the trade unions. The pressure of these developments obliterated the pattern of individual liberty, economic individualism and freedom of contract. The state was forced to intervene to develop a program for the regulation of an increasingly collectivist industry, and labor legislation was an integral part of that program.

But while the theoretical assumptions of *laissez faire* were profoundly modified in practice by the growing integration and complexity of industry and by state intervention, the prin-

ciples and ideology of individualism persisted beyond their historical necessity. Thus the development of labor legislation assumed the form of a conflict between the claims of individualism—"individual liberty" and "freedom of contract"—and the needs of the workers in an increasingly collectivist economic order. The abandonment of "personal liberty" which was involved in legislation regulating the employment of child labor was accepted on the theory that children were not free agents, but similar legislation for adult female workers was opposed on the ground that the state should not interfere with the "rights" of free women. At every stage opposition to new legislation was particularly strong in the United States, where the principles of individualism had been incorporated into constitutions which were later invoked to declare labor laws unconstitutional.

Behind the struggle of "principles," however, was the clash of antagonistic class interests. The employers accepted state intervention where it aided the growth of industry or assumed the form of labor legislation directed against the workers, such as the English legislation of 1800 which made it a criminal offense for workers to combine and strike and the American judicial decisions on "criminal conspiracy"; but they usually opposed vigorously the enactment of legislation in behalf of the workers. The workers, on the contrary, pressed for labor legislation—for protective laws and for laws granting the right to organize, to bargain collectively and to strike. Labor legislation emerged out of the struggle between labor and capital and bore the scars of that struggle; throughout the state acted mainly but not entirely as holder of the balance of power. On the whole, labor legislation developed most fully where the economic and political organizations of labor were strongest, as in England and Germany, although humanitarianism in the one country and state paternalism in the other were originally important factors. In France before the World War the labor movement under syndicalist influence was antagonistic to labor legislation and hampered its development. In the United States, while trade unions have been the most important factor in the passage of labor laws, American unions have characteristically stressed direct control of working conditions, while the European unions have generally stressed legislation. In general the minimum conditions provided by labor legislation in the United States seldom went beyond the gains already

secured by trade union action, but legislation spread the gains among unorganized workers.

The growth of trade unionism influenced labor legislation in two ways: by the enactment of protective laws and by the enactment of laws regulating bargaining between employers and employees. No such regulation was necessary (except negatively in the form of repressive measures) where the assumption prevailed of an equality of right between the employer and the employee, since this made bargaining a personal relation in which the power of the employer arbitrarily decided the issue. But where the workers organized and insisted on collective action and strikes, the state was forced to intervene and define the "rights" involved. This intervention resulted eventually in legislation making unions and strikes lawful, although the state may still impose various forms of limitations upon both, ranging from the invocation of "law and order" to the institution of compulsory arbitration. Collective agreements moreover led to legislation defining the status of these agreements; in Germany and elsewhere in Europe, for example, employers and employees are prohibited from making individual contracts in violation of the minimum conditions specified in the collective agreements.

Although labor legislation in its later and larger aspects was mainly the result of increasing labor strength, organization and action, there were many significant contributing factors. The original humanitarian motive merged with the general reform movement and with the belief that the evils of unrestrained industrialism were too great for charity, that the public was seriously affected by strikes and that employers should not be permitted to burden the community with the costs of both. Out of this emerged the concept of community welfare and standards, and arguments were advanced that labor legislation raised the level of social life by improving modes of living, education and culture. The ideology of social reform through labor legislation acquired considerable independent influence, operating mainly through democratic and pressure politics and professional reform groups advocating labor legislation. Certain employers moreover came to support specific labor legislation to compel uniform standards and to equalize competitive conditions, strengthened by the conviction that better working conditions whether granted voluntarily or imposed by legislation tended to increase efficiency and productivity. Much labor legis-

lation represents merely the compulsion of certain employers to adopt standards which a large part of the industry has already adopted; progressive employers are always ahead of legal requirements, and although they may favor self-government in industry they deem legislation to be necessary to bring laggards into line and deprive them of competitive advantages. Such motives were supplemented by the desire to assure peaceful relations between labor and capital. Finally, both labor and capital in newly industrialized countries were influenced in their attitude toward labor legislation by the experience of older countries.

The results of labor legislation have often disappointed the high hopes of its proponents yet have by no means been a negligible factor in labor's advancement. Labor legislation sets only minimum standards, which are generally far below those for which organized labor is contending. To organized workmen labor legislation has meant a slight raising of the level of the competition which they have to face from the unorganized and the improvement of incidental (although not unimportant) conditions of employment for which it is not practical to go on strike. To the unorganized workmen it has meant much more—securing a part of the advantages which the organized workmen win through their own efforts. To employers labor legislation has operated as a slight restriction upon their freedom to handle their labor problems as they see fit and as a small increase in costs to the advantage of competitors not similarly restricted, but it has not been without offsetting benefits. It has been an important factor in directing attention to personnel problems and has operated as a strong stimulus to the improved methods for dealing with these problems which were adopted so widely in the United States during the prosperity period of 1923–29. Moreover by removing entire issues from all controversy between employers and employees it has narrowed the field of conflict and promoted better relations.

One of the most important recent developments is the growth of international labor legislation, which the Labor Office of the League of Nations is actively promoting. The greatest obstacle encountered is the varying character of labor legislation in different countries; even when there are identical laws the provisions and benefits may vary to such an extent as to render them totally dissimilar on a comparative basis. In addition to the progressive and ideological

factors involved international labor legislation is most important economically from the standpoint of countries actively competing for foreign trade. The export industries are usually large scale with heavy fixed capital, and competitive changes in the export market tend to depress wages and labor conditions in the industries affected, a situation which might be prevented or modified by international labor legislation or agreements. The competitive drive itself, however, tends to prevent the adoption of the proposed measures of regulation and the higher labor standards involved.

The basis, scope and probable future development of labor legislation must depend upon a complex of economic and social factors. There are economic limits to labor legislation, determined by the efficiency of industry and the productivity of labor. But while labor legislation may not exceed these limits it usually falls short of them. Another factor is the power of the various social classes: while efficiency and output of industry are lower in Germany than in the United States, labor legislation is more highly developed in Germany because of the greater strength of organized labor. Both the economic and the class factor will determine the future of labor legislation; that future, despite forces to the contrary, will probably witness a further extension of labor legislation.

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**LABOR LAW.** *Anglo-American.* About the beginning of the nineteenth century English and American judges began to work out a body of legal doctrines for dealing with employment relations. The process was the familiar one of the common law, the rule enunciated in the decision of each case serving as a landmark for guidance in subsequent cases. In the course of the evolution of this body of labor law the judges in the several states of the United States have borrowed their precedents freely from other states and from England and the English judges have occasionally resorted to American precedents, although the doctrines are by no means uniform in all jurisdictions and the differences have been accentuated by legislation.

The employment situation after the coming in of the factories was radically different from what it had been before, and the common law and equity courts had not concerned themselves much with the older situation. The judges did not at first attempt to work out a body of law peculiar to employment but, so far as they were

not controlled by statutes, derived their precedents from general principles of English law supposed to be of universal applicability. The fundamental assumption was that employer and employee were free parties owing each other no legal duties except those which every person owes to every other or which each has voluntarily incurred by entering into a contract. In practice of course employees may be compelled to obey many requirements imposed by employers and employers may be constrained to observe restrictions imposed by labor unions; but such obedience on each side is not a matter of legal duty, unless it has been embodied in a contract, and the utilization of economic compulsion will not necessarily be regarded as a violation of the "equal freedom" of either party. Even when embodied in a contract enforcement may frequently be impracticable—too expensive for the employee, of no avail to the employer if the employee is incapable of paying a judgment for damages. The law cannot be regarded as settled as to whether collective agreements negotiated between a union and an association of employers are binding contracts at all or if so whether they confer rights and impose duties on the organizations as such or on the individual members of the two organizations.

In addition to contractual obligations incurred by the employer statutory duties have been imposed on him in regard to safe and sanitary factory conditions, workmen's compensation, methods of wage payment and in some cases hours of employment. To the extent that such matters are controlled by statutes they are removed from the province of free bargaining.

The bargaining process, at least before the growth of strong unions, as a rule gave the employer the upper hand. The theory was that each party had equal rights and duties and that superior economic position was due to superior service rendered to the community; the results were thought to conform to natural economic laws. The removal of many of the specific mercantilist restrictions on economic activity and of the feudal privileges of the aristocracy gave strength to this notion, flattering to the employing class and serviceable to them as an argument against labor legislation, which by improving the relative position of the workers seemed to disturb that equality before the law on which the economic inequalities were supposed to rest.

The premise of legal equality was in fact fallacious, for legal rights, privileges and duties

depend on property rights and these depend on the law. Each person has a legal duty not to infringe any other person's property rights, a privilege to use what he himself owns and a right to exclude everyone else therefrom except on his own terms. These statements, however, are empty abstractions until it is specified to what particular objects the property rights of each attach; when it is so specified, the specious equality disappears. A's duty not to infringe the property rights of others may circumscribe his legally permissible activity within very narrow bounds; his privilege to use his own property, if he owns practically nothing, may not suffice to permit him to eat or to produce food without obtaining another's consent; and his right to exclude others may serve no more than to protect the clothes on his back. B, on the other hand, despite his duty not to infringe the property rights of others may by virtue of his right (or that of the corporation in which he owns stock) to exclude others from very important property be able without effort to induce many others to pay him a generous income. The respective legal rights of A and B are equal only in the most formal and empty sense. Nor are they merely the reflection of inequalities in services rendered in the past on the basis of preexisting equal rights. Many of the inequalities are the outcome of the purely legal factor of inheritance of large estates on the one hand and on the other of legal exclusion from opportunity during childhood to acquire health and training in economic usefulness. The ultimate economic position of each person is not so rigidly predetermined at birth as in the feudal system, but the law still imposes vastly unequal handicaps.

As applied to the employment relation the dogma of equal freedom has taken the form of the assertion that "the right of the employee to quit the service of the employer, for whatever reason, is the same as the right of the employer, for whatever reason, to dispense with the services of such employee" [Adair v. U. S., 208 U. S. 161 (1908)]. As a corollary each may prescribe the conditions upon which he will employ or accept employment. On this theory whatever compulsion is involved in the threat of withholding the job or withholding the services is legal and even if sufficient to bring the other party to terms the law will interpose no objection. Some limits, however, have been placed on this theory.

In the early nineteenth century, before the

doctrine of equal freedom had been firmly established, a combined threat to withdraw labor was looked upon askance. Such a combination might disturb the actual power of the employer to dictate the conditions of his plant. A combination of workers to refuse to work was made criminal in England by statute in 1800; in the United States a combination of workmen was held without the aid of legislation to be a criminal conspiracy in the case of the Philadelphia cordwainers, decided in the Mayor's Court in Philadelphia in 1806.

The doctrine of criminal conspiracy is now obsolete as applied to labor disputes. In England it was abolished piece by piece by statutes passed in 1824, 1825, 1871 and 1875. In the United States it received what was perhaps its death blow in the opinion rendered by Chief Justice Shaw of Massachusetts in 1842 in the celebrated case of *Commonwealth v. Hunt* (45 Mass. 111). In neither country today is a combined withdrawal of labor criminal; nor is it necessarily even actionable in a civil suit, although it may be.

But there are limits to the legally permissible use of economic pressure. To cut off the employer's "free flow" of labor or of customers by means of violence is an illegal method of inflicting economic loss upon him. Nor is actual violence essential to render the means illegal. Threats of violence would clearly suffice; and some courts have enjoined threats of social ostracism. In a few states picketing is prohibited altogether on the ground that it necessarily involves threatened violence. The restrictions on picketing differ from state to state, but a state statute denying the remedy of an injunction against abusive and noisy but non-violent picketing was held unconstitutional in *Truax v. Corrigan* [257 U. S. 312 (1921)]. In England peaceful picketing was legalized by the Trade Disputes Act of 1906, but the act of 1927 imposes criminal penalties for some forms of it at least. In the United States the supposed legalization of peaceful picketing (as far as federal law was concerned) in section 20 of the Clayton Act of 1914 has been given a very restricted interpretation, which the *Norris-La Guardia Act* of 1932 attempts to enlarge.

Even when there is nothing illegal in the means, a strike is not necessarily lawful. Like most bargaining pressure it is aimed to compel a reluctant employer to forego the exercise of what may loosely be termed a "right." When so viewed, it is easy to jump to the conclusion that

the strike violates his right and is therefore unlawful. Much confusion results from a vague use of the term right, which the adoption of Hohfeld's careful terminology would avoid. Under this terminology it cannot be premised that the employer has a legal right to pay low wages or operate long hours or on a non-union basis; it can be said at the outset only that he has a "privilege" to do these things—meaning merely that in so doing he is not violating a duty. Whether in addition he has a right not to have the privilege interfered with by a strike (implying a correlative duty on the part of the strikers not to interfere with it) is the very question at issue; the right does not necessarily follow from the privilege.

The courts which have been clearest on the question have developed what has been called the *prima facie* tort theory, according to which there is a *prima facie* presumption that the intentional infliction of damage or economic loss on the employer is illegal; but the presumption can be rebutted by showing a justification. This usually takes the form of proving that the defendants were attempting to promote some reasonable and not too remote interest of their own: in deciding what sort of interest is reasonable and not too remote the courts must face an issue of policy. When justification is not proved it is sometimes stated that the motive of the defendants was one of "disinterested malice." According to some statements malice in the sense of ill will is essential to make the conduct illegal; according to others it is immaterial. Still other judges use the word malice as indicating merely the legal conclusion that the infliction of damage is unjustified. The word is so slippery that it seems better to follow those judges who drop it altogether. However, some judges of the English House of Lords, as the discussion in *Sorrell v. Smith* [(1925) A. C. 700] indicates, still inquire into the state of mind of the defendants and indulge in speculation as to whether their real motive was to harm the plaintiff or to benefit themselves, forgetting that the real motive was probably to harm the plaintiff in order to induce him to act in a way which would benefit the defendants.

The *prima facie* tort doctrine apparently does not enable an employee to make his employer show a justification for discharging him, although it might avail him against one who without justification induces his employer to do so. In *Coppage v. Kansas*, 236 U. S. 1 (1915) it was held that the legislature might not constitution-

ally make it a crime for an employer to discharge an employee for refusing to sign a yellow dog contract—an agreement not to be a member of a union while holding the job. The court did not find any need for justifying the employer's conduct. It may possibly have assumed that the employer's interest in the union affiliations of his own employees would be a sufficient justification. More probably its attitude is to be accounted for by the notion that the *prima facie* tort doctrine applies only to affirmative acts and that mere non-feasance is never a tort. Refusal to continue to employ is regarded as non-feasance, as is also refusal to continue to be employed; but a strike involves the affirmative act of combining. The distinction is made more readily acceptable to the courts by the bad odor which still clings to the concept of a conspiracy and by the modern rationalization to the effect that acts harmless enough when performed by persons acting singly may become intolerable when performed by many acting in concert. The rationalization ignores the fact that discharge by a single employer may frequently be far from harmless to the discharged employee if he can find no other job in his chosen occupation. There is no real reason why conspiracy should be essential for the application of the *prima facie* tort doctrine nor would its application to the discharge of an employee for failure to comply with "unjustified" conditions of employment involve imposing upon the employer an affirmative duty to employ; it would involve only the negative duty to refrain from the act of imposing those conditions.

Courts which apply the *prima facie* tort doctrine differ as to what constitutes a justification for the intentional infliction of damage by means of a strike. Higher wages, shorter hours and improved working conditions are quite generally regarded as justifiable ends. Strikes for a closed shop are apparently regarded as unjustified in Massachusetts but justified in New York. When a union attempted to instigate non-union workers in another shop to compel the latter's employer to unionize, the attempt was said to be illegal by Justice Pitney in *Hitchman Coal & Coke Co. v. Mitchell* [245 U. S. 229 (1917)]. Here, however, he did not apply the *prima facie* tort doctrine and bring into the open his grounds of policy for condemning the union's campaign; he asserted merely that the union was interfering with the employer's "undoubted right" to operate on a non-union basis. Chief Justice Taft, however, in 1921 suggested that unions



had a legitimate interest in making "their combination extend beyond one shop" (*American Steel Foundries v. Tri-City Central Trades Council*, 257 U. S. 184), and the New York Court of Appeals in 1927 made an even more definite pronouncement to that effect in *Exchange Bakery & Restaurant, Inc. v. Rifkin* (245 N. Y. 260). In the latter case an injunction was denied despite the fact that the union was inducing the plaintiff's waitresses to break their promises to remain out of the union. These promises, said the court, when attached to employment contracts terminable at will, were lacking in consideration and did not constitute valid contracts. This view of the law of contracts is at variance with that of the federal courts, as evidenced in the *Hitchman* case, which in addition to the grounds which have been stated held that inducing the breach of a yellow dog contract was an illegal means of conducting the campaign. The *Norris-La Guardia Act* of 1932 provides that such contracts are against public policy and shall not afford any basis for the granting of legal or equitable relief in the federal courts. It has been suggested that this provision violates the constitution in the same manner as did the legislation in the *Coppage* case. The latter, however, made it a crime to insist on such contracts, while the federal law merely makes the contracts unenforceable. The language in the *Coppage* case was broad enough to indicate that any legislative interference with the bargaining power of the employer would be held to be an unconstitutional interference with liberty of contract, unless it had direct reference to health, safety or morals. But this inference is shaken by the opinion rendered in 1930 by Chief Justice Hughes, who had dissented in the *Coppage* case, affirming an injunction under the *Railway Labor Act* which restrained the company from interfering by threats of discharge and the like with its employees' free choice of representatives to negotiate for them (*Texas & New Orleans Railway Co. v. Brotherhood of Ry. & S. S. Clerks*, 281 U. S. 548).

A boycott seems to require greater justification than a strike, although courts have not agreed on the legality of the various types of boycott. Boycotts against employees have at times been pronounced illegal, as in *Carlson v. Carpenter Contractors' Ass'n* [305 Ill. 331 (1922)] and in *Cornellier v. Haverhill Shoe Mfrs.' Ass'n* [221 Mass. 554 (1915)]; in the latter case, however, equitable relief was denied on other grounds. A refusal of a union

to work on partly finished non-union materials in order to favor those manufacturers who employ other members of the union, while held lawful in New York [*Bossert v. Dhuy*, 221 N. Y. 342 (1917)], has been held by the Supreme Court to violate the Sherman Anti-trust Act when aimed against a producer in another state [*Bedford Cut Stone Co. v. Journeymen Stone Cutters' Assn.* 274 U. S. 37 (1927)]. The exemption in section 20 of the Clayton Act had been previously held inapplicable to a controversy between an employer and the employees of other employers [*Duplex Printing Press Co. v. Deering*, 254 U. S. 443 (1921)]. The exemption would probably apply, however, to a controversy between the strikers and their own employer, except where violence or other specifically illegal means is used, even if the employees were directly engaged in interstate commerce. But when there is violence, even if the strikers are not so engaged, their illegal stoppage of production intended for such commerce may be construed to be a violation of the Sherman Act, thus giving the federal courts jurisdiction. The test seems to be whether the motive is to prevent the employer from competing with unionized plants in other states and whether the effect of the stoppage might reasonably be supposed to affect prices in other states. Where this is the case the restraint of interstate trade is called direct; otherwise it is called incidental and is said not to violate the federal law, however flagrantly it may violate state laws against violence. In cases of perfectly peaceable boycotts the federal courts have jurisdiction under the Sherman Act if the boycotts involve a direct restraint of interstate commerce; and despite Justice Brandeis' attempt in his dissent in the *Bedford Stone* case to apply the "rule of reason" the majority apparently leaves no scope for future modification of the court's conception of justifiability in these cases, for "restraint of interstate commerce," it said, "cannot be justified by the fact that the ultimate object of the participants was to secure an ulterior benefit which they might have been at liberty to pursue by means not involving such restraint."

In one respect the Clayton Act changed the position of labor for the worse; it put into the employer's hands the remedy of the injunction for injuries caused by restraint of interstate commerce. Previously that remedy had been available only to the government, and all the employer could do was sue at law for threefold

damages. The Norris-La Guardia Act apparently abolishes the federal injunction for conspiring to instigate strikes without fraud or violence, and it greatly limits the scope of the federal injunction in any labor dispute. It also removes many of the specific abuses which labor alleges have developed in the practise of issuing injunctions, such as the grant of temporary restraining orders on ex parte evidence for periods long enough to cripple a strike which may turn out to be entirely legal. Meanwhile the remedy at law for damages has been rendered somewhat more efficacious in the federal courts by the Supreme Court's declaration in the first *Coronado Coal* case [259 U. S. 344 (1922)] that unions although unincorporated are suable in their own names and "that funds accumulated to be expended in conducting strikes are subject to execution in suits for torts committed by such unions in strikes."

The law's concern with the internal affairs of unions is of growing importance. Through membership in his union a worker's real freedom may be greatly enlarged, but he must submit to such restraints as the union itself imposes on his liberty. The union is a miniature government and its rule may at times become oppressive. If so, the member's privilege of withdrawal may be of no avail to protect him, for leaving the union may involve loss of all occupation at his trade and in any event may leave him exposed to the restraints from which his union membership had freed him. His vote as a member is more important, and courts afford some remedy for dishonest elections. But votes are not always effective even when honestly counted, if the administration is firmly entrenched in power by the methods familiar in machine politics. How the law can remedy such a situation is not very clear. The law does give some relief, however, from the corrupt conduct of union officials in the handling of funds and from arbitrary action on the part of union disciplinary committees in the matter of fines, suspension and expulsion.

When a union succeeds in establishing a closed shop in an entire trade it is governing not only its own members but outsiders. If it excludes the latter from membership it is decreeing that unprivileged persons may not engage in a particular occupation. This it sometimes does on racial or political grounds or to maintain a higher scarcity value for the privileged labor. The writer is not aware of any instances where the law has interfered in these matters, although

the policy of exclusion may perhaps determine at times a court's position as to the justifiability of a strike for a closed shop or as to the validity of a closed shop agreement. If it will admit the outsiders to membership then it is merely making membership compulsory. Some courts object to this; on the other hand, it can be argued that if the union is a desirable organ of government then as with other organs of government all those who benefit from its functioning may properly be required to share in the burden of its support.

In passing on all these questions of labor law the courts frequently determine very delicate questions as to the extent and manner in which the distribution of economic power may be altered through the pressure of bargaining between employers and employees. While increased bargaining power on the part of employees will not remove the more fundamental legal sources of economic inequality it may at times be highly significant. The justifiability of its use in such cases would depend upon a judgment as to the justifiability of the particular inequalities which its use would diminish. Such a judgment would be conditioned largely by the economic philosophy of the judges where the question is not regarded as already settled by precedent. While the doctrines developed by the judges are not infrequently superseded by legislation, this legislation has to be interpreted by the courts. In the United States the Supreme Court has been severely criticized in labor circles for adopting the narrower rather than the broader interpretation of the language in the Clayton Act which legalized certain labor activities. The fault may well have been not so much with the court as with those who drew up the statute, but it has taken Congress more than ten years to enact a new law which would not seem susceptible of the narrow interpretation given to the Clayton Act. Even more significant to organized labor than the power of the courts to interpret a statute is their power to pass on its constitutionality. Judgments on constitutional questions also are necessarily the outcome of the general social philosophy of the judges; for a mere grammatical interpretation of the language of the constitution would not be decisive, and the judicial technique for reaching decisions as to what legislative interferences with the distribution of economic power shall be deemed to fall within the sanction of the vaguely defined "police power" is as yet, perhaps necessarily, crude.

The social philosophy of judges is thus a vital factor in determining how the law shall develop in the absence of legislation, how legislation shall be interpreted pending the enactment of new statutes and how far the legislature shall be permitted to alter the judge made law. The philosophy of the trial judge is also of vital importance to organized labor; for although his rulings, if erroneous in the view of the appellate court, are reversible they may decide the outcome of a particular controversy in cases where a reversal would come too late. Moreover the judge has wide discretion as to the finding of facts, the scope of an injunction and the granting or withholding of a temporary order on *ex parte* evidence. Organized labor has frequently used its political influence to prevent the election, appointment or confirmation of judges whose viewpoint it regards as unsympathetic. The most conspicuous instance was its participation in the successful attempt in 1930 to prevent the confirmation of the appointment of Judge John J. Parker to the United States Supreme Court. In this activity labor was following the example set in 1916 when the confirmation of Justice Brandeis was opposed, although unsuccessfully, by groups which feared that his social philosophy was not sufficiently conservative.

ROBERT L. HALE

*Continental.* The familiar contrast of characteristics which is based on the division of western law into Anglo-American and continental law is not extensively applicable to labor law. At present there is a much closer affinity between English and continental labor law. American labor law, which has undergone far less socialization than either, is set apart by its backwardness; it has simply carried to their logical extremes certain English developments, such as the law of conspiracy and the injunction, and the latter indeed remains its most prominent feature. In the treatment of labor problems much the same expedients have been tried in continental countries as in England and the United States. Examples of such attempts to fix wages as those represented by the English Statutes of Labourers may be found also in continental countries, where special servants' ordinances were a particular feature of legislation. The differences in the history of the labor law of the various western countries have been determined not so much by the invention of new expedients as by the selection from univer-

sally familiar ones. England as the country in which the industrial revolution first appeared simply showed the way.

In continental countries as in England the early relation between employer and employee was largely one of dependency on the part of the latter. The idea of relationship at the basis of the English law of "master and servant" is a general Germanic conception. Although slavery was known among the Germans, it was held not unfitting for a freeman to serve another; in cases of such service a relation of personal loyalty was established between them. The contract was one of faithful service. The duty of the retainer to serve his lord was not in itself contractual but arose from the established relationship, whence arose also a duty of protection and care on the part of the lord. Gradually, however, the basis of the service became contractual; the personal relationship receded into the background and the promise of service became the essence of the contract. The subjection of the servant to the master remained but it was no longer the basis but the consequence of service. Although the status of the servant class deteriorated progressively from the end of the Middle Ages, the old relational conceptions persisted.

Even the reception of the Roman law was unable to effect any considerable displacement of Germanic ideas. The Germanic law had developed many specialized forms of labor contracts which were well suited to the growing need for free labor, while the forms of the Roman law were ill adapted to it largely because they had developed in a slave economy. The Roman law had dealt with the labor relation as a form of lease. There was the *locatio conductio rei*, the letting of a thing; the *locatio conductio operis*, the letting of a job; and the *locatio conductio operarum*, the letting of a service; and the three forms were assimilated, although free labor was involved. The common law of the Pandects preserved the Roman doctrinal union of the labor contract with the hire of things, but in actual practise it was of little influence in most parts of Germany.

As in England and the United States the beginning of the nineteenth century witnessed the general recognition of the principle that the labor relation was to be regulated under the ordinary principles of contract. The French Revolution ushered in freedom of contract. Employer and employee were to be treated as equals. Yet the *Code Napoléon*, slavishly follow-

ing the Roman law, spoke briefly of a *louage d'ouvrage*, a letting of work, and a *louage d'industrie*, or a letting of services (sects. 1708-11). It had in all only two other provisions respecting labor relations. Article 1780 embodied a provision which had been part of the customary law of France since the seventeenth century to the effect that in any dispute as to wages or salary between a master and his employee or servant the master was to be believed upon his mere affirmation. This provision, which was not abrogated until 1868, must have been difficult to reconcile with the declared equality between employer and employee. The other provision, contained in article 1781, which related to an employer's powers of discharge, was also entirely in favor of the employer and was not modified until 1890. Modern continental legislation has in general regulated carefully the employer's powers of discharge and the employee's right to give notice.

The German regional codes of the late eighteenth and the nineteenth century completely rejected the Roman law conceptions of the labor relation. The Prussian *Allgemeines Landrecht* of 1794 was the first to do so. It treated the labor contract under contracts requiring positive acts (*Handlungen*) but contained few general provisions, following the Germanic tendency of regulating particular forms of labor contracts. The example of the Prussian code in rejecting the Roman law was followed by the Saxon code, the Austrian code and the Swiss Code of Obligations and finally by the German civil code at the end of the nineteenth century. It recognized two distinct forms of labor contracts, the *Dienstvertrag* (sects. 611-30), or contract of service, and the *Werkvertrag* (sects. 631-51), or contract of work. Its standards of protection of the worker naturally showed a considerable advance over the French civil code of the early years of the century.

Even as the nature of the employment relation was fixed by the ordinary law of obligations in the early decades of the nineteenth century, the liability of the employer for an injury to a worker was fixed by the ordinary civil law of wrongs. On the whole, however, the civil law of employers' liability (*q.v.*) was somewhat more favorable to the worker than the Anglo-American common law. The fellow servant doctrine was applied in Prussia but not in France under the *Code civil*. The latter, however, was not held to allow recovery for injuries arising from the ordinary risks of the work. On the other

hand, it allowed contributory negligence to go only to the measure of damages.

The parallel development of the law of combination in England and continental countries is particularly striking. With the decay of the guilds there had arisen associations of journeymen who sought to improve their lot by concerted action. A series of imperial ordinances were directed against them in Germany in 1530, 1548 and 1577, but they proved unavailing. The *Reichszunftordnung* of 1731 was more successful; it not only forbade combinations and strikes but provided (in this respect in a characteristically continental fashion) for police surveillance over migratory workers through a system of certificates of good conduct. The "labor book" was introduced into France in 1803 and spread through other European countries. The ordinance of 1731 was followed very closely in the German states. In France the guilds were dissolved after the revolution. In 1791 the Constituent Assembly passed the famous *Loi chancelier*, which outlawed all combinations of masters or workmen and penalized strikes and lockouts. These provisions were codified in sects. 414-16 of the *Code pénal*, which had particularly great influence upon continental legislation.

The first half of the nineteenth century witnessed the general denial of freedom of trade association, while in the second half of the century the prohibitions were gradually relaxed or repealed. Saxony was the first German state to allow freedom of trade association (1861). The latter was recognized by the North German Confederation in 1869 and by the empire in 1872—subject, however, to important restrictions. The penal provisions against trade association were removed in France in 1864, but freedom of trade association was not proclaimed till 1884. The close resemblance between the combination law of France since 1884 and the combination law of England since 1875 has been pointed out by Dicey. It must not be supposed, however, that the recognition of the right of combination has been more significant on the continent than in England or the United States with regard to the removal of all limitations upon the actual conduct of labor disputes. General statutes against threats and intimidations have served much the same purpose as has the common law of conspiracy. Restrictive interpretation of the right of combination has been virtually a universal phenomenon. The law relating to strikes (*see STRIKES AND LOCKOUTS*) and boycotts (*see BOYCOTT*) must always be taken

into consideration. A feature of continental labor law which has been absent in both England and the United States (except for the ill fated Kansas Industrial Relations Court) is special industrial courts for adjudicating labor disputes (*see COURTS, INDUSTRIAL*).

Even before the second half of the nineteenth century there began in continental countries the general abandonment of the principle that labor relations were to be determined by the normal law of obligations. The general civil code provisions were supplemented by special provisions governing special types of labor contracts. These were sometimes contained in special laws relating to particular classes of workers or in supplementary general codes, such as the continental commercial codes. Most common were the industrial codes. Prussia enacted an industrial code in 1845, Austria in 1859. The industrial code of the North German Confederation of 1869 became the code of the German Empire. Most important in indicating a new attitude toward the labor relation was the legislation for the special protection of the worker which is described in the article on labor legislation. Such legislation was sometimes embodied in special statutes and sometimes in a general code. As a result of these developments the sources of continental labor law have become highly complex, while the multiplication of administrative orders has reduced them almost to chaos. Thus the functions of judicial interpretation with respect to labor subjects have been extremely important in continental countries, although not as important as in the United States. Continental courts, however, have at times tended also to exalt the provisions of the general civil and penal codes, which of course are not abrogated, to the detriment of special legislation. The general codes thus serve a function analogous to that of the Anglo-American common law.

The practise of codification is a special characteristic of continental law. Such codification has been made particularly necessary by the confusion in the labor law of the chief industrial countries. France has a *Code du travail et de la prévoyance sociale* of quite recent date; this is not, however, a really uniform labor code. Although continental codes are usually statements of an existing body of law according to some logical plan, the *Code du travail* is much more like an Anglo-American volume of compiled statutes, merely assembling under various heads the existing French statutes relating to

labor law. It is ultimately to have seven books, but so far only two have been published: book one in 1910 and book two in 1912; books three and four have been promised.

The labor law of Germany has been more advanced than that of any other European country with the exception of Soviet Russia. The basis of German labor law before the war was paternalistic; since the Weimar constitution important new institutions have been created, and the worker now enjoys by right privileges formerly granted as favors. Legal provisions have been made for employee representation. A new system of labor courts has been established, and the collective contract has been introduced as a flexible means of legal regulation of labor relations in any given industry. Such collective agreements have normative effects: not only do they govern the organizations which have concluded them, but their provisions become part of each individual worker's contract. The collective agreement may be said to be the very crux of German labor law; yet all notions of contract have not been abandoned, for it is laid down as a fundamental principle that there must be no compulsion on either side in the conclusion of the agreement.

The intensive development of German labor law since the war has led to its treatment as a special branch of juristic science. The new discipline of *Arbeitsrecht* has been cultivated by a growing number of German jurists, among them such men as Kaskel, Hueck, Nipperdey, Pott-hoff, Jacobi and Sinzheimer. The attempt is being made to work out a body of labor law upon fundamental principles, to reconcile existing divergences and to prepare the way for future legislation, especially for the uniform labor code which is envisaged by article 157 of the Weimar constitution. Thus far the existing provisions of German labor law have been admirably systematized. As to many fundamental principles, however, there is still no general agreement. According to the prevailing view labor law is conceived as the special law of the dependent wage earners. The concept of labor law does not extend to all the labor of men in society but is confined to a certain type of labor relation and must therefore be regarded as a purely modern branch of law. It is partly private law and partly public, since its content is determined not by subject matter but by the existence of a certain relationship. The most desirable method of regulating the labor contract has also led to divergence of views. It is possible to

regulate each form of labor contract separately or to make regulations which shall govern all forms of labor contracts. German legislation has not waited for all possible theoretical difficulties to be solved but has continued its own development. It is perhaps doubtful whether an entirely consistent system of labor law can be elaborated in any western democracy. The compromises dictated by the economic system are bound to be reflected in the principles of the labor law.

Yet principle is perhaps less important than might be supposed. The Soviet labor code of 1922 and the Italian charter of labor of 1926 are doubtless more consistent with the regimes which have established them, although neither the labor law of the communist nor of the corporate state is unique; both bear a startlingly close resemblance to that of such states as Germany and even France. The institution of the collective agreement has been introduced into all these countries since the World War, and their legislation for the protection of the worker has strongly marked common characteristics. Even compulsory arbitration is not to be connected solely with dictatorship. The labor law of the great European industrial states represents virtually a European common law. The actual differences in the conditions of the worker in the various countries is determined not so much by legal factors as by political forms and economic pressures.

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See: LABOR MOVEMENT; TRADE UNIONS; LABOR PARTIES; LABOR, GOVERNMENT SERVICES FOR; GOVERNMENT REGULATION OF INDUSTRY; FACTORY SYSTEM; INDUSTRIALISM; HUMANITARIANISM; LABOR CONTRACT; COLLECTIVE BARGAINING; TRADE AGREEMENTS; FREEDOM OF ASSOCIATION; ASSEMBLY, RIGHT OF; STRIKES AND LOCKOUTS; BOYCOTT; BLACKLIST, LABOR; CONSPIRACY, CRIMINAL; LABOR INJUNCTION; ARBITRATION, INDUSTRIAL; COURTS, INDUSTRIAL; INDUSTRIAL RELATIONS; HOURS OF LABOR; WAGE REGULATION; MINIMUM WAGE; CHILD; WOMEN IN INDUSTRY; HOMEWORK, INDUSTRIAL; INDUSTRIAL HAZARDS; INDUSTRIAL HYGIENE; SOCIAL INSURANCE; WORKMEN'S COMPENSATION; EMPLOYERS' LIABILITY; INSPECTION; LEGISLATION; JUDICIAL PROCESS; JUDICIAL REVIEW; CONSTITUTIONAL LAW; INTERNATIONAL LABOR ORGANIZATION.

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## Labor Legislation — Labor, Methods of Remuneration for 577

**LABOR, METHODS OF REMUNERATION FOR.** The methods of remunerating labor in return for work performed may be classified according to the form of payment or according to the basis for measuring the amount of remuneration. In modern capitalistic society money is the principal form of wage payment. There have been periods, however, subsequent to the spread of coinage as well as antecedent to that development, when wages were paid in other media; as, for example, in kind, in services or in food, clothing and shelter. In other periods monetary compensation has been combined with other forms of remuneration. In such cases money wages have not always been the most important component of the compensation but have at times been merely supplementary to the provision of food, clothing and shelter.

In the economy of the ancient world after the development of coinage wages were paid partly in money and partly in commodities. The relative importance of these two constituent elements varied in general with the nature of the work, the period and the country. Throughout ancient history payments for agricultural labor were predominantly in kind; in urban commercial and industrial work, on the other hand, the monetary element in remuneration tended to increase in importance with time. By the fifth century B.C. workers in Athens were being paid chiefly in money; in Egypt, however, payments in kind continued predominant somewhat later than in Greece and Rome. The rise in the importance of monetary payments was not entirely regular and unbroken; in such periods as that of the debasing of the Roman coinage in the fourth century A.D. wage payments, like payments in general, reverted almost entirely to a barter form.

In the manor villages of the early feudal system the remuneration of labor, craft as well as agricultural, was characteristically in forms other than money: in protection, in the right to cultivate certain strips of land, in compensatory services and commodities. The development of commerce, the disappearance of the self-sufficient manors and the rise of merchant and craft guilds in towns and cities led gradually to payment in money in addition to other forms of compensation. Under the guild system industry was generally carried on in the master's house; the apprentices and even the journeymen generally comprised part of the master's household, and a considerable part of their compensation consisted of food, clothing and shelter provided by

the master. Here and there, however, apprentices and other workers were brought together under conditions which resembled modern loft factories. The wage system of modern capitalism with its emphasis on the cash nexus did not reach its full development until after the industrial revolution. The invention of power apparatus and the removal of work from households to factories made it no longer necessary or practicable for employers to accept the workers as part of their household, and the payment of money wages to a body of free laborers became the characteristic form of remuneration in capitalistic industry.

Yet payments in forms other than money have not entirely disappeared. In agriculture, domestic service, lumbering and similar extractive industries and in construction operations on frontiers, such as highway, railroad and power projects, bed and board and other necessities are supplementary forms of remuneration. When in such enterprises the relations of employer and employees are intended to be permanent, as in the development of a mine in an unsettled mountain region or of a cotton mill on an unsettled power site, the employer may build homes, establish retail stores and provide other community facilities for which nominal prices are charged, and these are rated as supplementary remuneration. In some instances, however, this payment in conveniences and "truck" may be equivalent to a diminution of real wages because of the excessive prices charged. In general these supplements to money wages are likely to be found today wherever industrial operations have called a considerable colony of workers together in a place unprovided with basic community facilities.

Somewhat different is a type of supplementary remuneration which is not necessitated by lack of basic community facilities but is added voluntarily by employers in socially developed centers. In a competitive money economy an employer hesitates to depart from the payment of customary wage rates by independent voluntary increases; yet because of a desire to secure the advantages of a low labor turnover and a productive goodwill he may be willing and able to give his workers certain supplementary satisfactions. Among these in addition to fair dealing and good management with the implied corollary of steady employment are exceptionally favorable conditions of ventilation, heat, light and cleanliness; rest rooms, cafeterias, gardens and playgrounds; dental and medical service; promotion and partial support of employee



clubs; classes for technical and general education; savings banks, group insurance and group investment organizations; accident, old age and unemployment insurance; and other types of welfare institutions. The term non-financial incentives to describe such provisions has taken a permanent place in management literature. Such types of welfare activity are, however, not always accepted whole heartedly by the workers, who in many cases would prefer an increase in their monetary wage to be disposed of as they themselves see fit. Organized labor, particularly in the United States, has opposed welfare work on the grounds that it leads to paternalism and autocracy on the part of the employer, suppresses the initiative of the workers and delays the progress of industrial democracy, divides the allegiance of the worker to his organization and in the last analysis operates at the expense of wages.

With regard to the classification of methods of remuneration according to the basis for determining the amount of money to be paid there are three principal types: the time wage, in which payment is for units of time (usually hour or day) without special regard for output; the piece wage, in which payment is for units of output without special regard for the time applied; and the efficiency wage, in which payment is for the degree of accomplishment of some predetermined standard, such as quantity per unit of time, quality, economy of materials consumed or combinations of these and other standardized factors. This customary classification is one of convenience rather than of strictly logical distinction. To hold his job a worker on a time wage must maintain some minimum quality, a worker on a piece wage must maintain some minimum output per unit of time and in all efficiency wage systems both time and output are major factors of the various formulae. From the point of view of the sharing of productivity these basic systems have different consequences. Generally the time wage system gives the advantages of improved technology to the employer, the piece rate system gives them to the employee and the efficiency system divides them in some ratio between the two. These generalizations are true only so long as no drastic changes are made either in the rate per piece or per unit of time. In addition under any wage system competition gives a share of technological advantages to consumers. The share of the increase attributed to the worker under an efficiency system is usually designated as his premium or bonus. The possibility of combining an almost infinite variety of factors in

constructing efficiency wage formulae has led to the devising of a large number, which are loosely and improperly labeled systems.

Both the time wage and the piece wage systems have long histories. They were a feature of the economic societies of Egypt, Greece and Rome, and as free labor emerged out of feudal institutions both of these systems returned to use. Where the tasks required of a worker were varied, as was usually the case, wages were paid on a time basis; but where the labor was for a definite task, such as weaving on a hand loom, the payment was sometimes based on output. With the development of the larger household industrial establishments and especially of the factory system following the industrial revolution, the time wage became the dominant system of wage payment.

About the third quarter of the nineteenth century a rapid increase in the size of factories and of their equipments created new problems of supervision of factory labor, which caused special attention to be turned to efficiency systems of wage payment. The only incentive system then known was the piece rate, but rapid extension of the use of this system was retarded by labor controversies resulting from the tendency of management to cut the piece rates in order to obtain some of the benefits arising from the advances in managerial technology. It was a period of great mechanical inventiveness, and the introduction of a new, more productive machine in a particular industry put those concerns which had piece rates at a disadvantage in competition with concerns having time rates, unless the piece rates could be proportionately reduced. A machine lowers costs of production where time rates prevail, but not where inflexible piece rates prevail. It was not until job analysis, with its standardization and specifications, became a part of managerial technology and made possible flexible and adjustable piece rates conditioned on the standard elements of operations that this wage system assumed its present status among forms of remuneration.

This early difficulty with piece rates stimulated search for some other form of wage payment which would have incentive value and yet give the employer a share of the advantage of increased productivity from the invention of a new machine and from improvements in operating conditions and methods. This led to the appearance late in the nineteenth century of a number of efficiency wage formulae. The first to be developed was the premium, or gain sharing,

system represented by the Halsey, Rowan and Towne-Halsey formulae, which established a standard based on the average of past performances; any savings resulting from the fact that a worker exceeded that standard output were divided between employer and worker on some empirical ratio. These premium formulae were followed by the Taylor differential piece rate and the Gantt task and bonus formulae, in which the standards were determined by experiment and time study measurements; by the Emerson efficiency bonus plan, which established standards less empirical than the earlier formulae but less scientific than those of Taylor and Gantt; and more recently by several scores of other formulae, which are only variations of the historic types already mentioned.

Both the Taylor differential piece rate and the task and bonus efficiency type of his assistant Gantt, which Taylor himself adopted as more manageable than the former, introduced a factor into the making of incentive wage formulae which has revolutionized the managerial environments in which wage systems have been applied and thereby indirectly so revolutionized all wage systems that the fundamental differences between them are disappearing. This factor is the scientific management principle of research determination of the standard or base from which differentials are computed. The earlier Halsey, Rowan and Towne-Halsey formulae had accepted job conditions as they were and utilized averages of past performance as the base. Taylor introduced the technique of painstaking experiment to improve the conditions and methods of each job and then used as the base the amount of time, determined by a stop watch, in which the job should be done under the improved conditions. This technique of stop watch measurement of experimentally standardized conditions has recently come to be used also in constructing nearly all efficiency wage formulae and in many instances in setting standards for workers on time wage rates. Piece, efficiency and even time rates based on time studied standard outputs per unit of time are much the same fundamentally, the differences being those of convenience in computation and application under particular circumstances. The essential difference between one wage formula and another has thus come to rest on the difference between the systems of management of which they are parts rather than on the mathematical characteristics of the formulae themselves.

Comparative data concerning the relative ex-

tent to which the different types of wage payments are being used are lacking. Wage statistics and a few sampling studies here and there indicate that generally throughout world industry the time wage is dominant, even in the most highly industrialized regions. In central and western Europe the piece rate has a strong position in many trades, as have both the piece rate and the efficiency types in the United States. In agriculture and most extractive industries, in the heavy unskilled work of manufacturing industries and in general wherever labor is called upon to perform a miscellany of jobs in the course of a day's work the time wage has proved to be the most manageable. In manufacturing establishments and in such extractive industries as mining, in which the unit of output is highly standardized and is measurably related to effort, the piece rate (including its contract rate variant) and the efficiency wage occupy an increasingly important place. The basis of payment is, however, seldom the same even throughout a single industry. In almost every time wage factory there are some pieceworkers and vice versa. A combination of four recent sampling studies of methods of wage payment in manufacturing industries in industrialized sections of the United States indicates (roughly, because the methods were not identical) that 40 percent of the wage earners covered were on time rates, 35 percent on straight piecework and 25 percent on premium or bonus plans. In the metal, clothing and footwear industries the percentage on piece rates was much higher than the average; and in the textile, food and printing industries the percentage on day rates was much the higher.

These studies show that the major position occupied by the time and piece rate systems reflects two important tendencies in industrial management: first, increasing use of standardization through time studied job analysis and, second, avoidance of the complicated formulae represented by premium and bonus plans in favor of the simpler wage systems. These tendencies, as has already been noted, are related. Given the control of operations made possible by thoroughgoing time study standardization, the simpler time and piece rate formulae can be given much if not all of the incentive value for which premium and bonus plans were devised. Provided standardized conditions are present and have been measured and valued, a time rate may be conditioned on a standard quantity and quality performance, just as a piece rate, a bonus or a premium is conditioned on a standard time of

performance. In some highly mechanized industries where machines in synchronized series set the pace of output one system of wage payment has no more incentive value than another. Therefore those systems which are the simplest for purposes of record and computation are preferred as other differences between the various systems tend to disappear. The stimulus which led to the devising of premium and bonus wage formulae was the desire to secure constant reasonable application of less strictly supervised labor energy and particularly constant maximum utilization of equipment and diminution of overhead costs and incidentally to win by money incentive an acceptance of the new methods of precise measurement and standardization in management. Wherever management through standardization has become familiar and acceptable to workers, the last element of the stimulus is no longer so important and the other two elements can be provided for by either time or piece rates.

The basis of remuneration, like the rate, has been a frequent subject of labor controversy. When first introduced the piece rate met with universal opposition from the workers, chiefly because of the employers' penchant for rate cutting. Although the attitude differs from industry to industry, organized workers are in general opposed to piece rates, especially in industries in which production standards have not been developed, as in the cloth hat, cap and millinery industries. Where production standards and a precise flow of materials have been properly developed, however, the piece rate is more generally acceptable. Experience with bonus and premium plans has been much the same. Early opposition to them was largely based on a failure to understand the complicated formulae and the fear that they concealed opportunities for rate cutting similar to those offered by the piece rate method. Where production standards have been developed, these types also have come to be accepted. On the other hand, where carefully studied production standards do not exist and standards and premium plans are arbitrarily imposed, as in many textile plants of the southern states, efficiency plans of wage payment meet violent opposition. Controversies involving the basis of wage payment as an issue generally have as the more fundamental issue distrust of the intentions and competence of the management. Where careful organization and standardization of operations and a definite policy of industrial relations are present the wage arrangement,

whatever basic type it may represent, can be effected without controversy because the facts of the situation are understood by both parties to the negotiation and the employer's desire for high production and low costs can be reconciled with the workers' desire for adequate earnings, proper conditions of work, absence of discrimination and fair dealing generally. Where these prerequisites are absent and the management is inspired by a policy of opportunism in which the commodity theory of labor plays a strong part, workers feel that their interests are best conserved by the simple time wage. The interest of consumers as represented in the quality and price of output is little affected by the method of wage payment as a factor distinct from the method of management. No wage system per se can bring price and quality under control; on the other hand, competent management can bring them under control with any system of wage payment, although the piece rate and efficiency systems make the task easier. It is at this point that the "non-financial incentives" which are always created by competent management play an important part.

The group bonus, a recent addition to the methods of wage payment, is in principle identical with the individual bonus or premium. The growing favor which the group bonus as compared with individual bonuses is receiving from managements is due to the relative simplicity of the records and computations involved and to the fact that it stimulates within the group a co-operative self-supervision. Where group work is carefully organized and standardized and the members are carefully selected, the method works very well because cooperation is emphasized; but when such care has not been exercised, the cooperation may become transformed into a ruthless policing of the weak by the strong members of the group with resulting ill will.

On the executive and distributive side of capitalistic industry the principal method of wage payment is the time wage. Executives receive annual salaries, and clerical workers in both offices and merchandising establishments generally receive a monthly or weekly wage. In a few instances office employees are remunerated by bonus plans on the basis of measured output, but this is exceptional because of the difficulty of measuring clerical work. Sales people usually receive commissions based on volume of sales in addition to a stated time wage, the commission usually forming all or the greater part of the remuneration in the case of manufacturers' sales-

men and persons selling such services as insurance but less frequently in the case of retail sales people. Supervisory personnel may sometimes receive in addition to a time wage a commission or bonus on the earnings of those whom they supervise. In some enterprises profit sharing (*q.v.*) is an additional form of remuneration for the executive group, but its application to the rank and file of workers after some experiments in that direction has practically been abandoned. Employee stock ownership can hardly be classed as a form of remuneration for labor, inasmuch as the income is from investment; bonus elements are present, however, where the stock is made available at a preferred price or given outright or where special privileges are afforded in the method of purchase.

What the forms and bases of remuneration for labor would be under a regime of pure socialism or communism which would utilize modern technology, particularly specialization and division of labor, is wholly speculative. The various experiments with communistic settlements (*q.v.*) have generally employed the principle of equal claims by all members upon the income of the community, with distribution in the form of food, clothing and shelter out of the common store. In the attempts which have been made at producers' cooperation (*q.v.*) payment has consisted in the last analysis of the share of the individual worker in the profits of the enterprise, distributed partially in advance in the form of more or less regular wage payments and partially in the form of dividends or an equal share in the increased value of the establishment. Where, as was frequently the case, outside labor was utilized by these communistic settlements and cooperative enterprises it was generally paid in the form and on the basis prevailing outside the enterprise.

Such communistic settlements and ventures in producers' cooperation have been neither sufficiently large nor sufficiently influential to affect prevailing methods of remuneration for labor; they have generally tended to disappear eventually or to become absorbed into the dominating capitalistic environment. The industrial regime of the Union of Soviet Socialist Republics, however, with its ultimate aim of establishing a thoroughly communist society based on an industrial mechanized economy rather than on a simple agrarian economy is of the greatest significance, even though its present forms of organization and of remuneration may not be final. Speaking broadly, all citizens are workers be-

longing to one or another functional class as employees of the collective whole, which owns the instruments of production and through its agencies conducts the processes of industry and commerce. The remuneration of the workers is of three kinds: money wages, based predominantly on time and piece rates, varying according to the grade of work but without a wide spread between the highest (executives) and lowest (unskilled) and including also certain special or collective bonuses for increased efficiency awarded to groups of workers engaged in directly productive work; collective remuneration in the form of socialized services, such as education and training, recreation facilities, medical care and other welfare attention, housing and various types of insurance; and special privileges accorded certain categories of workers, such as preference given manual over intellectual workers in the matter of housing accommodations and retail purchases. Money wages paid in Soviet Russia are not easily comparable with those paid in capitalist countries, because so large a proportion of the Russian workers' remuneration is in non-financial socialized forms. The tendency seems to be toward increased emphasis upon payment on the basis of results and an increasing divergence between the compensation of different strata of workers. The presence of so many incalculable elements in the Russian situation makes it impossible to foretell what forms and bases of remuneration will ultimately prevail and whether eventually the communist ideal—"from each according to his ability, to each according to his need"—will be realized.

H. S. PERSON

See: LABOR; WAGES; WAGE REGULATION; LABOR CONTRACT; TRADE AGREEMENTS; SCIENTIFIC MANAGEMENT; PERSONNEL ADMINISTRATION; WELFARE WORK; INDUSTRIAL; PROFIT SHARING; EMPLOYEE STOCK OWNERSHIP; PRODUCERS' COOPERATION; COMMUNISTIC SETTLEMENTS; SOCIAL INSURANCE; COMPANY HOUSING.

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LABOR MOVEMENT is the term which is used to designate all of the organized activity of wage earners to better their own conditions either immediately or in the more or less distant future. In all countries it has run along three lines—political, economic and cooperative. These have not been parallel but have alternated in predominance in the same country or have predominated differently in different countries according to differences in institutions and economic conditions.

Essentially the labor movement implies the existence of a wage earning group, but it does not appear until that group develops some consciousness of the separateness of its interests as opposed to those of its employers and until it realizes the necessity for some form of organization in order to advance these interests. Its earliest time limit must be sought in the period of capitalism, when the free wage earner replaced the bound serf of feudalism. The labor movement is always a reaction and a protest against capitalism.

But capitalism is not a single or static concept. It is an evolutionary concept of three historic stages—merchant capitalism, employer capitalism and banker capitalism. The first arose out of the extension of markets and the second

out of technology; the last is now dominant as a result of the prevalence of the credit system. Labor movements reflect these capitalistic movements.

Different industries move at different rates of speed toward final consummation. In the merchant capitalist stage the wholesaler aided by the rising commercial banker dominates the access to distant consumers, while the producers are scattered in small shops of masters, mechanics, apprentices and helpers. The employer here is himself a mechanic contracting to deliver the finished product to the merchant capitalist, who owns the raw material, while the contractor owns the shop and the journeyman the tools. This is the sweatshop system of production, because the merchant capitalist sets the contractors to competing with each other and with homework, prison work and foreign producers, so that their profit as employers comes mainly from the "sweat" of the workers. The building trades are the typical lag from this stage of capitalism; in the case of agriculture this stage survives in the middleman system.

In this merchant capitalist stage arises the revolutionary philosophy of Proudhon's anarchism for industry and cooperative marketing for agriculture. If a social philosophy means a certain view of human nature and a goal toward which a movement is directed, then the philosophy of anarchism is that of individual property of small producers with voluntary cooperation to displace the middleman as the goal. The anarchist philosophy does not abolish private property—it proposes to make it universal for each individual, conforming to a stage of industry where the contractor owns the shop and the peasant the farm. The small proprietor who works with his men is idealized as a competent business man who could succeed in bargaining cooperatively if the great middlemen and their banking affiliates did not have monopolistic power granted by governments. This is indeed the philosophy of the small capitalist, the *petite bourgeoisie*; and it is not surprising that after a similar revolutionary movement of wage earners has arisen under the name of syndicalism the petty capitalists of this stage, unable to combine cooperatively, should combine politically under the banner of Fascism to dominate the big capitalists and bankers on the one side and the revolutionary wage earners on the other.

It is in this stage of merchant capitalism that trade unionism also emerges. The trade union is originally a union of the journeymen or

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skilled mechanics working in the small competing shops of the petty employer. They eventually abandon cooperation and the other ideals of anarchism and devote their energies to strengthening their bargaining power. At first the unions are confused about the economic position of this petty employer who works along with them and is today a journeyman, tomorrow a contractor and employer. They admit him to membership because his economic interest is that of a wage earner; then they exclude him because his interest is with the capitalists, for whose profit he hires the wage earners. This is the stage of craft unionism which excludes helpers and unskilled workers and endeavors to control apprenticeship and maintain the "union shop" or "closed shop" for the sake of increased bargaining power. The philosophy is that of the skilled mechanic, who has "invested" years of low wage apprenticeship for the sake of an established position and a higher standard of life and yet sees himself unemployed and brought down to the level of the lowest by their competition. It is the stage of trade unionism which began in 1850 in England and the United States and of the Hirsch-Duncker unions organized in Germany twenty years later.

When the employer becomes the capitalist by owning the machinery and factory as well as the goodwill which formerly belonged to the merchant, when the contractor moves into the factory and becomes the foreman, when the skilled mechanic by specialization and machinery is reduced toward the level of the unskilled, then capitalism becomes employer capitalism and laborism tends to become communism, syndicalism, guild socialism or industrial unionism. Karl Marx saw this stage in England after the middle of the nineteenth century and predicted it for the world—the technological stage of capitalism on a wide scale, made possible by the preceding extension of markets under merchant capitalism. This is the stage of the organization of the unskilled beginning in the 1880's with the Knights of Labor in the United States and with the dock workers, gas workers and general laborers in England.

The wage earners as such cannot wait upon a reorganization of society or upon political action for jobs and food. If the reorganization comes suddenly, under the leadership of a Lenin in the midst of world war, they may fall in line, even though the ripened employer capitalism for which Marx would have had them wait has not yet appeared. Their strikes are at first

blind protests; and, although they are thereby unemployed, it is an unemployment concentrated by their own will and not staggered through the years at the will of their employers. Then if successful they acquire "business" leaders, who by placing the agitational leaders in subordinate position negotiate with the employers for the best terms obtainable under the existing institutions of property and liberty. This is the collective bargaining and trade agreement stage of unionism.

Whether the unions turn out to be craft or industrial depends on the capitalistic stage of the industry and the class solidarity of the workers. If they are divided by language, religion, politics, skill, color, race or geographical sections, as in the United States, there must be built up an artificial solidarity, which reaches only the few who can lift themselves above the mass into craft unions. If they are driven together by a history of common subjection to a military, aristocratic, ecclesiastical or proprietary lordship, as in continental Europe, they fall into the widespread solidarity of class struggle and a powerful socialist political party. But if this solidarity is the result of the advance of the employer capitalist, then they vacillate between industrial unionism and socialist parties.

Thus the two goals which divide labor movements are displacement of capitalism and bargaining with capitalism. Displacement takes the form of voluntary cooperation primarily through producers' cooperatives (although consumers' cooperatives also had this aim at first) or the compulsory form of politics, communism or syndicalism. Bargaining with capitalism is unionism. But these goals are not inseparable. They follow a time schedule. In periods of rising prices, of increasing profits and growing demand for labor bargaining with capitalism predominates, because employers can afford to pay and unemployment has no terrors. Revolutionary political activity and socialist utopias are abandoned for the immediate and real gains achieved by union organization. Such political demands as are made deal with the interference with labor's freedom to organize and act on the economic field. In periods of falling prices, of decreasing profits and unemployment the displacement of capitalism predominates as the goal, because capitalism cannot furnish employment and its burdens are actually relieved by unemployment. Political activity, communist agitation and quasi-revolutionary strikes replace

the "business" strikes of unionism. Socialist and communist parties poll large votes and plans for a reorganization of society on a non-profit basis receive serious consideration by unemployed and partly employed workers as well as by radical intellectuals and others.

The period of banker capitalism is the modern variation of Karl Marx' theory of the ultimate concentration of all industry. During the nineteenth century the commercial banker with his short term credits was typical. During the twentieth century the banking syndicates or the investment bankers have risen to a dominant position in the consolidation of industries, the sale of securities and control of boards of directors whose corporate securities they have sold and for which they have become substantially responsible. Millions of scattered investors now automatically organize themselves by transferring their savings to securities floated by trusted bankers.

Labor movements now face a new problem and take on a puzzling new formation. No longer are they dealing with the master workman or the small contractor or even with their own factory managers; they are confronted with an invisible army of investors and speculators led by an invisible syndicate of bankers. Through international affiliations the syndicates are world bankers. A nation, a section of a nation, a restless locality, a labor government, a labor party or a labor union which jeopardizes the credit of its immediate employer thereby shuts down the latter's establishment and transfers employment to other nations, other sections, other employers. In the face of this situation of the twentieth century all labor movements except in Russia seem to be helpless and their leaders despondent. Perhaps returning prosperity will change the situation and reestablish a militant unionism seeking to restore the rights taken from it during the depression, or it may be that labor movements will be relegated to the history which now shrouds the guilds of the Middle Ages or that craft unionism will turn to industrial unionism or communism. Yet many enduring effects remain. Labor movements make a new class alignment unknown to history. Before the industrial revolution it was inconceivable that an unpropertied class could have a permanent interest in the commonwealth. Now, whether it be explained by a higher ethics or merely by the incoming of machine technology, this proletariat by strikes, revolutions or dangerous unrest forces its way into fuller citizenship.

Contrary to previous assumptions the free worker has been found to be individually more efficient than the servile worker. This efficiency, however, is acquired at the cost of unemployment. In the small industry or agriculture of the merchant capitalist stage the worker could obtain at least food, heat and shelter when unemployed. But in the banker capitalist stage the culmination is reached of a huge urban and factory population unprovided with even these minimum necessities of life except through the money wages which stop when unemployment sets in. The political and economic menace of an unpropertied population removed from the soil yet enfranchised grows with the development of the factory system and long distance transportation. In general the degree to which the older institutions of property, liberty and representative government are menaced correlates with the extent to which a non-propertied class has displaced the propertied classes in politics.

The cycles of overemployment and unemployment have doubtless been the main cause of the characteristic movements of this non-propertied class. Marx' prediction of the decay of capitalism rested mainly on the use made of the "reserve army of the unemployed"; and the authorities of Soviet Russia boast that by overthrowing capitalism they have eliminated unemployment, although they admittedly have low wages. But the unemployment which Marx had in mind was the chronic unemployment of displacement by improving technology, whereas the cyclical unemployment which alternates full employment with unemployment is much more serious. In prosperous times and in periods of inflation, when prices are rising and profits augmenting, the employers compete for labor and they readily raise wages far above the hopes previously entertained by the workers. In the deflation period, when profits begin to disappear, the daily rates of wages are not immediately reduced but the laborers are laid off.

This cyclical variation from prosperity to depression has a profound effect upon the psychology of laborers. In the period of full employment there is no pressure upon them to exert themselves, because they can quickly get other jobs at higher wages if they are discharged. They are careless of machinery, they abandon their trucks on the streets, they are insubordinate. But in the period of unemployment hunger drives them to speeding up, to longer hours per day, to lower wages per hour, to submission.

They are first demoralized, then pauperized, then coerced.

Trade union policy follows this cyclical experience, while Marxian socialist policy more nearly follows technological unemployment. In a period of returning prosperity the unemployed are first taken on without a raise in wages; they must work longer hours and at higher speed. Then, as full employment approaches, it becomes easy to organize; the first demands are for shorter hours and, as the cost of living rises, for higher wages per hour. This is the typical although not the universal procedure. In 1897 at the close of the long period of unemployment the membership of all American unions was only 447,000. By 1900 with returning prosperity the membership had risen to 868,500. In 1920 with the post-war prosperity the membership rose to 5,110,800. The unemployment of 1930 and 1931 reduced it to about 3,000,000. Similar changes have occurred in other countries.

Yet like communism trade union policy is based on the philosophy that there is "not enough work to go round." Although opponents charge that they aim to restrict output, many union policies are really designed to ration among the members the limited amount of work. Most restrictive working rules look toward the elimination of job scarcity and the creation of greater job opportunity and security of tenure. Thus the closed shop is a prime necessity where the union is in danger of being undermined by the presence of non-unionists. The number of apprentices is limited in order to limit the present and future number who must share jobs. The railroad unions concentrate on strict seniority rules which in time of prosperity insure to the union men an equal chance of promotion and in time of depression give the older unionists a chance to preempt jobs of lower rank before losing their work entirely. The eight-hour day and the forty-hour week are advocated, whether by legislative or union action, not only on the ground of fatigue and leisure but mainly to share the work with the unemployed. Labor movements concentrate attention on the rate of wages per hour rather than on the earnings per year, because they cannot see steady employment ahead. During the second and third decades of the twentieth century they begin to demand unemployment insurance despite the evident fact, which they recognize, that full wages for employment are better in every way than part wages while unemployed. It matters not whether the avowed goal is displacement of

capitalism or bargaining with capitalism—all agree on a policy substantially based on the experience and fear of unemployment.

These policies go further. In view of the uncertainty of employment the older virtues of thrift, on which Smith's capitalism was built, lose their appeal and give way to the demand for a higher standard of living in the immediate present. While the peasant or farmer or small business man denies himself present enjoyments to accumulate for "a rainy day" or for old age or children, hoping to retire from business in comfort, the so-called high standard of life of the bulk of wage earners is present enjoyment of everything available, including present education of their children, by means of high wages for current work. The working man who saves and then sees his savings lost or his home foreclosed becomes a butt of ridicule for the others who enjoyed their wages while they lasted and are still as well off as the thrifty when wages stop. The philosophy of labor movements becomes the immediate present, for tomorrow is beyond the worker's control.

This explains somewhat the changes of leadership in labor movements and their fleeting affiliations with the disappearing peasants and farmers. What mortgages are to the latter, unemployment is to the former. The mortgages in periods of depression precipitate the farmers into the proletariat of tenancy or wages; then unemployment masses them into wage or class consciousness. In the earlier stages of labor movements and in periods of business depression there is a loose affinity between laborers and small farmers. Each has the merchant capitalist to deal with or in the more feudal countries the affiliated landlords and capitalists. The issue then is between the rich and the poor or aristocracy versus democracy, where later it becomes the issue of wages against rent, interest and profit. In this earlier stage the so-called intellectuals, or intelligentsia, are the natural leaders, for they have a formulated social philosophy and an ability to articulate what the others feel but cannot tell. This is the stage of Marx, Lassalle, Lenin, Powderly, Louis Blanc or Proudhon. Their counterparts survive and come forward in periods of depression, when workers and farmers are desperate, and they retire when aggressive organization, routine and a chance of success call forth leaders from the rank and file, like a Gompers, an Applegarth, a Legien, a Jouhaux.

It is often represented as unfortunate that



labor movements reject these intellectuals, for they need the broader social viewpoint and the scientific mind of the intellectual. But this is a confusion of the leader with the expert. As a leader the intellectual looks to the distant future of a reorganized society. But the wage earner is deeply concerned with his job now. If the intellectual takes his proper place, as he does in all business organizations, not as a leader in forming policies but as a technician in details and an adviser against mistakes, labor organizations begin to use him. This seems to be the case in all ripened labor movements. And the expert is increasingly needed as the new world wide strength of hanker capitalism threatens labor movements which have been organized along the older lines of action.

The intellectual has been employed by the labor movement especially in those of its auxiliaries which supplement and implement the political, economic and cooperative activity. Such, for example, is the labor press, manned to a considerable extent by intellectuals who, as in England, have become attached to the movement from the outside or who, as in America, have largely risen out of the ranks of organized labor itself. Another auxiliary activity in which greater reliance has necessarily been placed upon the "outside" intellectual is that of workers' education (*q.v.*). But even here there are strong groups, as in the National Council of Labour Colleges in England, which oppose the use of university trained intellectuals to teach workers' classes; even the English Workers' Educational Association pays lip service at least to the ideal of developing out of the workers' classes themselves a competent body of teachers for these classes. Another growing use of the university trained intellectual is in the research bureaus which are connected with the important central organizations in the larger countries and with some of the more important individual unions.

It must be noted, however, that the intellectual as a "worker by brain" may be forced to join the trade union movement to seek the security he can find nowhere else. Thus in France the greatest increase in unionization since the World War is among public employees, and in the United States the only important gains in membership in 1931 were among federal employees. Unemployment among the professional and white collar workers brings them closer to a realistic view of the labor movement.

There is especially one kind of appeal, the

nationalistic, wherein the intellectual and the rank and file leadership come clearly into conflict. The intellectual is likely to be a cosmopolitan, a pacifist, who sees the working men of other countries subjected to similar capitalists, but the rank and file are dependent on their own employers for jobs more than on the solidarity of the workers of the world. It may be and doubtless will be more oppressive for them if a foreign nation conquers both them and their employers than it will be if they reach an understanding with their employers jointly to fight the foreigner. In Germany the rank and file leadership in the face of a Marxian world philosophy accepted the nationalistic appeal and brought many of the intellectuals with them. The heavy burden placed upon German industry after the war showed that they were right.

In other countries a similar appeal can for similar reasons be relied upon to draw or coerce the wage earners away from their labor movements into collaboration with their employers. In capitalistic nations as in aboriginal tribes the whole population is at war. Warfare is not an aristocratic profession of a military class suppressing the workers at home and whole populations abroad; it is the people in arms. These become mainly wage earners, producing munitions in the rear and carrying them forward to the front and manipulating modern war machines. A new problem is presented of creating loyalty among those who have little or no property to defend, with the result that in the crisis of foreign war the labor movement is more powerful in its wage bargaining than in time of peace.

Yet national wars accentuate a new division, which has its prior economic foundation in the expansion of capitalistic industry: the separation of manual workers from technical, office, professional, educated and social workers. Large scale industry and merchandising push the latter miscellaneous class into a new alignment making these groups more or less conscious of their common interest. They take the place in the social organization formerly occupied by small independent proprietors, and with the remnants of the latter they form that third minority group which appears under different names and affiliations in different countries as progressives, liberals, Fascists, nationalists or war veterans. Instinctively separated from the manual workers yet not quite identified with their same capitalistic employers, their

growing class consciousness and sense of strategic position make them more or less able to turn the scale between capitalism and laborism. The strength of this group in the ripening stages of capitalism cannot be measured by inadequate occupational statistics, for although they are evidently a minority yet under capable leadership they are able to command concessions or to dominate situations.

Somewhat similar to the nationalistic is the religious or ethical appeal, which deters wage earners or softens their aggressive labor movements. The Catholic church in closer contact with manual workers and backed by the papal encyclicals, which have taken over the doctrines of the earlier Christian socialism, has devoted itself with varying success to this cause. The Protestant churches, by historic tradition the inspiration of individualistic capitalism, have not been able to appeal to the new class of wage earners; while the Russian Orthodox church, long since the acknowledged instrument of czarism, has apparently lost its hold in the face of a revolutionary materialism. Even the Catholic unions of Germany have begun to make common cause with the socialistic unions.

It is difficult to give due weight to the ethical motives which have descended from the religious training of the past. Perhaps it should be said that the ethical appeal is becoming an economic appeal and takes such form as "business ethics," "trade union ethics," "communist ethics," which confessedly spring from economic conflicts with the rise of various forms of concerted action designed to bring under control the individual behavior deemed contrary to a common interest. While the earlier guilds and unions had their patron saints, these modern associations make similar ethical rules unsanctified by religion.

To counteract the improvidence of an unpropertied class many devices for thrift and savings have been instituted. It is evident, however, that wage earners as such only meagerly or temporarily participate in them. The patrons of savings banks in the United States derive their incomes largely from sources other than wages. Cooperative home ownership, known in the United States as building and loan associations, is an effort to obtain what for the wage earner is the dubious advantage of tying himself bodily to a precarious investment, when mobility is of more substantial advantage in obtaining employment and higher wages.

Distressed by this mobility and improvidence

employers attempt with scant success and to a limited extent to set up schemes of profit sharing, stock ownership, home ownership, garden cities, credit unions—a sort of compulsory thrift because preference is given to those employees who participate. In the beginnings of unemployment insurance agitation this compulsory thrift was imposed upon wage earners by legislation, requiring them to contribute to funds when employed in order to provide part wages when unemployed. Most of these schemes turn out to be inadequate and even productive of class feeling when the wage earners reach a substantial proportion of the population. It is indeed somewhat of a mockery for propertied classes to endeavor to impose on the unpropertied and potentially unemployed the older ideas of thrift carried over from the infancy of capitalism.

England was the first nation to embark on that great process of economic change which brought about modern capitalism, and its labor movement was the first to have a gradually growing but distinct working class viewpoint. The coming of industrialism resulted at first in various movements of protest, which expressed themselves in such ways as the machine breaking of the Luddite rioters and in demands for land reform, so that this working class, essentially rural in origin, might have an opportunity to return to the land and to escape from the evils of industrialism. The collapse of the Chartist agitation in 1848 marked a new period in the English labor movement, in which industrialism became accepted as an established fact; the workers no longer looked to some ultimate escape from the factory system but sought merely to ameliorate their position in that system. Aided by a period of prosperity, which came to be known as the "golden age of English capitalism," trade union organization developed after 1850, following the so-called new model introduced into the building trades, and spread to other fields through the activity and influence of an important group of trade union leaders known as The Junta. The new model unionism was a craft unionism which believed in more thorough centralization in union organization and greater cooperation with the employers and disavowed any rashly militant strike policy. With prosperity and better tactics it flourished until the depression in the late 1870's, which revealed the limitations of a type of unionism restricted to skilled workers.

The late 1880's therefore saw a development

of large industrial unions of unskilled workers among the miners, dockers, gas workers and general laborers. This "new unionism" was led by a group of socialists and was more class conscious than the earlier unionism. But despite the efforts of Keir Hardie and the Independent Labour party which he organized in 1893 the idea of independent political action by labor in contrast to the policy of supporting left wing Liberal candidates, known as Lib-Labs, was not abandoned by the trade unions as a whole until 1899. With the organization in that year of the Labour Representation Committee, which became the Labour party in 1906, the English labor movement secured a political wing which contrary to the situation on the continent was practically created and actually dominated by the trade unions. The Labour party was Fabian and not Marxian in its social philosophy and did not officially accept socialism as its philosophy and program until 1918. Contrary to the situation in Germany, where the trade unions had to struggle to escape from the domination of the Social Democratic party, the Labour party in England has struggled, although as yet unsuccessfully, to establish its independence of the trade unions.

These two essentially British types of labor activity—business unionism and a reformist non-revolutionary labor party—were challenged before the World War by a type of labor philosophy which came from France. Syndicalism with its opposition to both political action and collective bargaining and its emphasis on revolution through a general strike took a strong hold on the British labor movement before the war, as it did in the United States, Australia and New Zealand at the same time. In a country unaccustomed to revolutions, such as England, a modified syndicalism under the name of guild socialism pictured an economic organization of the state with the business man eliminated but with the technical engineers sharing power equally with the workers in a new constitutional government. The transition to the new system was to come peacefully and gradually through the extension of workers' control in the shops. This served to modify the English brand of socialism, which now began to look upon government ownership as dictatorship and to take over the guild ideas of an economic parliament. By the end of the war the movement had grown so strong that large scale experiments in its application, especially in the field of building, were attempted. The failure of these involved the dis-

integration and disappearance of the guild socialist movement.

The post-war labor movement in England has been seriously hampered by the economic stagnation from which the country has suffered since 1920. One characteristic result of that situation has been the decline in union membership and the weakened power of the unions. The unions have made strenuous efforts to resist concerted downward movements in wages and conditions of work. The most heroic of these efforts, unique in modern British labor history, was the general strike of 1926, called by the Trades Union Congress to protect the miners from an attack on their conditions of work, an attack which the congress regarded as a forerunner to a general attempt to lower the standard of living. The general strike idea had haunted the working class movement ever since the days of syndicalism and labor unrest before the war. But in the minds of the English workers it was by no means an essentially revolutionary idea. The basis of its appeal was a feeling that all the workers were subject to the same changes and that all must stand together in meeting them. The failure of the strike resulted in the passage of the Trades Disputes and Trades Union Act of 1927, which declared illegal all sympathetic strikes; in a strengthening of the Labour party at the expense of the trade unions; and in an increased emphasis on class collaboration as represented by the Mond-Turner conferences, which promised far-reaching changes in English industrial relations until the opposition of the conservative employers nullified the work of the conferences.

The rapid rise of the Labour party to the point where it first displaced the Liberal party and twice (1923-24 and 1929-31) formed minority governments has been one of the outstanding features of the post-war British labor movement. The party has shown an inability and an unwillingness to use its strength to introduce definitely socialist measures. The crushing defeat which it suffered in 1931 was of some value in definitely eliminating from it the party elements which were essentially liberal rather than socialistic (see LABOR PARTIES).

Karl Marx' socialism was based on the factory system of England and was inapplicable to the merchant capitalism of the continent. Except for a brief spell of union organization after the Revolution of 1848 there was no labor movement in Germany until Ferdinand Lassalle issued his *Open Letter* in 1863. Lassalle's program

was quite different from that of Marx. Marx favored confining labor organization mainly to the economic field, proposing an international organization of labor to overthrow capitalism in all countries. Lassalle, on the other hand, sought to develop a political organization which would obtain universal suffrage in Germany for labor and then through control of the state subsidize workers' producers' cooperatives by state credit and taxation. His program ruled out trade unions and voluntary cooperatives, because each would be ineffective on account of the "iron law of wages."

Following these two divergent philosophies there developed in Germany a Lassalleian political Allgemeiner Deutscher Arbeiterschaftsverband and a Marxian group founded by Bebel and Wilhelm Liebknecht in 1868. In 1875 these two combined to form the German Social Democratic party; the consolidation permitted the unification at the same time of the socialist trade unions. The Lassalleian philosophy, however, dominated the German labor movement at the time. The antisocialist law of 1878 outlawed all kinds of unionism; when that law was discontinued in 1890, Marx' socialism was the dominant philosophy of the labor movement.

The trade unions, some of which had managed to exist after 1878 despite the restrictions and many more of which were organized after 1890, were subservient to the growing Social Democratic party. Under the leadership of Carl Legien, however, these unions gradually developed a philosophy and technique of their own. By 1906 they had obtained equal status with the Social Democratic party; and the check suffered by the latter in the election of 1907 solidified the position of the unions and converted the Social Democratic party, at least in practise, from a Marxian to a revisionist policy.

This continued until the World War, when both the trade unions and the political party supported the government. Unionism gained in influence and status during the war. It obtained joint boards of employers and employees and representatives on many government boards. Its crowning success came with the revolution in 1918 and the incorporation in the republican constitution of the status obtained by the trade unions in 1918 through a national agreement with the employers which granted full recognition; abandonment of "yellow" or company unions; abolition of discriminations against union members; the eight-hour day; shop committees; joint conciliation boards and joint adminis-

tration of employment bureaus. The power of the unions showed itself in their ability to defeat by a mass general strike an attempted reactionary *Putsch* in 1920. The development of a strong Communist party in Germany out of the Independent Socialist party, which broke away from the Social Democratic party in 1916 over the issue of supporting the war, has split the labor movement in Germany. The universal opposition between communists and socialists has been aggravated in Germany by the memory of the bloody repression of the Spartacist revolt of 1919 by the socialist controlled government. The Social Democratic party, which despite the fact that the communist movement shows greater political strength in Germany than in any other country outside of Russia was the largest single party in Germany until the election of July, 1932, has turned to the Catholic Center party, the Liberal Democratic party and the People's party for coalitions. Since 1929 the National Socialists, or Fascists, under Hitler have become the most formidable opponents of both unions and Social Democrats. Predominantly a middle class movement, Hitlerism has attracted many workers disappointed with the results of the revolution and has enlisted the support of many large industrialists and landlords who hope to establish a dictatorship to protect their profits and rents. The growth of this movement, with its avowed purpose of suppressing trade unions, socialists and communists, constitutes the most serious threat which the German labor movement has faced since 1878.

The labor movement in France before the World War presented a definite contrast to the English and German movements of the same period. Union organization in France dates practically from 1884, when the most important changes were made in the restrictive laws concerning labor organizations. But a definite subservieny to the socialist movement, itself divided into a number of groups, hampered the functioning of the unions. The organization of the Confédération Générale du Travail in 1895 initiated the development of a peculiar syndicalist labor movement, which disavowed the political actionists and the trade unionists. Its philosophy was formulated by Sorel at the beginning of the twentieth century. Its weapon was the sudden or general strike, whose object or tactics was to take over the factories or farms by "direct action"; to repudiate collective bargaining, or "collaboration with capitalism," which had been the goal of trade unionism; to have the fac-

tories or farms operated by an idealized working man turned business man; and to displace the state by an economic cooperation of "production for use" and not for profit. This philosophy of working men who were disillusioned by politicians disrupted the socialists and spread to many countries; it became the dominant characteristic of the labor movements in the Mediterranean countries.

The amalgamation in 1902 of the *Fédération des Bourses du Travail* and the *Confédération Générale du Travail* unified the economic side of the labor movement in France, but it resisted all attempts of the socialists to control it and in 1906 after a series of successful militant strikes it adopted in the *Charte d'Amiens* a definite statement of political neutrality. The coming of the war, however, shattered the non-political antimilitarist principles of the *Confédération Générale du Travail*. It supported the war, permitted its leaders to serve in the cabinets of the *Union Sacrée* and with rising prices and official government encouragement given in return for labor's support of the war doubled the trade union membership at the same time that it substituted the tactics of regular trade unionism for those of syndicalism. Superficially it still adheres to the *Charte d'Amiens*, but in practise since the failure of the syndicalist general strike of 1920 the French labor movement has tended more and more to follow the tactics of western European unionism. Both collective bargaining and legislation have been employed by the unions since the war.

Although the *Confédération Générale du Travail* remains the dominant economic group, the French Communists, organized in a separate union as the *Confédération Générale du Travail Unitaire*, have exercised on the industrial field a far greater influence in France than in any other capitalistic country. Catholic unions have also become significant since the war. A fourth group, syndicalist in nature, is insignificant. The best organized industries are those which are either semi-public, such as mines or railways, or entirely owned and operated by the government. Except in large centers the workers in private industry are largely unorganized, although they are often class conscious in the continental radical sense.

Despite the fact that France was the leader in antipolitical syndicalism socialism always has been influential with the French working man. As early as the general election of 1893

the socialists had fifty deputies and the majority control in many municipalities. Nationally and officially the Socialist party endorses the *Confédération Générale du Travail* and the whole cooperative movement. The C. G. T., which relies more and more on legislation and on government aid, finds that it must take an active part in politics. In doing so it definitely regards the Communists and the right parties as hostile and in practise restricts its political neutrality to the Socialists and the bourgeois parties of the left. The prevailing sentiment, however, in the higher circles of the C. G. T. is that the Socialist party is controlled by extremists who are not in sufficient contact with the trade union movement. On many questions, such as the capitalistic "rationalization" of industry, there is a difference of opinion. The Socialist party is lukewarm if not hostile to it, whereas the C. G. T. is wholeheartedly in favor of it. In accordance with the non-political tradition of French unionism even the communist unions are not officially related to the Communist party although they are in practise.

Unlike England, the United States and Germany, where capitalism developed at so rapid a pace that workers were unable even in groups to embark on production, in France capitalism developed at a comparatively moderate pace and producers' cooperatives of workers exist side by side with similar enterprises of capitalists. But by the end of the nineteenth century as a result of the increasing difficulty in obtaining credit and the growth of class consciousness consumers' cooperation had outdistanced that of producers. Since the war cooperation has moved in step with the newer economic development of France away from the isolated neighborhood cooperative to the chain store type of merchandising, with centralization in buying and with factories owned by the wholesale cooperatives. The *Banque des Coopératives de France* became the central financial organ for the movement. From its beginning the cooperative movement had been aided by the French state. It is the best customer of producers' cooperatives and in legislation has favored them against private competitors by the decree that where the bid is the same the contract goes to the cooperative.

The Italian labor movement prior to the World War had both a political and an economic wing. The former was split into three factions: the reformists, inspired by the revisionism of Bernstein; the "integratists," led by Ferri, who re-

sembled the German Social Democrats of that period; and the syndicalists under Labriola, who severed their connection with the Socialist party in 1907 and who did not become an important group until the war. The reformists split with the Socialist party in 1912 because of their desire for war; they became a part of the Italian nationalist movement which the war with Turkey over Tripoli in 1911 had stimulated. The divisions in the trade union movement followed those in the political movement. There were four different organizations: the Union of Industrial Workers, the Union of Agricultural Laborers, Chambers of Labor and the Catholic Union. The last was a small group and opposed to the other three (socialist) organizations.

The labor movement was from the beginning concentrated in the north. In the region of the Po river there developed a type of capitalistic farming with hired laborers and among these, but especially among the urban workers, socialism flourished. The movement was revolutionary to such an extent that the government under Giolitti prior to and during the World War was forced to compromise its previously conservative position in the interest of maintaining peace. This policy (*trasformismo*), by which the government tried to be all things to all men, prevailed down to the Fascist Revolution.

During the war the Socialists under Ferri remained to a large extent pacifistic. When the peace treaties gave Italy little in reward for her participation in the war on the side of the Allies, the Socialists had an important talking point; and the closing down of the war industries, the rise in the cost of living due to the rise in foreign exchanges, and the example of the Russian Revolution all contributed to turn the whole trend of labor toward revolution. This took the form of syndicalism, general strikes and occupation of industries and landed estates by the workers.

The movement soon failed, however, partly as a result of a lack of plan of organization, an inability to obtain credit and to market products but primarily because of the development of a well organized terroristic strike breaking organization in the form of Mussolini's Fascisti. The apparent purpose of the Fascist reign of terror was the suppression of trade union, cooperative and socialist organizations and it was for this reason that the movement secured financial support from the manufacturers, bankers and landlords. The establishment of Fascism was gradual; by 1925 it was fairly

well completed. In the following year the voluntary syndicates and trade unions were replaced by a nation wide compulsory scheme of syndicate organizations, which alone were recognized as legal. Four main classes of syndicates were set up: capitalists, agriculturalists, laborers and professional men. Each person in order to carry on a business or get a job must belong to one of these syndicates and pay dues to it. The syndicates, organized on a local, regional and national basis, with officers approved by the dictator, have made rules fixing wages and even output. Although the employers and employees were at first separately organized, the national Fascist federations of employers and employees were later combined into corporations.

Fascism embodies the negation of the class war; its essential principle is class collaboration and the substitution for the struggle between classes within the nation of the struggle between nations. The interest of the workers, according to Fascist principles, ends at the national boundary; except for the quasi-governmental International Labor Organization no connections are permitted between labor organizations in Italy and similar organizations in other countries. Strikes and lockouts are forbidden under the law of 1926, which also provides for giving legal validity to all labor contracts. To enforce and interpret the contracts a system of labor courts is provided.

Class collaboration is therefore the supreme doctrine of Fascism. This is illustrated by the Labor Charter of 1927, which states that there is no conflict of interests between the various classes; that they work together for the greatest production and for the welfare of the nation; that private initiative is the most useful instrument for the welfare of the nation; and that the state interferes in production only where private initiative is lacking. While theoretically the Fascist state is formed out of functional economic groups organized into syndicates and corporations, economic groups are not paramount; instead the state is controlled by a relatively small political group organized on a military basis representing no economic class but recruited from the petty capitalists.

In Soviet Russia the situation is quite different. Here the labor movement is perhaps younger than that of any other important European country. For a longer period of time than elsewhere in Europe trade unions, except bogus organizations formed and controlled by the police, were illegal in Russia. Genuine union or-

ganizations nevertheless did develop despite the restrictions, particularly among the printers. The revolution of 1905 brought a promise of the legalization of trade unions, which resulted in a remarkable growth in union organization. But governmental control of these unions was still strong and contributed to the success of a drive by the employers which materially weakened the union movement. Russia entered the World War with a weak trade union movement; and when the revolution came, it was the social philosophy of the revolutionary socialist and communist parties which dominated rather than any wage conscious unionism.

The communist revolution was almost strictly an urban and wage earners' revolution based on the soviets, which were merely the central labor unions of the locality, a kind of organization which has arisen in all countries at periods when unionism is just beginning. Such were the trade unions of England and America in the decade of the 1830's; the soviets had already appeared in Russia in the short revolution of 1905. Springing up again after the February revolution in 1917 they represented a great variety of organizations and included "intellectuals" of various sorts. When the defeated veterans returned to St. Petersburg they were admitted to the soviets, which then became Workers' and Soldiers' Councils. Lenin and Trotsky advocated and effected the exclusion from these new soviets of the intellectuals and of those who, like the Mensheviks, favored trade union agreements and collaboration with employers; the soviets were then converted into proletarian organizations bent upon the destruction of the capitalist system.

It is an important fact, as Calvin Hoover has noted, that whereas competition for wealth is paramount in a capitalist country, competition for political power within the Communist party has taken its place in the Soviet Union. This competition really means a competition between political policies and has centered chiefly around the question of how far private or communist ownership of industry and agriculture may be permitted. The struggle on this point still continues but under the administration of Stalin there is a strong drive toward the entire prohibition of all private ownership and private trading. The labor movement of Russia has thus culminated in the most extreme doctrine of a classless government controlled solely by the class of propertyless wage earners.

Where Fascism definitely limited the activity

of its labor movement to the boundaries of Italy, Russian communism started from the principle that the revolution must be made world wide and must be continued until all the world has accepted communism. But the force of internal conditions and the stubborn resistance of capitalists in Germany and England as well as the development of Fascism in Italy and Germany have forced the Soviet Union to abandon the principle of world revolution in return for an opportunity to build its own national commonwealth. It now seeks world peace and feels that engaged as it is in the process of "building socialism" it would be the principal sufferer from a war. The political Communist International and the economic Red International of Labor Unions are still in existence and still function, but their revolutionary activities have been considerably circumscribed by the internal needs of Soviet Russia.

Fascism and communism, antithetical in their ultimate ideals and in their standards of value, present certain striking similarities in their practical consequences for the labor movement. The Soviet Union too has abolished the class war within the nation, not by the submergence of existing class interests but by an attempt to eliminate all classes. The dictatorship of the proletariat embodying the concept of a continuation of other classes is to be eliminated when the profit psychology has been eliminated—when all the people are workers and none lives by interest, rents or profits. In both Italy and Russia the edge of the class struggle has been dulled by government control of the policy and administration of the former voluntary trade unions and cooperatives. This has been done by the simple device of securing the appointment of members of the Fascist or Communist parties as officers of these associations. In addition in both countries the function of the trade unions has ceased to consist of representing the workers in conflicts with employers, and they now act as agencies for increased efficiency and productivity. In both cases they have become instruments for enforcing governmental policy.

In addition to the emergence of communism and Fascism, which have affected the form and functioning of the labor movement not only in the countries of their origin but in other countries as well, one of the most important developments of the post-war world has been the capitalism of the United States. Here the economic method of labor action has predominated over

the overlordship of the aristocratic state and the church has been eliminated for more than one hundred years. The electoral suffrage began to be extended to the wage earners in the decade of the 1820's, full fifty years in advance of the countries of Europe. In the United States capitalism has had its greatest freedom of development; both capitalism and labor organizations have followed along clear cut economic lines.

Although American union activity has been essentially economic—directly through trade unions—there have been periods when labor has turned to other lines of action. As early as the end of the 1820's labor with its newly acquired franchise turned to political action to secure its ends. Parties which were distinctly labor developed in various eastern cities, but their practical proposals were stolen by other parties and they were left with the advocacy of radical measures which brought them into disrepute. In the period before the 1850's labor again turned to legislation, although not through independent action; such measures as public education, mechanics' lien laws and homestead laws received the general support of labor movements. With the organization of strong national trade unions after 1850 labor once more concentrated upon economic action. But not until the 1890's did this business unionism finally win out over the type of labor program which had been proposed by various early labor organizations in the United States, ending with the Knights of Labor, and which had attempted by voluntary association to substitute cooperation and self-employment for capitalistic employment on the democratic principle of one man one vote instead of the capitalistic principle of one share one vote. These organizations frequently broke down on the one issue of electing managers by popular vote. Or if they succeeded they passed over into capitalistic organizations by closing the doors to new members and hiring non-members for wages. The experience of the molders and the coopers with producers' cooperation ended this phase of the American labor movement, although in 1919 the railroad unions offered to assume partial control of the railways under the Plumb Plan.

American labor activity has not entirely eschewed political action, but it has refused to enter the political arena as an independent party or to cooperate in the formation of an independent labor party. Except for 1924, when

the American Federation of Labor supported La Follette for president, the official labor movement has tended to adopt the policy of supporting now one party, now the other, according to the benefits expected from the one or the other. This policy of rewarding friends and punishing enemies has been employed, however, primarily to insure the freedom of action of trade unions on the economic field and to secure the passage of certain measures which could not be attained through union action, such as workmen's compensation and immigration restriction. As for substantive contributions to the direct well being of the workers, such as social insurance laws, the American Federation of Labor has consistently opposed their passage, believing that these benefits should be provided or secured by the unions, thereby making the union member dependent upon his union only and not upon his employer or the government.

In line with its conservative non-political policy the American Federation of Labor has carefully and consistently avoided any socialist or communist affiliations and has even been prominent among the attackers of these social philosophies. Except for the year 1895, when the socialist sympathizers captured the presidency of the A. F. of L. and unseated Gompers, left wing groups have been unable to make any appreciable headway with the organization. Both boring from within and dual unionism have failed to make much impression on the movement as a whole, although individual unions, such as the International Ladies' Garment Workers Union, have been severely crippled by internecine fights between the communists and other members. Some unions and some sections have either openly supported socialists or communists or have actively participated in the formation of labor parties; but the movement as a whole has carefully avoided any such action and even in the depression election of 1932 the American Federation of Labor, although disappointed with the labor planks in the platforms of the two major parties, refused to support either the socialists or the communists.

Unionism in America received a tremendous impetus through the high prices and the prosperity of the war years. In the ensuing periods, however, membership declined—not only in the depression of 1920-21 but also in the prosperity period which lasted until 1929. The trade unions which do exist in America are still powerful—possibly more so than those in Europe. But capitalism in the United States seems to



have developed new methods of resistance to the spread of unionism. Diffusion of corporate ownership, labor legislation and voluntary concessions by giant corporations have apparently rendered unionism unnecessary to many of the workers. Large scale business has been forestalling unionism by providing for labor as much as or more than the unions offer. Another obstacle to the growth of a strong labor movement is the important system of promotion, which still offers outlets for members of the working class and hampers the development of class feeling.

Important contributing factors to the limited extent and the non-radical nature of American unionism were the areas of free land available in the west until the end of the nineteenth century and the successive waves of immigration, which complicated the problem of union organization by introducing racial and national antagonisms augmented by language difficulties. In the period before the World War it was relatively easy for large employers to replace groups which had learned to think collectively by new immigrants unaccustomed to the philosophy of unionism, anxious to get a start in a new country, pleased at the relatively high wages and unapproachable by the spokesmen of the older groups because of language difficulties. As fast as one group rose out of this state it was replaced by a new group. With the practical exclusion of immigrants after the war the problem of language barriers became less important. Regional shifts, such as that of the textile industry to the unorganized south, present new problems and the presence of a large Negro group, which the rank and file of organized labor has thus far almost consistently refused to admit, constitutes a perennial strike breaking menace, which has already given rise to such fundamentally economic outbreaks as the race riots in East St. Louis in 1917.

These two elements of free land and immigration, which would seem to be the common characteristic of new countries, were not present in the unique Australian labor movement. Faced from the beginning with a concentration and monopolization of landownership and consequent difficulty of rising beyond his status as a wage earner the Australian laborer has always been conscious of a scarcity of opportunity. This factor together with a homogeneity of culture arising from a common English ancestry, an early attainment of universal suffrage and the realization through experience that the government

serves the "master class" in any industrial disputes has led labor in Australia to resort to independent political action. At the close of the nineteenth century labor with the acquiescence or support of other groups moved for compulsory arbitration after the failure of an intense opposition to the strikes of the miners, shearers and maritime workers.

The Australian Labour party, which includes the parties of the various states, has steadily broadened its platform in the interest of the trade unions which dominate it. Having established compulsory arbitration in the commonwealth, New South Wales, Queensland, South Australia and Western Australia, it has attempted to establish union preference in the courts of arbitration; to maintain the self-sufficiency of Australian industry by high tariffs; and to achieve socialization of industry by a constitutional utilization of the federal, state and municipal governments. While no progress has been made in instituting a system of union preference in the courts, high tariffs have been effected and Australia has socialized her industry to a greater degree than any other capitalistic country in the world. With the support of the party trade unionism in Australia has steadily been strengthened, so that in 1931 about one half of all employees were members of unions. The courts of arbitration have been responsible for much of this growth, because they recognize as parties to disputes only those workers who are organized and they do not permit employers to discriminate against union members.

Because Australian capitalism has always been employer capitalism, unionism in Australia has tended to develop along industrial lines. An example of this is the Australian Workers' Union, comprising for the most part shearers and other agricultural workers, which is the largest and perhaps strongest union in Australia and constitutes one sixth of the total union membership. The Australian Council of Trade Unions, representing the bulk of union membership outside the Australian Workers' Union, has consistently urged the organization of labor along industrial lines and the formation of one big union.

But the characteristic feature of Australian unionism has been the creation of a "White Australia" by exclusion of all races and nationalities except the Anglo-Saxon. In many countries the division along racial and national lines has been more important than division along

economic lines. In countries where a single nationality predominates, such as Germany, England and Australia, race consciousness supports the labor movement and trade unions and political parties are more easily formed.

It is not surprising that when capitalist organization becomes international, the labor movement follows. This was a basic fact which Marx recognized in aiding the organization of the International Working Men's Association in 1864. But Marx' organization preceded by half a century the banker capitalism which is to be considered as the real beginning of international capitalism.

The international labor movement is at present made up of over seventy organizations divided into various systems of "tendencies"—socialist, communist, syndicalist and Christian—in addition to the quasi-governmental International Labor Organization (*q.v.*). Of these the International Federation of Trade Unions (or Amsterdam International, as it is known from the location of its central offices, which, however, were moved to Berlin after 1930) is still the largest and most coherent despite its decline in membership since 1921. It is composed of twenty-seven international trade secretariats made up of trade unions of the socialist type, is allied with the political Labor and Socialist (Second) International and cooperates with the International Labor Organization. Its membership of over 13,000,000 includes a majority of the trade unionists of Europe and some outside of Europe, although the American Federation of Labor is not represented. The federation withdrew in 1920 because, according to Gompers, the International had "become an international political body with sovietism as its logical result and a revolutionary program for 'socialization' and 'communism'." Some American national trade union bodies, however, continue to belong to the international secretariat for their industry.

The trend of Amsterdam is to merge the socialist ideal with the ideas of "workers' control" and of industrial democracy; its outlook is reformist internationalism, which regards the transition to a socialist society as a gradual and slow process. It conceives its main task to be one of promoting economic and social reforms under capitalism. The twenty-seven secretariats are little more than information bureaus and discussion centers. On the other hand, the need for international action is causing the miners' secretariat to support regulation of

the mining industry through an international commission. The metal workers, faced by the growth of international cartels, are backing a demand for an international cartel office under the League of Nations.

The communist Red International of Labor Unions was established in 1921 as a successor to the Provisional Council of Red Trade Unions, which was organized by the Third International in 1920 to break up the Amsterdam International with its definite socialist affiliation. The Red International of Labor Unions is organically connected with the Third International. The great majority of its membership is of course located in Russia.

The Christian trade unions which developed after the issuance of the papal encyclical *De rerum novarum* in 1891 organized an International Secretariat of Christian Trade Unions in 1908, which before the World War reached a membership of over half a million, more than two thirds of which was located in Germany. The war interrupted its activities, as it did those of the other labor internationals. It was reconstituted after the war and now has a membership of about a million and a half. Essentially its purpose is to try to allay industrial unrest and to establish economic justice on Christian principles.

The anarchist International Working Men's Association, which adopted the same name as Marx' First International as a sign of its claim to spiritual descent from that body, is the least important of the international organizations, with a membership of only a few hundred thousand.

The labor movement is thus seen to be amazingly complicated and diverse. There is scarcely a single principle or permanent trend underlying it except the aggressive principle of encroaching upon the domain of capitalism. Even this principle is in abeyance during a war for national survival or conquest. The movement in one country is not comparable with the movement in another country, and even in the same country it changes with transformations in the form and power of capitalism and in all the social movements.

Within the movement itself there are many conflicting trends, which weaken its aggressiveness; these range all the way from communism, syndicalism and unionism to cooperation, and they are broken up again into many different forms and temporary combinations. In some countries one or more of these conflicting internal movements rises to temporary predomi-

nance, while in other countries quite the opposite movements may predominate.

The modern world wide extension of markets together with the emergence of international combinations has correspondingly expanded the scope of the labor movement, which, however, has lost ground relatively to world wide capitalism. Racial and national differences have made the movement in one country different from that in another country where one language and one race may tend to effect an automatic solidarity. Differences in wages and standards of living have had an equally important part in the fluctuations of labor movements, and the cycles of full employment and unemployment have weakened them more than any other factor. Nevertheless, with the rapid improvements in technology, with the transition from an agricultural to an urban population and with the corresponding shift from small property owners to propertyless wage earners the labor movement by mere weight of numbers becomes a major problem of western civilization.

JOHN R. COMMONS

See: LABOR; TRADE UNIONS; COOPERATION; LABOR PARTIES; LABOR BANKING; LABOR LEGISLATION AND LAW; WORKERS' EDUCATION; INDUSTRIAL RELATIONS; COLLECTIVE BARGAINING; BARGAINING POWER; TRADE AGREEMENTS; GENERAL STRIKE; HOURS OF LABOR; LABOR, METHODS OF REMUNERATION FOR; UNEMPLOYMENT; STANDARDS OF LIVING; SOCIAL INSURANCE; JOURNEMEN'S SOCIETIES; CHRISTIAN LABOR UNIONS; AMERICAN FEDERATION OF LABOR; TRADES UNION CONGRESS, BRITISH; CONFÉDÉRATION GÉNÉRALE DU TRAVAIL; DUAL UNIONISM; INTERNATIONAL LABOR ORGANIZATION; CHARTISM; ANARCHISM; SYNDICALISM; SOCIALISM; COMMUNISM; GUILD SOCIALISM; FASCISM; SOCIALIST PARTIES; COMMUNIST PARTIES; CLASS; CLASS STRUGGLE; PROLETARIAT; REVOLUTION AND COUNTER-REVOLUTION; LABOR-CAPITAL CO-OPERATION.

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See also bibliographies on TRADE UNIONS; LABOR PARTIES; SOCIALISM; COMMUNIST PARTIES.

## LABOR PARTIES

|                        |                  |
|------------------------|------------------|
| GENERAL.....           | J. B. S. HARDMAN |
| GREAT BRITAIN.....     | H. N. BRAILSFORD |
| BRITISH DOMINIONS..... | HERBERT HEATON   |
| UNITED STATES.....     | J. B. S. HARDMAN |

GENERAL. In popular usage the term labor party serves to cover labor associations organized to ameliorate the lot of working people by political and legislative action as distinguished from capitalist reform parties on the one hand, and socialist or communist parties on the other. Within that usage the term further denotes a membership composed primarily, if not exclusively, of working people and a pragmatic eclecticism of program, free from commitments to any integrated social philosophy.

More accurately, existing labor parties may be divided into three categories according to their organization and membership. First, there is the English type, consisting primarily of trade unions which affiliate with the labor party en bloc and vote as units. In addition individual union members and others, whether or not they are workers, may affiliate through local labor or socialist parties. The Labour party of great Britain has ordinarily embodied the largest degree of direct trade union affiliation of any labor party; in Australia also trade union members constitute the great bulk of party membership. The second is the Belgian type, a permanent triple alliance of the Socialist party, the trade unions and the cooperatives, which most closely approximates a formal socialist party with respect to acceptance of the theoretical tenets of socialism. The Socialist party maintains an autonomous existence within the Belgian Labor party not dissimilar to that which the Independent Labour party held within the British Labour party until 1932. Third, there is the American type, which finds organized expression in only one state but appears in several other states in the form of more or less significant local parties. Such parties consist neither of organized trade unions nor overwhelmingly of individual trade unionists but of persons of diverse social and economic origins. They view their own efforts as but initial steps toward the inevitable formation of a labor party of the country's trade unions. Wherever they have attained a measure of success or maintained a more than passing existence these American attempts have been dominated by a farmers' or agrarian outlook.

In their basic attitudes toward the social

order the functioning labor parties are divisible into two groups: European and American. Nearly all the former are at present at least theoretically anticapitalist, while the latter are at most anti old parties or anti big interests. Early attempts to form labor parties in the United States were outspokenly radical, however, even though the radicalism was of an agricultural brand; at a time when the intellectual remains of Chartist were being entirely absorbed by avowedly socialist groups and English laborism was tamely evolving into Liberal-Labourism, an active labor radicalism which sought political expression still existed in the United States. The organizations of the 1870's bore a socialist stamp: the International Working Men's Association, the First Socialist International, stood guard over their activities, and such men as William H. Sylvie and F. A. Sorge maintained an active correspondence with Marx and Engels.

The theoretical distinction between the typical social democratic or communist party on the one hand and a labor party on the other is that the former rest upon a social creed or ideology while the latter is based merely upon a social class. The socialist or the communist claim to labor representation rests upon the ability of the given party to generalize and effectively to voice presumably existing working class aspirations. The claim of a labor party would seem to need no substantiation, for its very appearance on the scene represents its credentials. The appealing attractiveness of a labor party in the eyes of workers seems to rest upon simplicity of performance—"act in politics as you act in the factory"—as well as upon its implied capacity for action, since a labor party has direct access to labor's organized power through the constituent trade union bodies.

The play of political and social forces has conditioned the emergence of socialist or creed parties in certain countries and of labor or class parties in others. In the light of these circumstances three major types of relations between the trade unions and the political movements stand out in the experiences of European labor. In Germany, the other central European

countries and the Scandinavian states there developed a parallelism of the economic and the political organizations. Their essential equality as well as the mutualism of immediate and ultimate interests was considered a matter of course. The Socialist party enjoyed acknowledged leadership in political matters but the trade unions steadily if tacitly materialized and extended an "encroaching control over the whole movement." The battles for universal and direct franchise and democratic rights generally and for social and labor legislation kept the two divisions of organized labor in a working relationship.

In France, which is industrialized only in certain sections, developments took another course. The economic hollowness of most of the political gains of the French Revolution, the ruthless suppression of the Commune and the frequent cases of "treason of the intellectuals" who used labor's readiness to respond to radical political appeals as stepping stones to personal parliamentary careers caused the development of a strong antipathy to political action and of anarchistic tendencies in large sections of the proletariat, especially in Paris, where small shops and petty industry rather than large scale establishments flourished. Trade unions were not assured of legal status until 1884, and trade unionism or syndicalism therefore acquired a revolutionary glamour. The rift between the socialists and the trade unions grew. The local central labor councils or exchanges (*bourses du travail*), under direct anarchist leadership, housed in buildings erected out of municipal funds and in other ways publicly supported, became centers of opposition to party politics, mainly directed against the socialist party. This trend was essentially similar to the political course of the American Federation of Labor under Gompers; it is significant that when Gompers visited Paris in 1909 the French revolutionary syndicalists received him as their very own. In time, however, a partial *entente cordiale* was established between the party and the unions under the compelling influence of the moderate socialist leader Jean Jaurès as well as of the big reformist unions which were interested in legislation—including those in the industrialized north, in the textile industry and in the railroad industry, partly under government control. A similar relation with certain variations existed in the other Latin countries.

In Great Britain two basic circumstances pre-

vented the formation of a strong socialist movement. The struggle for the franchise was virtually won as early as 1867, when the Reform Bill gave voting rights to city workers. In that struggle the Whigs, or Liberals, supported labor. The anti-union combination laws were repealed in 1871; and an effectively built trade union movement enabled at least the upper strata, the skilled workers, to secure some benefits from the preferred position which British capitalism enjoyed in the markets of the world. The major causes which generally aided the development of the continental socialist parties—the fight for suffrage, the struggle for social and labor legislation and the economic misery of the workers—did not operate in quite the same way in the United Kingdom. Here the two-party political system and the role of relative economic progressivism which the Liberals, the party of expanding finance and industrial capital, played against the party of the land magnates, the Tories, tended to keep labor indifferent to political socialism, with the result that while many doctrinaire and sectarian socialist groups developed, no substantial socialist party arose. Only when unskilled labor rose to organized influence, beginning with the dock workers' movement, was the stage set for the active and independent entrance of labor into the political arena. Reactionary decisions of the law courts, notably the Taff Vale decision in 1901, hastened the progress of the movement. But only by relegating its socialist ambitions to the background was the Independent Labour party able to make itself a force in the acceleration of the evolutionary course which resulted in the formation of the Labour party.

Except for the Belgian Labor party, which in a practical sense merely represents the German system of close cooperation between socialism and trade unionism developed to the point of federation, pre-war political labor activity took two forms: socialist or social democratic partyism, recognized to a greater or lesser degree by industrially organized labor, and labor partyism, based on direct trade union affiliation as in the United Kingdom and the dominions, especially the Irish Free State, Australia and New Zealand. The distinction between the two rests upon the degree of control exercised by the trade union movement and the political party. Even the maximal acceptance by the Social Democracy of the trade union viewpoint in all matters of policy and of theory as affected by it at no time brings the party to

the point of being a mere "labor caucus" of the trade union movement, as the British Labour party has always been. Even the revision of the constitution of the Labour party in 1918 and the invitation to the "workers by brain" to join did not change matters materially. Some of the intellectuals who answered the call may have received comfortable appointments and probably enjoyed gratifying publicity, but in substance they remained expert if well remunerated servants of the trade unions acting through the party. On the other hand, the intellectuals in the continental socialist and communist movements dominate their parties.

The difference in basic control has resulted in different general political and social characteristics. The Social Democratic and Communist parties maintain an active interest in national and international matters, in intellectual or cultural issues and in social theory and their behavior in crucial situations is determined by these interests. The course of the Labour party, on the other hand, has generally been determined by the trade union outlook, and the immediate concerns of the trade union organizations have at all times directed labor party policy. Thus in the matter of relations with Soviet Russia the socialist intellectual leaders of the British Labour party were obliged to subordinate their own partisan animus to the pragmatic concern of the trade unionists with the problem of employment. In the crisis of 1931 the attack by the parliamentary majority on the unemployment insurance system precipitated the Labour party's refusal to "carry on" the government. The members of the Labour government quit office by direction of the trade union leadership on a straight labor issue, whereas the Social Democratic party in Germany despite its anxiety to work with the trade unions let its policy be guided by a desire to "save the republic." The democratic, or the revolutionary, outlook has been the dominant consideration of socialism or communism in politics, while the class, or the economic, viewpoint has been the first concern of laborism.

J. B. S. HARDMAN

GREAT BRITAIN. Although an organized working class with large class conscious sections existed in Great Britain long before it did in any other European country, the British Labour party is a generation younger than continental socialist parties. Efforts to bring English workers into politics during the reform struggles in-

spired by the French Revolution left behind only some suggestive literature and a list of martyrs to savage repression. In the 1830's such men as Bronterre O'Brien urged on workers the necessity of winning political power, but after the decline of revolutionary Chartism in the middle of the century most British workers accepted capitalism, then in a definitely progressive stage with expanding imperial and foreign markets, as inevitable. They shared with the Victorian middle class a faith in thrift, individualism and nonconformist religious doctrines. For individual self-improvement they looked to literary institutes, for economic advance to collective bargaining. Labor in general was aware of a social rather than of an economic cleavage between "the classes and the masses." Remembering the quasi-feudal servitude under which their fathers had lived before the industrial revolution, workers were more critical of landowners than of capitalists. Robert Applegarth in advocating an extended franchise represented perhaps the height of political interest among trade unionists of his generation. When in 1867 Sheffield workers put up a parliamentary candidate they chose Anthony Mundella, a Liberal manufacturer, on a "class harmony" platform. Labor was content to pursue the Liberal party, through which miners supported by compact groups following a hereditary trade secured an appreciable number of parliamentary seats. The trade union movement as a whole concentrated on immediate issues, mainly of wages and hours, and exerted only an indirect political influence, greatly to the satisfaction of Liberals, who regarded it as a force for "rational conservatism" and a bulwark against independent labor politics.

Modern socialism in England originated among middle class intellectuals. William Morris and H. M. Hyndman, who founded the Social Democratic Federation in 1881, were pioneers in preaching class consciousness and independent labor politics but never won a numerous following. More important and typical was the Fabian Society, founded in 1883, to which belonged such intellectuals as Sidney and Beatrice Webb, Bernard Shaw and H. G. Wells. The Fabians were "gradualists" about the transfer of industry to public ownership, relying on persuasion and statistics and tending to idealize the bureaucrat. They were anti-Marxist and antirevolutionary, decried the class war and were inclined to be imperialists. Their first strategy (soon abandoned) was to "permeate" the Liberal party. Although the society never had a working

class following, its publications, especially the *Fabian Essays*, gradually sapped Victorian individualism and complacency among the middle class youth and later among workers, thus laying an intellectual and emotional basis for independent labor politics. Among other influences which made the Labour party one must reckon the *Clarion*, a lively weekly edited by Robert Blatchford, whose *Merry England* (London 1894) was the most popular of socialist books.

In 1874 the Labour Representation League and a decade later the Labour Electoral Association succeeded in electing Labour candidates to the House, but both were rapidly absorbed by the Liberal party. The work of founding a proletarian organization devolved on Keir Hardie (*q.v.*), a miner who realizing the limitations and costliness of isolated strike struggles turned first to Liberal and later to Labour politics as the alternative. His ethical socialism based on an ideal of service was well calculated to win workers prepared by a chapel upbringing. In 1893 he founded the Independent Labour party and soon gained Philip Snowden and Ramsay MacDonald, both of working class origin, as lieutenants.

Rising prices after 1896 and the demand for higher wages favored the growth of a militant "new unionism," which after the turn of the century began to combat the "labor aristocracy" (skilled and relatively well paid craft unions), aiming at a wider industrial unionism and the organization of the unorganized. The Trades Union Congress adopted some socialist resolutions and the I. L. P. (as the Independent Labour party was always called) began to put up candidates for Parliament. Although for years the new party had to meet the objection that it split the progressive vote, its persistent election fights served to propagate its ideas. In 1892 and 1900 Keir Hardie was returned to the House, where his tactics did much to convert workers to the idea of a labor party.

Inasmuch as the I. L. P. had made many enemies through its missionary activities, it was unacceptable as a basis for a new national party. Instead the trade union practise of sending members to Parliament was generalized and made the basis of the new party. It was founded in 1900 as the Labour Representation Committee and after 1906 was called the Labour party. Unlike continental socialist parties, which are based upon individual membership, the Labour party was a federation of unions and the three socialist societies; as a result it at once acquired status as

well as funds through a levy on union members. But it had many weaknesses. Although it insisted that its conception of labor included brain workers as well as hand workers, it was, compared with the German Social Democracy, always poor in intellectuals and organized intellectual life. It had for years no party press and the *Daily Herald* still does little to popularize socialism. The mass of unionists were never converted to socialism, and many who would answer a strike call would vote Liberal or even Tory. The unions, which provided most of the campaign funds, usually nominated as candidates administrative officials, who were unusually dull in the House. A growing strain was put on the loyalty of the I. L. P., which, although it did most of the organizing and propaganda, was so small as to be subject to the domination of any bloc of three or four large unions. In recent years this structural fault in the Labour party has been partially repaired by the creation of an individual membership section.

Although the I. L. P. spread socialist propaganda within its ranks, the Labour party remained for long under the spell of Liberal tradition. Its motive force was not so much socialist ideas as a demand for independent working class representation. Until after the World War an unavowed alliance often enabled its candidates to escape Liberal opposition, and in Parliament they did little more than follow the Liberal lead in social reform, the constitutional struggle with the Lords and efforts to confer home rule on Ireland. They supported Liberal budgets, including military appropriations, and generally acted like a left wing of the Liberal party.

A series of bitter strikes beginning in the South Wales mine fields in 1905 and culminating in the formation in 1913 of the aggressive Triple Alliance of miners, railway men and transport workers stimulated a feeling of class solidarity which the World War submerged but did not obliterate. Since the generation of workers reared in liberalism was dying out, Lloyd George's formation of the war coalition completed the disillusionment of the workers. By the enfranchisement of women and the simplification of the electoral qualification the electorate was more than doubled in 1918 and further increased in 1929. Under Arthur Henderson the Labour party built an efficient electioneering machine. All these developments aided the party, and its vote grew rapidly.

In August, 1914, MacDonald backed almost unanimously by the I. L. P. took a pacifist posi-

tion. The Labour party declared an industrial truce and eventually joined the war coalition, although it advocated a peace of conciliation. MacDonald lost the leadership of the Labour party and in the "khaki" election of 1918 he and Snowden and most of their pacifist followers lost their seats. At the end of the war the representatives of the strengthened I.L.P. left the Socialist International for the Vienna International, coming back again in 1923.

LABOUR VOTE AND LABOUR REPRESENTATION IN HOUSE OF COMMONS, 1895-1931

| YEAR OF ELECTION | LABOUR VOTE | LABOUR VOTE AS PERCENTAGE OF TOTAL | LABOUR MEMBER ELECTED |
|------------------|-------------|------------------------------------|-----------------------|
| 1895*            | 44,594      | 1.2                                | 0                     |
| 1900†            | 62,698      | 1.9                                | 2                     |
| 1906             | 323,690     | 4.8                                | 29                    |
| 1910, January    | 505,690     | 7.5                                | 40                    |
| 1910, December   | 370,862     | 7.0                                | 42                    |
| 1918             | 2,244,945   | 22.0                               | 57                    |
| 1922             | 4,236,733   | 29.5                               | 142                   |
| 1923             | 4,348,379   | 30.5                               | 191                   |
| 1924             | 5,487,620   | 32.9                               | 151                   |
| 1929             | 8,362,594   | 36.9                               | 288                   |
| 1931             | 6,648,023   | 30.7                               | 52                    |

\* I. L. P. vote.

† Labour Representation Committee vote.

The chief drama of the Labour movement was now played outside the House. The post-war revolutionary ferment in England took the form of quasi-political strikes, a form as old and as English as Robert Owen. British labor followed the Russian Revolution with friendly interest, agitated against the blockade and contemplated a strike in 1920 against the government's plan of military aid to counter-revolutionary Poland. Lloyd George's failure to act on the report of a royal commission in favor of coal mine nationalization led to the miners' strike in 1921, which proved disastrous when railway men and transport workers influenced by J. H. Thomas failed to go out in sympathy. There was at this time some contact between Moscow and left wing Labour and a small, active Communist party was formed. But although the Russian Revolution gave an emotional stimulus to English labor and aroused much sympathy, the main body of the Labour party held to gradualism and reformism. At and after the election of 1918 the Labour party worked for a minimum standard of life; that is, for the abolition of gross poverty through social reforms differing only in degree from recent Liberal legislation. In 1922 and 1923 along with some leading Liberals it concentrated

on the proposal of a capital levy. It was in earnest over nationalization only for the coal mines.

In 1922 the party under MacDonald became second in number in the House and acquired the rights of His Majesty's Opposition. In 1924 by an accident inevitable under a three-party system Labour came into office. Snowden produced an orthodox Gladstonian budget. Schemes of wage fixing for agricultural labor and for promoting workers' housing were adopted. The outstanding record was MacDonald's at the Foreign Office. He recognized the Soviet Union and in association with a left French government restored European peace after the Ruhr occupation. Since as a minority government it was prevented from doing anything of which the Liberals disapproved, the Labour government observed all the conventions, respected the monarchy and like Tories and Liberals followed behind the scenes the guidance of a singularly adroit civil service. After nine months the Tories exploiting the forged Zinovieff letter created a Red scare during the general election and Labour was defeated despite the gain in prestige which resulted from its first period in office.

Interest now again centered in the unions. The left expressed its inclination to "direct action" in the general strike of 1926. This was without serious revolutionary intention and was but a bluff of the Trades Union Congress which the government forced it to make good. The defeat of the strike threw the movement back on opportunism and restored MacDonald's ascendancy. The party expelled all communists and adopted a frigid attitude toward Russia. The I.L.P., which had outgrown its ethical attitude, worked out a program to cope with chronic unemployment, to rationalize backward industries and agriculture and to initiate the transition to socialism through the ballot by capturing for the community control of the main keys to economic power, especially banking. MacDonald suppressed this program and substituted an incoherent compilation of reformist projects.

The party's automatic growth continued and it returned to Parliament in 1929 with a plurality. Few adherents of the Labour party can think of its second period of office without shame and disgust. MacDonald treated the Liberals with a new cordiality, his habit of consulting the opposition serving as preparation for coalition. The key cabinet position, a kind of dictatorship to cope with unemployment, went to Thomas, who took to repeating the usual reactionary excuses



for doing nothing for the workers. Snowden, as chancellor of the Exchequer, fell obviously under the influence of the bankers and vetoed credit expansion, and any bold program of public works, such as even the Liberals had advocated.

The legislative machine worked with exasperating slowness. Conditions of widows' pensions were improved, a bill on Liberal lines rationalized the mining industry, another promoted orderly agricultural marketing. Outstanding successes were once more in foreign policy with Henderson now at the head of the Foreign Office: MacDonald's conciliatory visit to Washington, the London Naval Conference, the restoration of diplomatic relations with Russia, the removal of the French from the Rhineland, the signing at Geneva of the optional clause for arbitration. Tory policy was abandoned in India and the Round Table Conference summoned. But there was no coping with the main problem. Although the government's policy was open to a wider attack, the I.L.P. concentrated chiefly on criticizing the inadequacy of relief provisions.

In the summer of 1931 a vast foreign loan was needed to halt a run on the Bank of England's gold reserves. Prompted apparently by the Bank of England, American bankers refused to lend unless the disordered budget were balanced by drastic economies, including specifically a cut in unemployment relief. The Labour cabinet, while sparing armament appropriations, was willing to economize by devastating the social services and by reducing the pay of all civil service grades. When a cabinet majority refused, however, to give a signal for general wage reduction by cutting the dole, MacDonald (now a distinguished individual without a party) accepted the king's invitation to form a "National" coalition with Tories and Liberals. The Labour movement on the whole accepted the secession of MacDonald, Snowden and Thomas with relief, realizing rather tardily that they had long since been absorbed by the governing class.

The general election that followed brought on the Labour party a disaster unprecedented in English history. The challenge to the money power which was implied in the Labour party's project for control of banking caused the combined opposition of Liberals and Tories to be ranged against it. Its former leaders deliberately created a financial panic. MacDonald jettisoned a life long belief in free trade. Snowden assailed as "Bolshevism run mad" legislative proposals for the nationalization of the Bank of England which stood in draft in his handwriting.

Ill prepared and ill led for the fight the party was routed and, although its total vote showed only a 20 percent reduction, it came back to the House a remnant of its former self, only two members of the late cabinet escaping the deluge.

Since the election of 1931 the Labour party has struggled to build up a reliable mass membership of individual adherents. The discussions leading to the revised program which was laid before its annual conference in 1932 revealed a swing to the left and an attempt to work out something more than the familiar compilation of uncoordinated proposals for social reform. The party now realizes (as the I.L.P. did before it) that any advance to a planned economy presupposes the effective command of the state, involving public ownership in most cases, over the key positions which confer economic power. The events of 1930-31 have led the party to concentrate upon finance. All agree that the Bank of England must be nationalized; some would nationalize the joint stock banks also; the majority would be content to control them. It is further proposed to set up a national investment trust under public control which would direct the flow of savings into socially useful channels in accordance with a definite plan of development and at the same time penetrate industry, acquiring a measure of control through the new capital which it distributed. The party's monetary policy aims at a moderate, controlled inflation and prefers a commodity standard to any return to gold. The other key positions chiefly in view are the coal industry and electricity, regarded as a single complex, the railways and road transport and agricultural land. In the tariff controversy the party has abandoned free trade dogmas as relics of *laissez faire* but is suspicious of tariffs and would prefer to control foreign trade partly through disinterested public boards, which would directly import wheat, meat and eventually raw materials with a system of licenses and quotas for other goods. It is generally realized that a radical program of this kind would involve a sharp struggle with the financial interests and with the House of Lords, and some influential leaders have said that they will not again assume office without a majority in the Commons. This attitude if firmly held would mean that the party refuses (as some put it) "to administer the capitalist system" and is now consciously bent on engineering the transition to a socialist society. The party has, however, a right wing to which belong some of the older leaders, the "machine" and its one newspaper, the *Daily Herald*; there is even a section (prob-

ably insignificant in numbers) which would welcome MacDonald's return as leader. The ablest of its younger leaders, Sir Stafford Cripps, the best debater in its small parliamentary contingent, belongs emphatically to the left.

The feud which developed in Parliament during the second Labour ministry between the I.L.P. and the official party has resulted in the secession of the former. The Labour party insisted on stricter discipline in the Commons and imposed standing orders which, while allowing a member in a case of conscience to abstain from voting, forbade a direct vote against the party. One might have supposed that the departure of the national leaders would have healed this feud, especially since the question of voting is of no importance in a parliament like that following the 1931 elections, in which the Labour representation is very small. Both sides, however, have shown an unyielding temper, the I.L.P. insisting that standing orders must be modified, the Labour party requiring that the five I.L.P. members must rejoin the party before this can be discussed. The consequent decision of the I.L.P. to disaffiliate places it in the same position of hostile detachment as the Communist party and may weaken Labour at the next election. The underlying reason for the I.L.P.'s action appears to be its suspicion of the leaders and the main body of the party who tamely followed MacDonald up to the final split over the dose.

## II. N. BRAILSFORD

**BRITISH DOMINIONS.** All the dominion labor parties have been created by the trade unions. They owe very little to continental socialism, for their ideas have been imported from the general stock of British liberalism, Fabianism and other programs for democratic and social reform, combined with elements of Ruskin, Morris, Henry George, Robert Blatchford, Wells and Bellamy and in later years of guild socialism. These influences, however, were little more than a top dressing to a body of aims based on local labor problems. The real task of the labor parties was to secure through political effort those improvements in labor conditions which could not be obtained by direct trade union action or by pressure upon the old political parties. Once launched, they found that they must have views on issues which were not strictly labor problems, such as defense, finance, the conduct of the World War, tariffs, the native problem in South Africa and the nationalist

controversy in Ireland. Some of these problems have more than once caused serious splits in the parties. Finally, a party which has captured the government has found that the obstacles to socialization are so large, the resistance by second chambers is so tough, the machinery of legislation and administration so slow to move, funds for ambitious social programs are so difficult to obtain, that rapid and heroic achievement of party aims has had to give way to "the inevitability of gradualness."

The history of the Australian Labour party, the only dominion party to reach full stature and to enjoy the opportunity to shape legislation and administration, affords the best illustration of these general statements. Before any labor party existed Chartist ideas had given Australia advanced democratic machinery, the need for railways had led to state construction and management, the fear of racial mixture and the strength of the trade unions had secured laws against Asiatics and for the protection of wage earners, while land problems had led the state to experiment in the interest of the small farmer settler. Trade unions were content to negotiate directly with employers, to bring pressure to bear on politicians and to toy with the notion of direct labor representation. But the strike of 1890 and the years of depression and anti-union activity which followed smashed the union machinery, decimated its membership, induced employers to withdraw concessions they had made to the unions and revealed the fact that in a serious conflict the full strength of the state was at the disposal of "the master class" as long as that class controlled the government. Australian labor therefore turned to political action. In the New South Wales election of June, 1891, 36 out of 45 Labour candidates were elected. Success came soon in other states, and in the first federal election in 1901 the Labour party won 16 seats out of 75 in the House of Representatives and 8 out of 36 in the Senate. Universal adult suffrage for both houses helped to make this result possible, while payment of members freed the party from the cost of maintaining its representatives.

Once the party had won more than a handful of seats in any legislature it held the balance of power; its support was then given to whichever of the older parties would make the highest bid. Some important legislative and administrative gains were thus made, but the position was unsatisfactory to all parties. By 1909 therefore Liberals and Conservatives had fused in

common defense against "the socialist tiger," and the Labour party became the official opposition. The next step came with the winning of an absolute majority; this happened in the commonwealth in 1909 and in New South Wales in 1910, and by 1915 Labour was in power in every lower house but one. The conscription issue tore the party to pieces in 1916; those leaders who favored compulsory military service joined with their Liberal opponents and the rest of the party continued as an ineffectual opposition. Labour returned to power later; by 1925 it ruled five states and in 1929 the party captured the federal government. The depression which began in 1929 divided the party again; those leaders who were determined to balance the budget and strengthen the country's impaired financial condition by drastic economies went over into the enemy's camp and the bulk of the party again passed into eclipse. By 1932 Labour had lost control everywhere except in Queensland and had split into two groups. After the federal elections of 1931 the moderate group held 8 out of 36 seats in the Senate and 14 out of 75 in the House; the left wing group led by Lang, former New South Wales premier, 2 seats in the Senate and 4 in the House.

The success of the Australian Labour party rested largely on its organization and program. The trade unions provide a firm foundation in a land where town dwellers constitute nearly two thirds of the population and where a larger proportion of the population than in any other country are unionists. Every unionist is a member of the party through his union; non-unionists may join the party through local branches, which are good centers for information and conversion. The candidate for a particular area is chosen in a "preselection" ballot by the unionists and branch members in the area; this system provides an opening for local talent and ambition. An annual party conference in every state, consisting of delegates chosen on the preselection ballot, offers a chance for the democratic framing of the party program for the state. The state conference elects delegates to the Australian party conference and also chooses a state executive, which is the essential controlling power between conferences. The Australian conference usually meets triennially and since 1915 also has elected an executive to function between conferences. The problem of control of the parliamentary members was raised at an early date and tight discipline has been kept through the "pledge" and the functioning

of the party caucus. All candidates who offer themselves for the preselection ballot must promise not to oppose the candidate selected and, if elected, to vote as the caucus determines. The caucus consists of all Labour members of both houses and meets generally at least once a week. It thus permits the members of one house to influence action in the other and at the same time usurps the usually dominant position of the premier over the cabinet. The caucus chooses and controls the cabinet and is itself more or less effectively controlled by the executive and the conference. The development of Labour's organization has altered fundamentally the previous regional decentralized character of Australian political parties and the functioning of parliamentary government in Australia.

Labour's program was not doctrinaire and had few abstractions; it included a set of trade union "planks" and aimed to secure democratic governmental machinery, "equality of opportunity" in education, heavy taxation of the rich, the breaking up of underutilized large estates, the protection of wage earners from exploitation, the safeguarding of infant industries and of the high standard of living against foreign competition and the strengthening of Australia's political and constitutional status within the British Commonwealth of Nations. In such a comprehensive program there was something to attract all classes except the ingrained conservative and the old fashioned employer; and since Labour in office showed itself quite as statesmanlike as did its opponents, it won the vote of a large section of the middle class. On paper it declared for a new social system, for "socialization of the means of production, distribution, and exchange" through parliamentary action. But few steps have actually been taken in that direction, and with one or two exceptions—of which the outstanding was the establishment of the Commonwealth Bank in 1911—little has been done to reduce the field of capitalistic enterprise. At best there has been an increasing regulation of private ventures or the establishment of services to aid the farmer; at worst there have been some costly experiments in state production and trade, and socialism is little nearer after forty years of talk and trial. With the achievement of its early "practical" nationalistic planks Labour has been increasingly forced to turn to international socialism for its immediate program as well as its ultimate ideal; the result has

been to alienate considerable sections of its former essentially liberal but not socialist supporters.

In New Zealand as in Australia an unsuccessful strike in 1890 and a continued depression together with revelations of "sweating" led the workers to demand labor legislation and protective tariffs. This program was largely shared by the Liberal party, consisting essentially of small farmers, which was always in close touch with labor and courted its vote. In the elections of 1890 six trade unionists were elected as Labour candidates within the Liberal party, and from 1891 until 1906 the Liberal-Labour party ruled the country, passing important land, labor and state socialistic legislation. But the recovery of farm prices in the first years of the twentieth century accentuated the divergence of interests between the farmers and the workers, and the combination of these two against the large landowners showed increasing signs of disintegration. Beginning in 1902 the trades and labor councils began to agitate for an independent labor party, but the break did not actually occur until Seddon's death in 1906. A series of organizations culminated in the formation in 1912 of the United Labour party, a moderate party opposed to the class war principle. By 1928 the party held the balance of power with 20 seats in a house of 80 members; but in 1931 the two old parties fused into a United-Reform party and Labour became the opposition, facing the coalesced farmers and capitalists. The elections of 1931 gave Labour 24 out of 80 seats in the House.

In the Union of South Africa the task of organized labor is to protect the white worker against the big mining company above and the native laborer below, with the Dutch farmer looking on. Soon after the South African War English immigrants who had known British labor developments began a Labour party on the Rand. The drastic handling of the strikes in 1913 and 1922 by General Smuts strengthened the party's cause and drove it in 1923 into an alliance with the Nationalists; the latter agreed to modify their plans for an autonomous republic, while Labour promised to be silent about socialization. The alliance overthrew Smuts and his party in 1924, and Labour took 2 seats in the new government. But the party executive growing suspicious of the alliance asked the ministers in 1929 to relinquish their portfolios. They refused, were evicted from the party and formed their own Labour group. An unsuccessful

attempt to close this schism, which weakened Labour at the 1929 election, failed in 1931.

In pre-war Ireland the political allegiance of organized labor was divided between the Irish Nationalists and the British Labour Representation Committee (subsequently the Labour party), with the southerners in general favoring the former and the northerners the latter. Gradually, however, labor sentiment drifted away from the Nationalists. In 1912 the Irish Trades Union Congress endorsed the principle of a pledge bound Irish Labour party and in 1914 its constitution was amended and its name changed to make it a Labour party also. Its political activities were practically dormant during the World War, and it did not contest any parliamentary seats in the elections of 1918 and 1921 but supported the republican candidates; it did, however, contest local and municipal elections with marked success. With the establishment of the Free State the Labour party entered the parliamentary field in the 1922 elections and won 17 of the 128 seats in the Dail. The party has fought strenuously for improved labor conditions, and while it supports national autonomy it seeks to damp down the flames of controversy and give Ireland peace in which to progress. For instance, when the 1932 elections shifted power from Cosgrave to De Valera but left Labour holding the balance, with 6 out of 60 seats in the Senate and 7 out of 153 in the Dail, Labour voted with the government to abolish the oath of allegiance but did its utmost to discover a peaceful settlement of the dispute between London and Dublin.

Canadian labor like that of the United States has done little party building on a large scale. It has passed resolutions urging or opposing legislative and administrative action and has lobbied. But it is too weak in numbers and class consciousness to enter politics with any force, and the left wing has been absorbed by the grain growers. During the World War the ferment of ideas on reconstruction led the central executive of the trade union movement to recommend the organization of provincial labor parties, and this was done in six provinces. Some success followed; in 1921 two Labour members were elected to the dominion legislature, while in Ontario and Manitoba a farmer-labor onslaught captured many seats. The federal representation has not grown and ground has been lost in the provinces, but in some municipalities the party has significant strength.

HERBERT HEATON

UNITED STATES. The first labor party in the United States and in the world was the Working Men's party launched in 1828 by the Mechanics' Union of Trade Associations of Philadelphia. In the next few years the example was followed in New York, New Jersey, New England and states west. These early labor parties were quite radical in their demands and social outlook. They were aware of the position of labor as a class in the social order and their legislative demands were aimed at furthering the interests of workers. Their social objective, however, was to achieve a middle class status for labor and their ideal was a society of small manufacturers, merchants and farmers. It was through their efforts, even if indirectly, that the public school system was established, imprisonment for debts abolished and mechanics' lien laws and homestead laws were enacted. The intellectuals played an important part in these movements. European Owenism and Fourierism found active followers in Albert Brisbane, Frances Wright, Robert Dale Owen and later Horace Greeley. Internal dissension over principles, however, destroyed the Working Men's party in New York even before the depression of 1837 crushed unionism. Intellectual utopianism, middle class aspirations and agrarianism are perhaps a peculiar amalgamation to be found in a labor movement, yet in the prevailing economic and social set up of the time the development had a logic of its own. The shifting frontiers of the country prevented economic solidification of classes on the lower rungs of the social ladder. It has been correctly observed that an independent labor politics which is free from entangling outside alliances has really never been tried in the United States.

About fifty years after the first local and sporadic attempts at labor party building significant efforts were again made to harness the potential political power of labor to class ends. The National Reform party was created in 1872 by the National Labor Union, a central federation representing local, state and national trade associations somewhat similar to the later American Federation of Labor; at its peak the union was reputed to have a membership of 640,000. The party, which was not only representative of labor but also socially radical in terms of the America of the day, did not last. The experiences throughout the stormy 1880's, which saw the rise of the Greenback Labor party in 1880 and of the United Labor party under the domination of Henry George in New York in 1886,

a period marked by the Haymarket disaster, a growing anarchist movement and battles all along the line between the Knights of Labor, the socialists, the Populists and the A. F. of L., resulted in what seemed a final abandonment of all hope of labor partyism. The activist and class conscious labor elements bent on using independent labor politics in the class struggle reconciled themselves to limited functioning within a party of creed instead of a party of class. The Socialist Labor party was established, then was split and largely superseded by the Socialist party, which in turn was split and greatly weakened by the Communist party. Not until the end of the World War did there appear signs of a regenerated interest in a labor party. The first labor party of the new period arose in Bridgeport, Connecticut, in 1918 as an after effect of the machinists' eight-hour movement. The movement, which assumed national proportions in 1919 but disappeared again in 1925, was the result of two major factors—the phenomenal if temporary rise of the United States as an agricultural produce exporting country and the impact upon American labor of forces and influences which followed the war.

Stimulated by the war prices spurted upward, improving the position of the independent farmers but also stimulating large scale farming based on control of transport facilities, grain elevators and credits. The small farmer facing a rapid loss of his independence turned for aid to group but not collectivist cooperation and to independent farmer politics. The National Non-partisan League, a defense apparatus of small and middle farmers, entered politics class consciously in 1916 through organized participation in Republican and Democratic primaries and soon developed spectacular strength; by 1918 it had secured a majority control in the legislature of North Dakota and impressive minorities in Idaho, Minnesota, Montana, South Dakota, Colorado and Nebraska. The league became a party in fact if not in name. The logic of its growth, with the relentless fight against the league by the parties of corporate capital, made a farmer-labor alliance logical and necessary. A working relationship seemed the more possible, since the league was led by men of socialist background and experience, for in Minnesota especially the socialists had achieved not inconsiderable standing in the pre-war years.

Trade union labor experienced an organizational and an intellectual revival during the war years. The first resulted in a considerable

growth of trade union membership. The second was more intensive than extensive. The repercussions of the Russian and German revolutions stirred American labor profoundly. The phenomenal rise of British labor to political significance inspired the younger subordinate leaders in the trade union hierarchy; they saw in independent political action a leverage against the older men whose stock in trade or power not infrequently consisted only of the advantages of an illicit political alliance with the old party machines. A political labor party would give the new man a place in the sun, would tend to dislodge holdover leadership. Some unions, especially those whose membership was generally radical, as, for instance, the coal miners' union, were committed to the idea of a labor party. In other cases, as in that of the transportation unions, economic action was almost impossible except by way of political pressure. The year 1919 was a banner year for left orientations in the United States. The gigantic steel strike; the general strike in Seattle, Washington; the Boston police strike; the miners' nation wide strike, which was crushed by an abrupt and drastic interference of the federal courts at the instance of the government and at the behest of the mine operators, were but instances of the chain of events which set in motion an enormous psychological transformation. On January 11, 1919, the American Labor party of Greater New York was organized by delegates of the local trade unions. In May of the same year the Pennsylvania State Federation of Labor declared for independent political action, to be followed in September by similar action in Indiana. In April the Illinois body at its annual convention took steps to form a state labor party. On November 22, 1919, the National Labor party was launched.

In all these movements local and state union officials took an active part along with direct representatives of the rank and file, while national union heads were conspicuously absent. The American Federation of Labor as such was entirely opposed to the movement. In 1920 the Farmer-Labor party succeeded the National Labor party, running candidates for president and vice president under that party name. The vote the party received was very disappointing. Of the more than 4,000,000 workers who participated in the mass strikes of 1919 and of the many sympathizers who followed the strike movement with anxious interest only 265,411 voted the Farmer-Labor party ticket in 1920.

This setback did not, however, altogether end the careers of the various state and local parties. Another effort, of a different orientation, was in progress. It took the shape of a Conference for Progressive Political Action (C. P. P. A.), a somewhat loosely organized body of numerous national trade unions, local, state and national labor parties, including also the Socialist party but not the Communist party. The C. P. P. A. was organized in February, 1922, and soon became the storm center of the issue of independent political action. Opposition to the traditional inactivist political policy of the A. F. of L. doubtless chiefly motivated the participants in the C. P. P. A. There unanimity ended. The majority of the C. P. P. A., led by the powerful railroad brotherhoods, favored an active non-partisan policy and operation through old party primaries where possible, feasible and promising.

Numerous attempts by the adherents of independent labor action to form an impressive national farmer-labor party through the forces gathered around the C. P. P. A. failed, and the organization went no further than to run Senator Robert M. La Follette and Senator Burton K. Wheeler on an independent Progressive ticket in the 1924 presidential election. The Socialist party stood by the ticket. The Executive Council of the A. F. of L. half heartedly endorsed the ticket with the stipulation that it was endorsing the two men but not their Progressive party or any prospective independent party. La Follette polled 4,822,856 votes, or 16.6 percent of the total of 29,091,417 votes cast. The C. P. P. A. survived the election just long enough to prepare its demise. The convention of 1925 adjourned without fixing another meeting date. The labor party movement once more went into eclipse.

In Minnesota, however, there has existed since 1920 a functioning political labor organization, the Farmer-Labor party. It grew out of an informal merger of two forces which were at one time influential: the Socialist party in the cities and the National Nonpartisan League. After many structural and political zigzags the organization succeeded in lining up the trade unions for steady joint action with the farmers and has thus been firmly established as a significant factor in the political life of the state. In 1932 there were in office, elected by the Minnesota Farmer-Labor party, the governor (from 1930), one senator (from 1922), one congressman (from 1928), about one third of the two houses of the state legislature and the

mayors of four cities, among them the three largest in the state. Generally viewed as the potential nucleus of a national farmer-labor party and with its leaders openly upholding that view, the Farmer-Labor party nevertheless endorsed the Democratic presidential candidate in 1932. The Minnesota experience in its application to certain vital points of contention bears out the conclusions of Rice: "In . . . Minnesota, the data are convincing that farmers and working men have supported the same candidates . . ." and that "Should questions involving political reform, public utilities, or the rights and privileges of labor or agriculture become dominant issues . . . there seems a possibility (on the basis of our legislative data) that a successful political alliance between these classes might develop" (*Farmers and Workers in American Politics*, p. 183 and 219-20).

The only other labor party in the United States which claims a state wide jurisdiction is the Independent Labor party of Pennsylvania, although its existence has been altogether nominal. Recent attempts to form local labor parties include the following: the Labor party of Cook County, Illinois, organized in 1930, largely on adjunct to the Socialist party; the Independent Labor party of Kanawha valley, West Virginia, created by the independent West Virginia Mine Workers' Union after the failure of its strike in the summer of 1931; the Independent Labor party in Philadelphia, sponsored by the American Federation of Full Fashioned Hosiery Workers in that city and hardly distinguishable from the local Socialist party; the Labor parties in Kenosha, Wisconsin, in New Bedford, Massachusetts, and in Elizabethton, Tennessee, all passing outgrowths of workers' resentment against strike defeats.

These labor parties which appeared after the breakdown of the "prosperity era" may be and probably are representative of unexplored potentialities but, save in the Minnesota case, they are symptoms at best and not active factors. There is still no functioning national political labor party in the United States. Furthermore the registered membership of all the socialist or creed parties, however potentially valuable it may be considered as an organizing force, is rather negligible and is in no wise comparable to the strength of the continental working class parties whether they be socialist, communist or labor.

J. B. S. HARDMAN

See: LABOR MOVEMENT; TRADE UNIONS; INDUSTRIAL

RELATIONS; LABOR LEGISLATION AND LAW; SOCIALIST PARTIES; COMMUNIST PARTIES; FABIANISM; DEMOCRACY; SOCIALIZATION; GOVERNMENT OWNERSHIP.

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LABOR TAX. See FORCED LABOR.

LABOR TURNOVER. The fluctuations in the working force within an industrial establishment may be divided into two main classes: first, an increase or decrease in the size of the working force and, second, the hiring of workers in numbers sufficient to maintain the working force at a given level. One group of students would confine the use of the term labor turnover to the second of these meanings and consequently considers replacement as identical with turnover. Replacements correspond roughly with accessions if the working force is decreasing and with separations if it is increasing; it is this use of the term which has been adopted by the United States Bureau of Labor Statistics. Another group, however, holds that separations constitute the more important phenomenon and should be used to measure turnover in a contracting as well as in an expanding working force. This group considers that labor turnover is a problem of the instability of employment, and that all separations regardless of replacement contribute to the instability of employment.

Labor turnover is essentially a manifestation of maladjustment. A limited amount of turnover, expressing the mobility of labor, is unavoidable;

but in its abnormal and acute forms labor turnover is an element of industrial waste. The worker suffers from insecurity and depreciated earnings, while the employer is harassed by higher labor costs; society meanwhile is deprived of available labor and potential wealth. All the causes of excessive labor turnover—seasonal and cyclical fluctuations, conditions within an enterprise which produce separations, and partly the instability of labor—are indications of faulty economic and social organization.

For comparative purposes it is necessary to reduce the absolute figures of turnover to percentages. This can be done by dividing either replacements or separations by the average number exposed to turnover. The National Association of Employment Managers in the United States once proposed to use as the denominator the average number actually employed during a given pay period. This measurement was defective, however, because it omitted the absentees, who were certainly exposed to turnover. To meet this difficulty it was proposed that the average number on the pay roll should be used as the denominator, although this was in turn objected to by Brissenden, who pointed out that it would include men who were on the pay roll but who had left the employ of the concern before the pay period expired.

The earliest modern studies were made in Germany and published in the *Schriften des Vereins für Sozialpolitik* in 1909 and 1910. In the United States public attention was first attracted to the problem shortly before this country's entrance into the World War, in part because the shutting off of immigration forced American industries to conserve their labor supply more carefully and in part because of the relative scarcity of labor during the period of American participation in the war. Another contributing factor was the upward movement of money wages, which operated unevenly and which necessarily led many workers to leave their jobs in order to obtain higher earnings in others. Studies by Slichter indicated an average turnover rate in American manufacturing in 1914 of approximately 100 percent, while wartime studies by the Bureau of Labor Statistics showed an average turnover for 1917-18 in the firms studied of approximately 200 percent.

These and other studies, notably that by Alexander, helped to awaken American industries to the losses which they were experiencing as a result of the high turnover rates. The advent of new workers to replace the old generally in-



volved added costs, of which the most important were expense in hiring and training, wastage of material and breakage of tools and machinery, increased labor and overhead costs resulting from decreased production, and idle overhead in the period before the replacement actually took place. One of the most tangible evidences of this increased concern on the part of industry was the stimulation which it gave to the establishment of personnel departments. The functions and powers of these departments varied greatly, but at their minimum they were designed to aid in the recruiting of labor and in the greater stabilization of the working force.

The depression of 1920-21 brought about an appreciable decline in American labor turnover rates. With the much greater stabilization of money wages, the improved personnel policies of employers and the increasing displacement of labor by improved efficiency which characterized the years from 1923 to 1929 this new level was generally maintained. An extensive survey by the United States Bureau of Labor Statistics of selected factories in not fewer than seventy-five industries in the boom year of 1929 showed an average turnover rate of only 45 percent.

While little or no material has been published on the subject in Great Britain, it seems probable from the number of unemployment insurance cards which are returned annually to the British employment exchanges in comparison with the numbers covered by the insurance act that the average percentage of labor turnover in that country in recent years has been between 50 and 60 percent. In 1922 the British Industrial Health Research Board published a study of labor turnover during the war in munitions and other factories, which was considered merely suggestive because of war conditions and the fact that the workers covered were almost exclusively women. The methods of measuring labor turnover were so diverse that it was extremely difficult to compare one factory with another; even in large establishments turnover was said to be "not infrequently a subject of conjecture rather than precise measurement." A more uniform system of measuring turnover was proposed by the board. The study revealed that the turnover rate was unusually high in the first months of employment and that it varied with locality, industry, the age of the worker and the nature of his work and factory conditions (as distinct from seasonal and cyclical factors). The board suggested that labor turnover might be reduced by more attractive wages, shorter hours and better

working conditions. In recent years there has been considerable interest in the subject in Soviet Russia because of the large flow of labor from plant to plant and the high turnover in the coal and iron industries of the Donets basin. The causes of labor turnover in Soviet Russia are in many respects different from those in other countries; for example, seasonal and cyclical factors apparently do not operate to any considerable extent.

Turnover rates are of course not uniform but vary widely as between different classes of labor and differing industries. Unskilled labor, for instance, has generally a much higher rate of turnover than has skilled. Thus Brissenden and Frankel found a percentage rate for skilled workers from 1913 to 1915 of 60 and for unskilled of 129, while in 1917-18 the respective percentages were 135 and 427. A study at the University of Chicago of the turnover rates in various occupations in a large middle western railroad in 1920 showed a variation between 19 percent for telegraphers and nearly 1700 percent for freight station laborers.

As would be expected, heavy industries, where the work is inclined to be less skilled and in addition is often unusually arduous and disagreeable, tend to have rates of turnover above the average. Thus in 1917-18 the following industries had a turnover rate of over 200 percent: automobiles, chemicals, leather and rubber, miscellaneous metal products, slaughtering and meat packing and furniture and milling. Mercantile trade, on the other hand, in both the war and the pre-war periods had turnover rates which were only two thirds of the average. Still lower were the rates in the public utility companies, where the prospect of steady work retained a far more stable working force despite the failure of wage rates during the war and post-war period to advance as rapidly as elsewhere. In the public utilities studied by the Bureau of Labor Statistics in 1913-14 gas and electricity companies had a turnover of only 15 percent, street railways 27 percent and telephone service 39 percent. While these rates increased greatly during the war they remained very much below the general average. The turnover in governmental service is particularly low. Even in the years 1917 to 1919, when federal salaries were lagging far behind the increase in the cost of living, the turnover of federal employees did not exceed 40 percent. A more recent investigation by Brissenden for the entire federal service in 1927-28 showed an average annual turnover of 19 percent, while in

the departmental services in Washington, D. C., the average was only 8 percent. In general it can be said therefore that in industries and occupations where the principle of seniority is commonly followed for both promotions and layoffs the turnover rate tends most decidedly to be below the average. This is also measurably true among organized workers, where union rules, such as the priority system and limitation of the employer's right of discharge, tend to reduce considerably the turnover of labor.

A common objection by industrial managers to the employment of women has been that a concern cannot be sure of their services for as long a period of time as it can in the case of men. It is of course true that because of marriage and motherhood women do not as a rule remain in industry for so long a time as men and thus do not have equal opportunity to rise to the more skilled positions. There is no evidence to indicate, however, that during the period in which they are gainfully employed they are more unstable than men. On the contrary, while it is difficult to make comparisons between the sexes because of the differing types of work which they perform, such evidence as does exist seems to indicate a lower turnover rate for women than for men. Thus in the stores studied by the Bureau of Labor Statistics in 1917-18 the percentage for women was 81 as compared with 144 for men. In the clothing and textile industries the relation between the two sets of rates was very similar: 129 percent for women and 204 percent for men.

It should not be thought, however, that the average worker in industry moves from job to job with the relative degree of speed which all of the above figures might indicate; the bulk of the turnover is concentrated in the minority of short service workers, thus leaving the majority to be employed for longer periods with very much lower turnover rates. It was found, for example, that in fifty-three establishments which in 1917-18 had an average turnover of approximately 133 percent five eighths of the working force had been employed throughout the preceding year and the entire turnover had come from the remaining three eighths. The average for this latter group as a whole was therefore approximately 360 percent. The relative concentration was still greater in the case of those employed less than three months. Only 5 percent of the male workers at the end of a year in a group of companies had been employed for less than two weeks, but nearly 29 percent of all the separations

during the year involved men who had been on the pay roll only for that time. This was a separation rate therefore of approximately six times that for the employees as a whole. The group which had been employed for from two weeks to one month formed in turn only 4.3 percent of the work force but had comprised 13.2 percent of the separations, and while those workers who had been with the companies for from one to three months constituted only 9.7 percent of the total force, 21.2 percent of those who had left had worked only during this period. At the other end of the scale 35 percent of the force had been employed for over five years, whereas only 3.6 percent of those who separated had been employed for that period of time. This was only one tenth of the general average.

The causes of labor turnover may be divided into those which are proximate and those which are more ultimate. Since it is separations which give rise to replacements, an analysis of their composition throws light upon the more proximate causes. Separations may be classified according to three main subdivisions. First come layoffs, when the services of the worker are supposedly satisfactory but there is no longer a job to be performed. While in the short run those who identify turnover with replacements would not regard these cases as truly giving rise to turnover they would so regard them if a seasonal or cyclical revival were to demand their replacement. The second class of separations covers discharges; here the job itself is to continue, but the worker is adjudged unsatisfactory for it. Third, there are the voluntary separations, in which the worker himself takes the initiative in leaving. In practise the distinction between the first two of these divisions is frequently blurred by the management and men are often said to be laid off who are really discharged, and the reverse. Similarly many men are considered to have left a job voluntarily when in reality they had merely estimated in advance the probable intentions of management toward them.

Of these direct causes of turnover voluntary separations formed 73 percent of the total during the years from 1910 to 1915 and 1917 to 1918, while discharges and layoffs comprised 16 and 11 percent respectively. But these proportions have of course varied with the progress of the business cycle. In depression years, such as 1914, the percentage of layoffs rose and that of voluntary separations fell, while in years of prosperity, such as 1917-18, exactly the opposite happened. The rate of discharges was much more

constant. These same variations prevailed from 1918 on, although there may be a general tendency for the proportion of voluntary separations to be less even in prosperous times than it was in the World War and in pre-war years. This development in turn may have been caused by the much greater stability of money wages as well as by the rapid increase of separations due to the installation of labor saving machinery.

Among the more underlying factors of separations three general groups of causes may be found: first, those which result from faulty management and can be largely remedied by each individual concern; second, those caused by more deep seated difficulties in industry as a whole, which are largely beyond the power of any one enterprise to alter; and, third, those due to difficulties in the circumstances and temperament of the workers themselves.

The first group includes a wide variety of causes. In the war and post-war periods the loss from improper hiring was emphasized and the hope was expressed that job analysis, which would disclose the qualities needed at a given task, and trade and psychological tests, which would reveal the present trade knowledge and capacities of the workers, would make possible far better selection and thereby reduce the turnover. Such tests, however, have been used only to a very limited extent and predominantly for clerical rather than for manual workers. On the other hand, there can be little doubt that there has been a distinct improvement in the relations between the supervisory force and the rank and file. This has been due in part to the efforts of many businesses to train their foremen in their duties as well as to the very general establishment of personnel departments. These departments not only centralize the preliminary hiring of labor (subject generally to review by the foremen) but also exercise some degree of control over discharges and aid in the adjustment of grievances. The net result has been that friction between the workers and the supervisory staff has been diminished. More attention is also paid to the problems of satisfactory adjustment of newcomers to their work and to arrangement for transfers, so that workers may if possible find the jobs for which they are best fitted. A further important factor in diminishing labor turnover has been the lessening of general wage fluctuations as well as the tendency of large corporations to adopt a more united wage policy and of other concerns to watch the movement of money wages more closely and to keep their rates more

nearly in correspondence with the prevailing scales, thereby lessening the movement of workers from lower wage to higher wage plants. By these and other means, such as the establishment of shop committees, group insurance, old age pensions and employee stock ownership, "welfare" capitalism has been able to diminish labor turnover. That an improved personnel policy will in fact generally operate to reduce turnover is indicated by the fact that the average rate of turnover for the seven years from 1913 to 1919 inclusive was 69 percent in ten concerns with well established personnel systems, as compared with an average of 111 percent for all other establishments studied by the Bureau of Labor Statistics for this period.

Far less success has been attained in reducing those seasonal and cyclical fluctuations which cause men to be alternately laid off and reemployed. Much attention has been drawn to the regularization practices of such firms as the Packard Automobile Company, Proctor and Gamble, Dennison and Company and a number of others. These firms were successful in greatly reducing seasonal slumps by the device of estimating sales in advance on the basis of past experience and then dividing these minimum yearly quotas into even monthly or weekly portions. More is produced in the dull months than can then be sold and this surplus is stored for the coming of the busy season. Another method which is sometimes used is the development of side lines or "fillers" upon which the working force can be engaged in the off seasons. The firms which have been successful with these methods have found that they are advantageous not only because the cost of labor turnover has been reduced but also because overhead capital charges have been lessened. In many cases workers have been satisfied to receive a lower hourly wage, which, however, as a result of steady work brings a higher yearly income.

Because of a few successes in stabilizing employment it has sometimes been claimed enthusiastically that all American businesses can stabilize their production and employment if they so desire. This seems to be a great exaggeration. Upon examination it will be discovered that stabilization has been successful almost exclusively in concerns producing standardized commodities which can be stored without fear that they will be outmoded by the time the busy season comes again. The case is far otherwise with those commodities which are subject to such changes. In the case of women's clothing,

for example, it is impossible for manufacturers to produce in advance. Thus it is those industries which are most subject to style changes together with some in which weather fluctuations cause especial havoc that suffer most from seasonal variations in employment. Moreover many heavy industries find it difficult to store products or to produce supplementary products; such production is usually done by a subsidiary and the problem of turnover is thus left unsolved.

In so far as cyclical fluctuations are concerned it is even more impossible for individual businesses to stabilize employment. The causes of the business cycle are so interwoven with the cumulative expansion and contraction of bank credit, with the way in which the demand for capital goods necessarily fluctuates far more widely than the demand for consumers' goods and with the ever present danger that specific sets of industries will get out of line with the development of the economy as a whole that an individual concern is largely helpless. The problem of labor turnover is therefore not simply one of management and of separate concerns but of industry as a whole and can be solved only by collective action.

PAUL H. DOUGLAS

OF EMPLOYEES; LABOR DISPUTES; UNEMPLOYMENT; PERSONNEL ADMINISTRATION; VOCATIONAL GUIDANCE; SCIENTIFIC MANAGEMENT; WELFARE WORK; INDUSTRIAL; EMPLOYMENT EXCHANGES.

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